

REGULATION COMMITTEE

Friday, 15th May, 2015

10.00 am

Council Chamber, Sessions House, County Hall,
Maidstone





AGENDA

REGULATION COMMITTEE

Friday, 15th May, 2015, at 10.00 am Ask for: **Andrew Tait**
Council Chamber, Sessions House, County Telephone: **03000 416749**
Hall, Maidstone

Tea/Coffee will be available 15 minutes before the start of the meeting.

Membership (17)

- Conservative (9): Mr M J Harrison (Chairman), Mr S C Manion (Vice-Chairman),
Mr A H T Bowles, Mrs V J Dagger, Mr J A Davies, Mr T Gates,
Mr J M Ozog, Mr C Simkins and Mr J N Wedgbury
- UKIP (3) Mr M Baldock, Mr H Birkby and Mr A D Crowther
- Labour (4) Mr C W Caller, Mr G Cowan, Mr T A Maddison and
Mrs E D Rowbotham
- Independents (1): Mr P M Harman

UNRESTRICTED ITEMS

(During these items the meeting is likely to be open to the public)

1. Substitutes
2. Declarations of Interests by Members in items on the Agenda for this meeting.
3. Minutes (Pages 5 - 14)
 - (a) Committee: 27 January 2015
 - (b) Mental Health Guardianship Sub-Committee: 28 January 2015
 - (c) Member Panel: 3 March 2015
4. Home to Schools Transport Update (Pages 15 - 16)
5. Update from the Commons Registration Team (Pages 17 - 20)
6. Update on Planning Enforcement Issues (Pages 21 - 24)
7. Other Items which the Chairman decides are Urgent
8. Motion to exclude the public

That under Section 100A of the Local Government Act 1972 the public be excluded from the meeting for the following business on the grounds that it involves the likely disclosure of exempt information as defined in paragraphs 5 and 6 of Part 1 of Schedule 12A of the Act.

EXEMPT ITEMS

(During these items the meeting is likely NOT to be open to the public)

9. Update on Planning Enforcement issues (Pages 25 - 36)
10. Update on Planning Enforcement issues at Larkey Wood, Chartham (Pages 37 - 42)
11. Update on Planning Enforcement Issues at Thirwell Farm, Hernehill (Pages 43 - 48)

Peter Sass
Head of Democratic Services
03000 416647

Thursday, 7 May 2015

Please note that any background documents referred to in the accompanying papers may be inspected by arrangement with the officer responsible for preparing the relevant report.

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KENT COUNTY COUNCIL

REGULATION COMMITTEE

MINUTES of a meeting of the Regulation Committee held in the Council Chamber, Sessions House, County Hall, Maidstone on Tuesday, 27 January 2015.

PRESENT: Mr M J Harrison (Chairman) Mr M Baldock, Mr H Birkby, Mr C W Caller, Mr G Cowan, Mr A D Crowther, Mrs V J Dagger, Mr J A Davies, Mr T Gates, Mr P M Harman, Mr T A Maddison, Mr J M Ozog, Mr C Simkins and Mr J N Wedgbury

IN ATTENDANCE: Mrs S Thompson (Head of Planning Applications Group), Mr R Gregory (Team Leader - Planning Enforcement), Ms J Hamid (Enforcement Administration Officer), Mr G Rusling (Public Rights of Way & Access Service Manager), Ms M McNeir (Public Rights Of Way and Commons Registration Officer), Mr S Bagshaw (Head of Fair Access), Ms D Fitch (Democratic Services Manager (Council)) and Mr A Tait (Democratic Services Officer)

UNRESTRICTED ITEMS**1. Minutes - 9 September 2014**
(Item 3)

- (1) The Committee noted that the date of the May meeting of the Committee (Minute 14/19) had been changed to Friday, 15 May 2015.
- (2) RESOLVED that the Minutes of the meeting held on 2 September 2014 are correctly recorded and that they be signed by the Chairman.

2. Home to School Transport Appeals Update
(Item 4)

- (1) The Democratic Services Manager provided an overview of Home to School Transport appeal statistics for the period between 1 January and 31 December 2014.
- (2) The Committee noted that the increase in the percentage of appeals upheld was accounted for by the need for the Education Authority to provide transport assistance for pupils attending Free Schools.
- (3) RESOLVED that the report be noted.

3. Update from the Commons Registration Team
(Item 5)

- (1) The Public Rights of Way and Commons Registration Officer reported on progress with Village Green applications including the outcome of the judicial review process in respect of the decision to register land at King Ethelbert School at

Westgate as a Village Green. She confirmed that this process had now been concluded and that there was no further opportunity to challenge registration.

(2) RESOLVED that the content of the report be noted.

4. Update on Public Footpath ZF5 at Faversham
(Item 6)

(1) Mr T Gates informed the Committee that he had, in his capacity as Local Member spoken on this matter in a number of meetings, and particularly at the Public Inquiry.

(2) A letter from Mr Brian Caffarey, a local resident in support of the recommendations in the report had been circulated to all Members of the Committee prior to the meeting.

(3) The Public Rights of Way and Access Manager gave a brief resume of events which had led to the decision by the Inspector not to confirm the Regulation Committee Member Panel's decisions in respect of public access arrangements at Faversham Creek. He set out a recommended proposal for consultation which was agreed by the Committee.

(4) RESOLVED that the proposal to divert Public Footpath ZF5 to run along the creek-side apron at Faversham Reach (points A to H in Appendix C of the report) and to link this with the footpath to be created by Swale BC (points H to M in Appendix C of the report) be consulted upon, and that the responses received be reported to a future meeting of the Committee.

5. Update on Planning Enforcement Issues
(Item 7)

(1) The Head of Planning Applications Group gave an overview on planning enforcement matters since the last meeting of the Committee.

(2) RESOLVED that the actions taken or contemplated in the report be endorsed.

EXEMPT ITEMS

(Open Access to Minutes)

(Members resolved under Section 100A of the Local Government Act 1972 that the public be excluded from the meeting for the following business on the grounds that it involved the likely disclosure of exempt information as defined in paragraphs 5 and 6 of Part 1 of Schedule 12A of the Act.)

6. Update on Planning Enforcement cases

(Item 10)

(1) The Team Leader - Planning Enforcement gave an update on (part) unauthorised planning matters, setting out the actions taken or contemplated in respect of a number of sites. These were The Old Brickworks, Wye; Larkey Wood Farm, Chartham; Mount Pleasant Farm, Yorkletts, Whitstable; LanceBox Ltd, Manor Way Business Park, Swanscombe; Court Wood House, Longfield; Nt Rix Scaffolding Ltd, Dover; Plant Hire Solutions Camp Site, West Hougham; Kiln Wood, Lenham; DWP Recycling, Halstead; Woodgers Wharf, Upchurch; Thirwell Farm, Hernhill; and Top Bungalow, Cranbrook.

(2) During consideration of the report, the Committee agreed that advice would be sought from Counsel as to options available to the County Council to minimise the risk of operators transferring activities elsewhere in the County.

(3) RESOLVED that:-

(a) endorsement be given to the enforcement strategy outlined in paragraphs 3 to 10 of the report and in Appendix 1 of the report; and

(b) advice be sought from Counsel as to options available to the County Council to minimise the risk of operators transferring activities elsewhere in the County.

7. Planning Enforcement issues at Larkey Wood Farm, Chartham

(Item 11)

(1) The Team Leader - Planning Enforcement reported on developments at the Larkey Wood Farm site in Chartham and set out the enforcement strategy being followed.

(2) RESOLVED that approval be given to the enforcement strategy outlined in paragraph 12 of the report.

8. Update on Planning Enforcement issues at Thirwell Farm, Drove Lane, Hernhill

(Item 12)

(1) The Team Leader - Planning Enforcement reported on developments at Thirwell Farm in Hernhill, including the multi-agency response and the proposed actions to bring about restoration.

- (2) RESOLVED that approval be given to the enforcement strategy outlined in paragraphs 2 to 15 of the report.

REGULATION COMMITTEE MENTAL HEALTH GUARDIANSHIP SUB-COMMITTEE

MINUTES of a meeting of the Regulation Committee Mental Health Guardianship Sub-Committee held in the Medway Room, Sessions House, County Hall, Maidstone on Wednesday, 28 January 2015.

PRESENT: Mr M J Harrison (Chairman), Mrs M Elenor, Mrs S Howes, Mr S J G Koowaree and Mr C P Smith

IN ATTENDANCE: Mrs C Fenton (Learning Disability and Mental Health Officer), Ms C Brodie (Practice Support Manager) and Mr A Tait (Democratic Services Officer)

UNRESTRICTED ITEMS

1. Minutes - 29 January 2014 (To Note)
(Item 3)

The Minutes of the meeting held on 30 January 2014 were noted, having been previously approved at the Regulation Committee meeting on 13 May 2014.

2. The Local Authority Guardianship Register
(Item 4)

(1) The Learning Disability and Mental Health Officer introduced her report by setting out that Section 23 (2) of the Mental Health Act enabled a discharge to be made in respect of a patient who was subject to guardianship by the responsible clinician, by the Local Social Services Authority or by the nearest relative. In conformity with Section 23 (4) of the Act, the function had been delegated to this Sub-Committee of the Regulation Committee which consisted of the Chairman of the Regulation Committee and Members of the Adult Social Care and Health Overview and Scrutiny Committee.

(2) The Learning Disability and Mental Health Officer then said that the Sub-Committee also had the remit of auditing the effectiveness of receipt and scrutiny of documents. She moved on to describe the progress of the officer Working Party which had been set up for this purpose. It consisted of three officers from the Social Care, Health and Wellbeing Directorate and two co-opted independent members. The Working Party had met on five occasions over the previous year. One of its key functions (following amendments to its terms of reference in 2013/14) was to ensure that the named officers responsible for scrutinising applications for new orders and renewals had done so effectively. Any practical issues identified would be raised with the Approved Mental Health Professional Service in order that these could be addressed and that lessons learned could be shared.

(3) The Learning Disability and Mental Health Officer briefly explained that, there were two ways in which guardianship application could be submitted to a Local Authority. This could happen either through an application for a new order under section 7 of the Mental Health Act or through a transfer under Section 19 from

Section 3 (detention in hospital) to Section 7 (guardianship). A decision on the latter had to be taken in the light of the identified “least restrictive option.”

(4) A decision to discharge a person from guardianship could be taken by a Mental Health Review Tribunal. As these Tribunals did not always inform the Local Authority when appeals were being heard, one of the Working Party’s priorities during 2014 had been to ensure that all cases considered by a Tribunal were robustly accounted for and monitored. Work to achieve this had commenced.

(5) The Learning Disability and Mental Health Officer then reported that two guardianship orders had been discharged since the Sub-Committee’s last meeting in January 2014. During this period, two new guardianships had been accepted and there had been ten renewals (some of these had been for people whose orders had been renewed on two occasions on a six-monthly basis). Currently, there were eight people subject to guardianship in Kent (this figure having fluctuated between seven and nine since the cleansing of the register in 2013. The last figures presented to the Department of Health had been for the period 1 April 2013 to 31 March 2014. Nationally, there had been a decline of 4% of people under guardianship during this period.

(6) The Chairman asked whether any of the people on the register were ex-servicemen. The Learning Disability and Mental Health Officer replied that none of them were. The current figure of 8 was made up from 5 people with Learning Difficulties associated with “abnormally aggressive or seriously irresponsible conduct”, two with chronic mental health problems and one who had been transferred from a Section 3 (detention in hospital) order.

(7) The Sub-Committee Members were invited to attend review meetings in appropriate numbers. The Learning Disability and Mental Health Officer agreed to advise the Democratic Services Officer when such meetings were taking place.

(8) RESOLVED that the content of the report be noted together with the list of closed cases since January 2014 (set out in Appendix 1) and the current guardianship register (set out in Appendix 2).

KENT COUNTY COUNCIL

REGULATION COMMITTEE MEMBER PANEL

MINUTES of a meeting of the Regulation Committee Member Panel held in the Seminar Lecture Theatre, Sessions House, County Hall Maidstone on Tuesday, 3 March 2015.

PRESENT: Mr M J Harrison (Chairman), Mr M Baldock, Mr A H T Bowles, Mr C W Caller and Mrs V J Dagger

ALSO PRESENT: Mr A Terry

IN ATTENDANCE: Ms M McNeir (Public Rights Of Way and Commons Registration Officer) and Mr A Tait (Democratic Services Officer)

UNRESTRICTED ITEMS

1. Application to register land at Montefiore Avenue in Ramsgate as a new Village Green.

(Item 3)

(1) The Commons Registration Officer said that the application for voluntary registration of the land had been made under Section 15 of the Commons Registration Act 2006 which allowed the owners of the land (Thanet District Council) to apply to register it as a Town or Village Green.

(2) The Commons Registration Officer referred to the report for a description of the site layout and also tabled colour photographs of the land in question.

(3) The Commons Registration Officer then said that the application passed the two necessary tests in that the land was wholly owned by T Thanet DC and that the relevant locality was the electrical ward of Sir Moses Montefiore. She therefore recommended that registration should take place.

(4) The Commons Registration Officer was asked by Panel Members to approach Defra to seek its views on the legal position if the boundaries of an electoral ward that had been identified as a locality were subsequently redrawn.

(5) Mr A Terry, the Local Member briefly spoke in support of the application.

(6) The Panel unanimously agreed the recommendations.

(7) RESOLVED that the applicant be informed that the application to register the land known as the Old Putting Green at Ramsgate has been accepted, and that the land subject to the application be formally registered as a Village Green.

2. Application to register land adjacent to Shadoxhurst Village Green as a new Village Green

(Item 4)

1) The Commons Registration Officer said that the application for voluntary registration of the land had been made under Section 15 of the Commons Registration Act 2006 which allowed the owners of the land (Shadoxhurst Parish Council) to apply to register it as a Town or Village Green.

(2) The Commons Registration Officer referred to the report for a description of the site layout and also tabled colour photographs of the land in question.

(3) The Commons Registration Officer then said that the application passed the two necessary tests in that the land was wholly owned by Shadoxhurst PC and that the relevant locality was the civil parish of Shadoxhurst. She therefore recommended that registration should take place.

(5) The Panel discussed the merits of seeking to raise an administrative charge for Voluntary Registrations as well as the possibility of giving delegated powers to the officers to determine such applications.

(4) The Panel unanimously agreed the recommendations.

(5) RESOLVED that the applicant be informed that the application to register the additional piece of land adjacent to Shadoxhurst Village Green has been accepted, and that the land subject to the application be formally registered as a Village Green.

3. Applications to register land at West Woods and Recreation Ground in Hildenborough as new Village Greens

(Item 5)

1) The Commons Registration Officer said that two applications for voluntary registration of land had been made under Section 15 of the Commons Registration Act 2006 which allowed the owners of the land (Hildenborough Parish Council) to apply to register them as Town or Village Greens.

(2) The Commons Registration Officer referred to the report for a description of the layout of the sites and also tabled colour photographs of the two pieces of land in question.

(3) The Commons Registration Officer then said that the applications passed the two necessary tests in that the land was wholly owned by Hildenborough PC and that the relevant locality in both cases was the parish of Hildenborough. She therefore recommended that registration should take place.

(4) The Panel unanimously agreed the recommendations.

(5) RESOLVED that the applicant be informed that the applications to register the lands known as "West Wood" and the "Recreation Ground" have been accepted, and that the areas of land subject to the applications be formally registered as Town or Village Greens.

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By: Head of Democratic Services
To: Regulation Committee – 15 May 2015
Subject: Home to School Transport Appeals update
Classification: Unrestricted

Summary: To provide Members with an overview on Home to School Transport appeal statistics for the period between 1 January 2015 to 30 April 2015 and a brief comparison with transport appeals statistics from 2010 to 2014.

1. Home to School Transport Appeal Statistics 2015

(1.1) For the period between 1 January 2015 to 30 April 2015 a total of 32 individual appeals were considered by Member Transport Appeal Panels of this Committee 47% were upheld at least in part (e.g time limited assistance). A breakdown of these appeals on a month by month basis is set out in Appendix 1 along with a comparison with appeals held in 2010 to 2014.

(1.2) There are a further 7 appeals that are still waiting to be heard. These have been scheduled for June/July 2015.

2. Transport Appeal Statistics – 2014

(2.1) For the period between 1 January 2014 to 31 December 2014 a total of 148 appeals were considered by Transport Appeal Panels. 51% were upheld at least in part (e.g. time-limited assistance).

(2.2) It is interesting to note that in 2014 67% of the total number appeals were heard between August – 31 December 2014.

3. Recommendation Members are asked to note this report.

Andy Ballard
Senior Democratic Services Officer
Tel No: 03000 415809, e-mail: andrew.ballard@kent.gov.uk

**TABLE 1
HOME TO SCHOOL
TRANSPORT APPEALS -1 JANUARY – 30 April 2015**

Month	Upheld	Not Upheld	Total	% Upheld
January	2	6	8	25%
February	5	2	7	71%
March	4	7	11	36%
April	4	2	6	67%
TOTALS	15	17	32	47%

**TABLE 2
HOME TO SCHOOL TRANSPORT APPEALS - 2010-2014**

Year	Upheld	Not Upheld	Total	% Upheld
2010	38	46	84	45%
2011	23	43	66	35%
2012	26	80	106	24%
2013	33	76	109	30%
2014	76	72	148	51%

Update from the Commons Registration Team

A report by the Head of Public Protection to Kent County Council's Regulation Committee on Friday 15th May 2015.

Recommendation:

I recommend that Members consider this report and note its content

Progress with Village Green applications

1. Members have requested that a summary of the current position of applications to register Town and Village Greens be provided at meetings of the Regulation Committee. A copy of the Schedule of Village Green applications is therefore attached at **Appendix A**.
2. Since the last Regulation Committee meeting, four applications to register new Village Greens have been considered at a meeting of the Regulation Committee Member Panel meetings held in early March, which resulted in the registration of four new Village Greens across the county.
3. In addition, a two-week Public Inquiry was held in February/March into the application to register land known as Chaucer Fields at the University of Kent site at Canterbury. The Inspector's report is awaited and the matter will be referred back to a meeting of the Member Panel for a final decision later in the year.
4. A Member Panel meeting is due to held on Tuesday 19th May, at which a further five cases will be considered.

Case law update

5. On 25th February 2015, the Supreme Court handed down its long-awaited judgement in the case of *R (Newhaven Port and Properties Ltd) v East Sussex County Council* [2015] UKSC 7, otherwise known as the 'Newhaven Beach' case. A full copy of the judgement is available at: https://www.supremecourt.uk/decided-cases/docs/UKSC_2013_0102_Judgment.pdf
6. The case concerned an application by Newhaven Town Council to register an area of beach, known as West Beach at Newhaven, as a new Town or Village Green. The landowner, Newhaven Port and Properties Ltd, opposed the application but, following a Public Inquiry, the East Sussex County Council determined that the application site should be registered as a Village Green. The landowner successfully applied for a Judicial Review of the County Council's decision, with the High Court ruling in the landowner's favour, but that decision was overturned by the Court of Appeal and an appeal was made to the Supreme Court.
7. By the time the matter arrived at the Supreme Court, there were three key points to be considered:
 - (i) The nature of the public's rights over coastal beaches;
 - (ii) Whether Byelaws can give rise to an implied permission for public use; and
 - (iii) The issue of 'statutory incompatibility' – i.e. whether section 15 of the Commons Act 2006 can be interpreted so as to enable registration of land as a Village Green in cases where the registration would be incompatible with some other statutory function to which the land was to be put.
8. In regard to the first point, the Court noted that the state of the law regarding public rights over the foreshore (i.e. the area between the high water and low water mark) was

controversial and, whilst it was clear that there was normally 'a public right of navigation and of fishing in the sea and rights ancillary to it', it was much less obvious as to whether the public have a more general right of recreation on a beach. After reviewing the contrasting case law, the Court was reluctant, due to the very wide-ranging implications, to reach a definitive conclusion on the point (and indeed did not consider that it was necessary to do so for the purposes of the appeal).

9. The second point concerned the effect of byelaws in relation to Village Green applications. Normally, byelaws are used to seek to prohibit certain activities, but the question before the Court was whether a conditional ban on a particular activity could otherwise amount to an implied permission in regard to that activity. In the Newhaven case, the landowner argued that the existing byelaws which contained specific prohibitions on bathing in an identified area and on sports and games that impede the use of the harbour could both be read to imply that (a) bathing was permitted in all other areas and (b) recreational activities were permitted provided that they did not impede the use of the harbour. The Court agreed and, in doing so, found that recreational use of the beach had therefore taken place by virtue of an implied permission.
10. In respect of whether the byelaws needed to be displayed or otherwise brought to the attention of the public in order to be effective, the Court found that this was not so. It referred to the Supreme Court's decision in the Barkas¹ case (which concerned land that had been provided by a local authority specifically for the purposes of public recreation, thereby rendering use of the land 'by right' and not 'as of right') as authority for the proposition that it is not always necessary for the landowner to show that members of the public have had it drawn to their attention that their use of the land in question is by virtue of an implied permission.
11. The final point considered by the Court, which is very much a new issue insofar as Village Green law is concerned, was whether land is capable of registration as a Village Green if it is reasonably foreseeable that Village Green status would conflict with the future exercise of the landowner's statutory powers and obligations. The Court's view was that, where Parliament has conferred on a statutory undertaker powers to acquire land compulsorily and to hold and use the land for defined statutory purposes, the Commons Act 2006 provisions do not enable the public to acquire by user rights that are incompatible with the continuing use of the land for those statutory purposes. As such, given the powers conveyed on the Port Authority to operate a working harbour, and the fact that Village Green status would make it an offence to develop the land or interrupt the use of it for recreational purposes, there was an obvious incompatibility in this case and, accordingly, the land was not capable of registration as a Village Green.
12. It should be noted that the Court was clear that ownership of land by a public body (such as a local authority) that may wish to develop the land in the future would not, of itself, be sufficient to create a statutory incompatibility. As such, the principle appears to have only limited applicability.

Recommendation

13. I RECOMMEND that Members consider this report and note its content.

Background documents:

Appendix A – Schedule of Village Green applications

Contact Officer:

Melanie McNeir (Public Rights of Way and Commons Registration Officer)

Tel: 03000 413421

¹ *R (Barkas) v North Yorkshire County Council* [2014] UKSC 18

**APPENDIX A:
Schedule of Village Green applications**

**Applications resolved by the Regulation Committee (Member Panel)
since last report (27th January 2015)**

Description	Parish	Member(s)	Outcome
Recreation Ground	Hildenborough	Mrs. V. Dagger	ACCEPTED and land registered as Village Green
Land at West Wood	Hildenborough	Mrs. V. Dagger	ACCEPTED and land registered as Village Green
Land known as the Old Putting Green	Ramsgate	Mr. A. Terry Ms. Z. Wiltshire	ACCEPTED and land registered as Village Green
Land adj to Shadoxhurst Village Green	Shadoxhurst	Mr. M. Angell	ACCEPTED and land registered as Village Green

Forthcoming Public Inquiries

Description	Parish	Member(s)	Details
None			

Outstanding applications to be resolved

Description	Parish	Member(s)	Status
The Downs	Herne Bay	Mr. N. Bond Mr. B. MacDowall	On hold
The Glebe Field	Goudhurst	Mr. A. King	To be referred to Member Panel on 19/05/15
Land at Coldblow Woods	Ripple	Mr. S. Manion	To be referred to Member Panel on 19/05/15
Chaucer Field (at the University of Kent campus)	Canterbury	Mr. G. Gibbens	Awaiting Inspector's report following Public Inquiry
Whitstable Beach	Whitstable	Mr. M. Harrison Mr. M. Dance	To be referred to Member Panel on 19/05/15
Land at Washford Farm	Kingsnorth	Mr. M. Angell	To be referred to Member Panel on 19/05/15
Land known as Marlowe Road Green	East Malling and Larkfield	Mrs. T. Dean	To be referred to Member Panel on 19/05/15

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Update on Planning Enforcement Issues

Report by Head of Planning Applications Group to the Regulation Committee on 15th May 2015.

Summary: Update for Members on planning enforcement matters.

Recommendation: To endorse the actions taken or contemplated on respective cases.

Unrestricted

Introduction

1. This report provides an update on planning enforcement and monitoring work carried out by the Planning Applications Group since the 27th January 2015 Regulation Committee Meeting.
2. Members will recall that in the light of new Regulations concerning third party recording of Committee proceedings, a new reporting format has been adopted. Alleged unauthorised sites are now considered as exempt business. This helps to protect the content of any planning enforcement strategies being followed. Alleged breaches on permitted Minerals and Waste sites and on County Council Developments, along with this report will continue to be considered in open business.
3. As a reminder, the Schedule 1 list of sites with summary details will now cover permitted Minerals and Waste sites and Schedule 2, County Council Developments. Both will appear in the open (white) papers. For ease of referencing and continuity, the unauthorised cases will now be listed under Schedule 3 but their content taken as exempt items. For this Committee please note that there are no cases for the new Schedules 1 and 2. However, a list of the cases covered in Schedule 3 is given in paragraph 7 of this report.

Report Format

4. The report otherwise follows its established format, equipping Members with the essential facts of a series of cases, varying in their degree of complexity and challenge. The following sub-divisions may also be called upon as required:
 - Achievements / successes [including measurable progress on existing sites]
 - New cases, especially those requiring Member endorsement for action
 - Significant on-going cases
 - Other cases / issues of interest and requests by Members
5. Members may wish to have verbal updates at Committee on particular sites from the schedules (ideally with prior notice) or reports returned to the next Meeting. The report continues to give details of general site monitoring and progress on statutory chargeable monitoring for minerals development.
6. On this occasion, no alleged breaches on permitted sites have arisen (nor are there any existing cases that require reporting).
7. The list of cases covered under Schedule 3 attached to Item 9 (exempt report) of these papers includes:

Update on Planning Enforcement Issues

- **Larkey Wood Farm**, Chartham
- **Mount Pleasant Farm**, Seasalter Lane Yorkletts, Whitstable.
- **Court Wood House**, New Barn Road, Longfield.
- **Nt Rix Scaffolding Ltd**, Astley Avenue, Dover.
- **Plant Hire Solutions**, Camp Site, Back Lane, West Hougham.
- **Warren Court Farm**, Knockholt Road, Halstead.
- **Woodgers Wharf**, Horsham Lane, Upchurch.
- **Thirwell Farm**, Drove Lane Hernehill
- **'Pit Stop Café'** site, near Lychgate Services, Dargate
- **Top Bungalow**, Frieszley Lane, Cranbrook.

Meeting Enforcement Objectives

Themes

8. The main themes of this report continue to be, further integration of services, both inside and outside of the County Council and a flexible working style drawing on the resources of other regulators. I have previously reported on the forging of closer internal links between the Planning Enforcement Team and (among others): Public Rights of Way, Trading Standards, Waste Management and the Gypsy & Travellers Unit. Principal external links are District Planning / Enforcement Officers, Environment Agency (EA) Teams (Waste Crime and Technical) and Kent Police.
9. Continuing efforts are being made to ensure that we synchronise as far as possible with allied enforcement partners. This allows for a concentration of staff, expertise and powers when facing the more demanding cases. Presenting a united front is also vital in signalling a serious intent towards alleged contraveners. It also helps to reassure the public that the required resources are being put to the task. In particular, it allows for more comprehensive evidence to be taken for use on a team basis in court. Having all relevant regulatory bodies to hand is also of assistance to the courts, increasing the chances of a successful outcome and deterrent sentencing.
10. Operationally there have been closer links and I am also pleased to report that the EA have instigated and hosted a peer group meeting (at their Allington Offices) with our planning enforcement counterparts from Surrey and East and West Sussex. It was useful to know that each of these Home Counties have very similar (largely) waste-related problems. There was an affinity among those attending and recognition that more help and advice needs to be given to district councils, in this vexed area of planning. It is intended that waste issue awareness training will be offered and good practice guides

Update on Planning Enforcement Issues

produced. Reporting sheets with key information prompts will also be distributed, so that Planning Enforcement teams at County level have what they need to pursue cases more quickly. Collaborative working of this kind will help to prevent construction spoil and soils from going 'astray' and early intervention if they do.

Enforcement capacity

11. The networking of available resources across the public sector (including Government Offices such as the Inland Revenue) offers the possibility of greater enforcement capacity and an improved early warning system. Whilst waste-related contraventions are our main line of pursuit, the worst of the sites we come across also tend to be engaged in more general criminal activities. Bringing a more rounded response, especially involving the police, allows this range of activities to be more fully challenged. The County Planning Enforcement team is playing an increasing role in promoting this level of co-ordination.

Achievements / Successes

12. There are two achievements of note to report since the last Meeting:

- **Woodgers Wharf, Upchurch** – the very substantial stockpile of concrete beams at the site has now been spliced and reduced to rubble. The material has been incorporated into the ground as a base for any later surface use, subject to planning permission from Swale Borough Council. A decision needs to be made on whether some residual steel reinforcing bars (unable to be sold as scrap) can remain along two perimeter site boundaries. The bars are currently shaped into site security barriers. I am comfortable with this as an inventive solution to a practical problem. Nevertheless, Natural England, the County Ecologist and the Environment Agency will need to accept retention of this material on nature conservation grounds before agreement can be reached on compliance with KCC's confirmed Enforcement Notice on site.
- **Top Bungalow, Cranbrook** – no further importation has taken place of building materials, small items of plant & machinery, wooden and so forth. This eclectic mix of materials and items was found strewn about the site. However, a monitoring and supervision plan which is being carried out by KCC's and Tunbridge Wells Borough Council's Planning Enforcement Teams and the EA, has led to a turnaround on site. The owner / occupier has responded well to realistic and practical site clearance targets and from simple encouragement to comply. I am confident that if current progress continues, the land will be reinstated within a reasonable time frame and without the need for any formal action.

New Cases, especially those requiring action / Member support

13. None to report on this occasion.

Significant on-going cases

14. I give advice and progress on a number of significant on-going cases in Schedule 3 of Item 9.

Update on Planning Enforcement Issues

Other cases / issues of interest and requests from Members

15. No cases identified on this occasion.

Monitoring

Monitoring of permitted sites and update on chargeable monitoring

16. In addition to our general visits to sites as a result of planning application work, we also undertake routine visits to some sites to formally monitor them under the statutory charging scheme. Since the last Regulation Committee, we have made a further 14 chargeable monitoring visits to mineral and waste sites, yielding a related income to the Group. We have also carried out 9 non-chargeable visits.

Resolved or mainly resolved cases requiring monitoring

17. Alongside the chargeable monitoring regime there is a need to maintain a watching brief on resolved or mainly resolved enforcement cases which have the potential to recur. This accounts for a significant and long-established pattern of high frequency site monitoring. Cases are routinely reviewed to check for compliance and where necessary are reported back to the Committee.

Conclusion

18. The Planning Enforcement Team continues to seek more and stronger regulatory links with allied bodies. A recent and welcome addition is at the County Council strategic level. The EA have agreed to host tri-annual meetings of Surrey, East and West Sussex County Council at their Allington Offices. Trends and patterns of largely waste-related contraventions are able now to be analysed between us. This joining together of specialist planning enforcement expertise could develop in its own right into a potent regulatory force. It should also help to underpin our own more intelligence-led approach to tackling strategic level contraventions within Kent and any cross-County activities.

Recommendation

19. I RECOMMEND that MEMBERS NOTE & ENDORSE:

- (i) the actions taken or contemplated in this report.

Case Officers: Robin Gregory and Jasmine Hamid

03000 413380 / 413384

Background Documents: see heading.

By virtue of paragraph(s) 5, 6 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Agenda Item 9

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Agenda Item 10

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