

REGULATION COMMITTEE

Tuesday, 26th January, 2016

10.00 am

Council Chamber, Sessions House, County Hall,
Maidstone

There will be a training session on Home to School Transport for Members of the Committee following the meeting.





AGENDA

REGULATION COMMITTEE

Tuesday, 26th January, 2016, 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 A H T Bowles (Chairman), Mr S C Manion (Vice-Chairman),
Mrs V J Dagger, Mr J A Davies, Mr T Gates, Mr P J Homewood,
Mr J M Ozog, Mr C Simkins and Mr J N Wedgbury
- UKIP (3) Mr H Birkby, Mr L Burgess 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 - 1 September 2015 (Pages 5 - 10)
4. Home to School Transport Update (Pages 11 - 12)
5. Update on Rights of Way and Village Green Issues (Oral Report)
6. Update on Planning Enforcement Issues (Pages 13 - 18)
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 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 19 - 28)
10. Update on Planning Enforcement issues at Larkey Wood, Chartham (Pages 29 - 34)
11. Update on Planning Enforcement issues at Pit-stop, Dargate (Pages 35 - 40)
12. Update on Planning Enforcement issues at Thirwell Farm, Hernhill (Pages 41 - 46)

EXEMPT ITEMS

(At the time of preparing the agenda there were no exempt items. During any such items which may arise the meeting is likely NOT to be open to the public)

Peter Sass
Head of Democratic Services
03000 416647

Monday, 18 January 2016

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

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, 1 September 2015.

PRESENT: Mr A H T Bowles (Chairman) Mr S C Manion (Vice-Chairman)
Mr H Birkby, Mr D L Brazier (Substitute for Mr P J Homewood), Mr L Burgess,
Mr G Cowan, Mr A D Crowther, 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: Mr S Bagshaw (Head of Fair Access), Mr A Ballard (Senior Democratic Services Officer), Mr G Rusling (Public Rights of Way & Access Service Manager), Mrs S Thompson (Head of Planning Applications Group), Mr R Gregory (Team Leader - Planning Enforcement) and Mr A Tait (Democratic Services Officer)

UNRESTRICTED ITEMS

18. Membership
(Item 1)

The Committee noted the appointment of Mr A D Crowther in place of Mr M Heale.

19. Minutes
(Item 4)

RESOLVED that the Minutes of the meetings of the Committee held on 15 May 2015 and 16 July 2015 and of the Member Panel held on 19 May 2015 are correctly recorded and that they be signed by the Chairman.

20. Dates of meetings in 2016
(Item 5)

The Committee noted the following dates for its meetings in 2016:-

Tuesday, 26 January 2016;
Tuesday, 3 May 2016; and
Tuesday, 13 September 2016.

21. Home to School Transport Update
(Item 6)

(1) The Senior Democratic Services Officer provided an overview of Home to School transport appeal statistics for the period between 1 January 2015 and 5 August 2015, giving a brief comparison with transport statistics from 2010 to 2014.

(2) Members of the Committee asked whether legal advice could be sought on the possibility of the County Council being recompensed by Government Departments

when appeals were upheld as a consequence of the Equalities Act. The Chairman agreed that this question would be considered at the next meeting together with the possibility of asking parents to make a contribution to the cost of transport in certain circumstances when their appeals were upheld.

(3) The Committee also agreed that a training session on Home to School Transport would be provided for Members.

(4) RESOLVED that:-

- (a) the report be noted;
- (b) a training session on Home to School Transport be arranged; and
- (c) a report be presented to the next meeting of the Committee on the legal advice received on the questions set out in (2) above and, if appropriate, recommending a course of action in the light of that advice.

22. Update on Rights of Way and Village Green Issues

(Item 7)

(1) The two Appendices referred to in the report had been circulated to all Members of the Committee prior to the meeting.

(2) The Public Rights of Way and Access Manager reported on progress in respect of applications under section 53 of the Wildlife and Countryside Act 1981, Village Green applications and Gating Orders. He also provided a legislative update in respect of the changes brought about by the Growth and Infrastructure Act 2013.

(3) The Committee agreed the recommendation to approve the continued operation of the Gating Orders at Henley Fields in Ashford and at St Mary's Church Yard in Ashford.

(4) RESOLVED that:-

- (a) the report be noted; and
- (b) approval be given to the continued operation of the Gating Orders at Henley Fields and St Mary's Church Yard in Ashford.

23. Update on Planning Enforcement issues

(Item 8)

(1) The Head of Planning Applications Group gave an overview of planning enforcement matters since the last meeting of the Committee. She reported on the strengthening of the links being forged both inside and outside KCC in respect of planning enforcement and on the positive developments at Woodgers Wharf, Upchurch and Top Bungalow, Cranbrook.

(2) The Head of Planning Applications Group detailed the alleged planning contraventions relating to the construction of a new primary school at Tunstall. She informed the Committee that these complaints had all been investigated but that no enforcement action was being contemplated as the complaints either related to matters outside of planning control or to minor infringements where enforcement action would not be expedient. The Planning Applications Group would continue to monitor the situation. Following discussions with the developer, it had been agreed that a more visually attractive kerbing solution would be implemented (although this was not a condition of the planning permission).

(3) The Head of Planning Applications Group agreed to circulate the new Guidance on the Metropolitan Green Belt to all Members of the Committee.

(4) 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.)

24. Update on Planning Enforcement issues *(Item 11)*

(1) The Team Leader – Planning Enforcement gave an update on unauthorised planning enforcement matters, setting out actions taken or contemplated in respect of a number of sites. These were Mount Pleasant Farm, Yorkletts; Court Wood House, Longfield; Nt Rix Scaffolding Ltd, Dover; Warren Court Farm, Halstead; Woodgers Wharf, Upchurch; and Top Bungalow, Cranbrook.

(2) The Committee authorised the Head of Planning Applications Group to take any necessary legal action to prevent contravention on the Mount Pleasant Farm, Yorkletts site.

(3) RESOLVED that, subject to (2) above, approval be given to the enforcement strategies outlined in paragraphs 3 to 7 of the report and in Schedule 3 of Appendix 1 of the report.

25. Update on Planning Enforcement issues at Larkey Wood, Chartham *(Item 12)*

(1) The Team Leader – Planning Enforcement reported on developments at the Larkey Wood site in Chartham and set out the enforcement strategy being followed. He informed the Committee of a proposed development package on the site which was to be considered by Canterbury CC's Planning Committee on 15 September 2015. He agreed to send a copy of Canterbury CC's Planning Committee report to the Chairman and the Local County Member.

(2) RESOLVED that endorsement be given to the enforcement strategy outlined in paragraphs 6 to 17 of the report.

26. Update on Planning Enforcement issues at Thirwell Farm, Hernhill *(Item 13)*

(1) The Team Leader – Planning Enforcement reported on developments at Thirwell Farm in Hernhill. This included a multi-layered enforcement strategy to counter the sophisticated nature of the contraventions that were occurring which had at this stage resulted in an apparent reduction in inputs to the site.

(2) RESOLVED that endorsement be given to the enforcement strategy outlined in paragraphs 4 to 10 of the report.

27. Update on Planning Enforcement issues at Pit Stop Cafe, Dargate *(Item 14)*

- (1) The Team Leader – Planning Enforcement updated the Committee on Planning Enforcement issues at land adjoining Pit Stop Café in Dargate, including the potential for the illegal importation of materials to accentuate runoff and place stress on the current drainage arrangements. An Environment Agency Waste Removal Notice had stopped further importation.
- (2) During discussion of this item, Members urged that whenever in future Highways land was sold off, the sale should be accompanied by covenants and/or conditions specifically preventing activity of the nature seen at this site.
- (3) RESOLVED that endorsement be given to the enforcement strategy outlined in paragraphs 4 to 10 of the report.

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By: Head of Democratic Services
To: Regulation Committee – 26 January 2016
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 31 December 2015 and a brief comparison with transport appeals statistics from 2011 to 2014.

1. Home to School Transport Appeal Statistics 2014

(1.1) For the period between 1 January 2015 to 31 December 2015 a total of 120 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 2011 to 2014.

(1.2) There are a further 3 appeals that are still waiting to be heard. These have been scheduled for January 2016.

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 2015 68% of the total number appeals were heard between August – 31 December 2015.

3. Future Arrangements

(3.1) There will be a training session for Members following this Committee meeting. The Chairman has also agreed that in future there will only be an annual statistical report and that reports to other meetings of the Committee will focus on aspects of Home to School Transport policy.

4. 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 – 31 December 2015**

Month	Upheld	Not Upheld	Total	% Upheld
January	2	6	8	25%
February	5	2	7	51%
March	4	7	11	36%
April	4	2	6	67%
May	0	0	0	-
June	0	0	0	-
July	2	4	6	33%
August	13	16	29	45%
September	6	4	10	60%
October	8	14	22	36%
November	8	6	14	57%
December	4	3	7	57%
TOTALS	56	64	120	47%

**TABLE 2
HOME TO SCHOOL TRANSPORT APPEALS - 2010-2013**

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

Update on Planning Enforcement Issues

Item 6

Report by Head of Planning Applications Group to the Regulation Committee on 26th January 2016.

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 1st September 2015 Regulation Committee Meeting.
2. As part of the new reporting format, 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. This report summarises alleged unauthorised activity and is supported by a schedule which is exempt. However, a list of the cases covered in the schedule is given in paragraph 6 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. The list of cases covered under the schedule, attached to Item 9 (exempt report) of these papers includes:
 - **Larkey Wood Farm**, Chartham
 - **Mount Pleasant Farm**, Seasalter Lane Yorkletts, Whitstable.
 - **Nt Rix Scaffolding Ltd**, Astley Avenue, Dover.

Update on Planning Enforcement Issues

Item 6

- **Plant Hire Solutions, Camp Site**, Back Lane, West Hougham
- **RS Skips Ltd**, Unit 4, Apex Business Park, Queens Farm Road, Gravesend
- **Housing development**, north end of Well Street, Loose
- **Thirwell Farm**, Drove Lane Hernhill
- **'Pit Stop Café'** site, near Lychgate Services, Dargate
- **Persimmon housing development**, Coleshall Farm, Sheppey Way, Iwade
- **Westdene**, Whetsted Road, Five Oak Green, Tonbridge
- **Top Bungalow**, Frieszley Lane, Cranbrook.

Meeting Enforcement Objectives

Themes

7. 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 and co-ordinating closely with them. Ever closer links are being formed internally between the Planning Enforcement Team and (among others): Public Rights of Way, Trading Standards, Waste Management and the Gypsy & Travellers Unit. External links include District Planning / Enforcement Officers, Environment Agency (EA) Teams (Waste Crime and Technical) and the Kent Police Rural Liaison Team.
8. Energy and commitment is being invested in maintaining such links, particularly given the benefits of extra resourcing and the sharing of regulatory workloads. Independent enforcement efforts among our regulatory partners may be synchronised into more complete and effective actions, in the public interest. This approach is proving effective and is helping to reassure the public that an appropriate level of response is being made to planning or related contraventions. It also provides a number of alternative contact points. Success depends however on the reliable flow of information within the coordinated team.
9. At a strategic level, the EA have hosted additional peer group meetings (at their Allington Offices) with our planning enforcement counterparts from Surrey and East and West Sussex. Similar problems tend to occur within the Home Counties and successful enforcement techniques are already being shared. A presentation giving waste issue awareness training (principally for District Councils) is being prepared within the group, along with good practice guides. Early warning systems are also being worked upon to help prevent construction spoil and soils going to unauthorised locations. We have formerly tried an early prototype system of development spoil management within Kent. The outline of a modern version is a future project under consideration.
Enforcement capacity
10. The networking of available resources across the public sector (including Government

Update on Planning Enforcement Issues

Item 6

Offices such as the Inland Revenue and the Financial Conduct Authority (FCA) offers additional enforcement capacity and capability. Most of the (generally waste-related) sites that we come across allegedly form part of a more expansive criminal hub, regularly attracting the interest of the police as well as other regulatory bodies. The County Planning Enforcement team is playing an increasing role in promoting this level of co-ordination and in uncovering the connections between sites, including their apparent support networks.

Achievements / Successes

11. The two key achievements since the last Meeting from a planning enforcement perspective are:

- **Larkey Wood, Chartham** – both the original and second ‘displacement’ site for the alleged contraveners have now been vacated. Full restoration for both sites has also been secured within the housing development scheme, granted planning permission by Canterbury City Council. On-going waste-related contraventions, alleged crimes and social control issues, including fear of intimidation from using adjoining public rights of way and other informal leisure facilities have been in large measure resolved. All of these positive enforcement outcomes have been achieved at minimal cost to the County Council, Canterbury City Council and the Environment Agency. County Fire & Rescue and the police will also be able to divert resources from the two sites, to other locations. In fact, the eviction, security and restoration costs are all being absorbed by the private developer.
- **St Lawrence CEP School, Stone Street, Seal, Sevenoaks** – In August 2015 during construction work for a new classroom including cloakroom, toilets and link to existing school entrance hall under planning permission application reference SE/14/3963, the agent informed the County Council that there had been an error resulting in the building works encroaching on publically maintainable highway which was also unregistered land.
- As a result of this a new planning application was made (reference SE/15/3349) for revisions to the approved design for the demolition of the mobile classroom and the construction of a new reception classroom, sheltered play area and toilet facilities, including realignment of the western boundary wall and regularisation of the repositioning of the building. This was granted on 27th November 2015 and regularises the breach. The construction work is nearing completion and the planning issues arising from the error have been resolved. As the encroachment is on publically maintainable highway the permission is subject to an informative advising that the decision does not give approval for the stopping up of the highway as that is a separate legal process. The Agent is in discussion with the Highways Authority with regard to this.

New Cases, especially those requiring action / Member support

12. There are no substantive new cases requiring particular Member attention under this section.

Significant on-going cases

13. I give advice and progress on a number of significant on-going cases in the schedule attached to Item 9 of these papers.

Other cases / issues of interest and requests from Members

14. No cases identified on this occasion.

Monitoring

Monitoring of permitted sites and update on chargeable monitoring

15. 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 monitoring charging scheme. Since the last Regulation Committee, we have made a further 23 chargeable and 12 non-chargeable monitoring visits to mineral and waste sites, yielding a related income to the Group. We have also carried out a further non-chargeable visit.

Resolved or mainly resolved cases requiring monitoring

16. 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 reoccur. 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

17. The Planning Enforcement Team is continuing to take a leading role in bringing together regulatory teams in the public interest. Also, to develop shared enforcement solutions. This enhanced way of working is showing good results at the small and larger scale. What may account for the effectiveness of this approach is that individual contravening sites are often connected to similar outlets across a self-supporting network. In tackling individual sites, regulatory teams will invariably also intersect the supporting network too. Anticipating this set of relationships and intervening in an intelligence-led way is becoming increasingly important, given the level of sophistication and challenge, particularly in the larger and more complex cases.

Recommendation

18. I RECOMMEND that MEMBERS NOTE & ENDORSE:

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

Update on Planning Enforcement Issues

Item 6

Case Officers: Robin Gregory and Jasmine Hamid

03000 413380 / 413384

Background Documents: see heading.

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of the Local Government Act 1972.

Agenda Item 9

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Agenda Item 12

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