

REGULATION COMMITTEE

Thursday, 24th September, 2020

10.00 am

Online





AGENDA

REGULATION COMMITTEE

Thursday, 24th September, 2020, at 10.00
am
Online

Ask for: **Andrew Tait**
Telephone: **03000 416749**

Membership (14)

Conservative (12): Mr A H T Bowles (Chairman), Mr S C Manion (Vice-Chairman), Mr M A C Balfour, Mr D L Brazier, Ms S Hamilton, Mrs L Hurst, Mr R A Marsh, Mr D Murphy, Mr J M Ozog, Mr R A Pascoe, Mr H Rayner and Mr A M Ridgers

Liberal Democrat (1) Mr I S Chittenden

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 1 - 6)
 - (a) Committee: 20 January 2020
 - (b) Mental Health Guardianship Sub-Committee: 4 March 2020 (for Information only)
4. Home to School Transport Appeals - Presentation by General Counsel
5. Update from the Public Rights of Way and Access Service (Pages 7 - 12)
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 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 cases (Pages 19 - 30)

Benjamin Watts
General Counsel
03000 416814

Wednesday, 16 September 2020

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, 28 January 2020.

PRESENT: Mr A H T Bowles (Chairman) Mr S C Manion (Vice-Chairman)
Mr M A C Balfour, Mr D L Brazier, Mr I S Chittenden, Ms S Hamilton,
Mr P M Harman, Mrs L Hurst, Mr R A Marsh, Mr D Murphy, Mr J M Ozog,
Mr R A Pascoe and Mr H Rayner (Substitute for Mr A M Ridgers)

ALSO PRESENT: Mr A R Hills

IN ATTENDANCE: Mr A Ballard (Principal Democratic Services Officer),
Mr S Bagshaw (Head of Fair Access), Mr C Chapman (County Transport Eligibility
and Co-ordinated Admissions Manager), Mr G Rusling (Public Rights of Way &
Access Service Manager), Mr R Gregory (Team Leader - Planning Enforcement) and
Mr A Tait (Democratic Services Officer)

UNRESTRICTED ITEMS**1. Minutes**

(Item 3)

RESOLVED that the Minutes of the Committee meeting held on 25 September 2019 and of the Member Panel held on 3 December 2019 are correctly recorded and that they be signed by the Chairman.

2. Dates of future meetings

(Item 4)

The Committee noted the following future meeting dates:

Wednesday, 20 May 2020;
Thursday, 24 September 2020;
Thursday, 28 January 2021; and
Wednesday, 23 June 2021.

3. Home to School Transport Appeals Update

(Item 5)

(1) The Principal Democratic Services Officer reported an overview on Home to School Transport statistics for the period between 1 January and 31 December 2019, including a brief comparison with the statistics from 2010 to 2018.

(2) RESOLVED that the report be noted.

4. Oral Update from the PROW Team

(Item 6)

(1) The Public Rights of Way and Access Manager gave an oral summary of the current position in respect of applications to amend the Definitive Map and Statement. He informed the Committee that the Secretary of State had declined to confirm the Order for the diversion of Public Footpath SR22 at Shoreham. The Secretary to refuse to make an Order to divert Public Footpath SR49 from the at grade Foot Crossing to a stepped bridge at Otford.

(2) The Public Rights of Way and Access Manager said that the Regulations and Guidance associated with the Deregulation Act had still not been issued. The Priority Statement would need to be reviewed once this had occurred in order to decide whether to give Section 53 applications greater priority.

(3) The Public Rights of Way and Access Manager informed the Committee of the judgement of the *Court of Appeal in the Wiltshire Council v. Cooper Estates 2019* case which had given greater prominence to the impact of Local Planning Policies in determining whether a trigger even had occurred, preventing the processing of a Village Green application. A further significant judgement had seen the Supreme Court allow appeals by Lancashire and Surrey against registration on the grounds that the two parcels of land in question had ben used by right rather than as of right.

(4) RESOLVED that the report be noted.

5. Update on Planning Enforcement Issues (Item 7)

(1) The Team Leader (Planning Enforcement) gave an update on planning enforcement and monitoring work carried out since the previous meeting of the Committee. He drew attention to the Government initiatives on environmental issues, particularly in respect of its strategic approach to the elimination of waste crime, including the sharing of intelligence between front-line regulatory bodies.

(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 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) Mr A R Hills was present for this item pursuant to Procedure Rule 16.21 and spoke.

(2) The Team Leader – Planning Enforcement gave an update on unauthorised planning enforcement matters setting out actions taken or contemplated at Yorkletts, Whistable; Double-Quick Farm, Charing; new Barn Road, Southfleet; Darenth Wood Road, Dartford; Fairfield Court Farm, Romney Marsh; Fleetmix Ltd, Northfleet; Lested Farm, Chart Sutton; Little Neverend Farm, Ulcombe; Faversham Road, Lenham; Thirwell Farm, Hernhill; George Bell Farm, Hernhill; Washford Wastewater Treatment Works, Bybrook; Stone Pit 2, Greenhithe; Oare Creek, Faversham; Borough Green Sand Pits; Blaise Farm Quarry, Kings Hill; Wrotham Quarry; Spires Academy, Sturry; Wentworth Primary School, Dartford; Maypole Community Primary School, Dartford; Mayfield Grammar School, Gravesend; Three Lakes Caravan Park, Murston; Mount Joy, Yorkletts; Hawthorn Cottages, Herne Bay; Stockbury Valley; Water Lane/Moat Road, Headcorn; and Crouch Lane, Sandhurst.

(3) The Team Leader – Planning Enforcement reported correspondence from the Local Member, Mr P B Bartlett on Ashford Wastewater Treatment Works, where a recent meeting on site between interested parties had shown that positive actions were being taken to better manage odour from the site, to the benefit of local air quality.

(4) Mrs S V Hohler expressed support for Offham Parish Council's concerns in respect of Blaise Farm, Offham and noted that KCC Planning and the Environment Agency were monitoring the situation. On Wrotham Quarry, Addington, she reported that it had been some time since she last received complaints from local residents on heavy traffic routeing and hours of working and that operator liaison with local communities seemed to have improved.

(5) The Team Leader – Planning Enforcement updated the Committee on Wentworth Primary School in respect of the painting of yellow line waiting restrictions.

(6) The Team Leader – Planning Enforcement reported correspondence from the Local Member, Mrs A D Allen in respect of Maypole Community Primary School in which she gave details of the negotiations she had facilitated between local parties. These had been very positive and indicated that a resolution could be achievable. On being informed of the submission of a noise and impending colour assessment survey, the Committee agreed to the removal of Mayfield School from the list.

(7) The Committee agreed with support from the Local Member, Mr H Rayner that the Head of Planning Applications Group should write further to the operator of

Borough Green Sand Pits to emphasise the Committee's disquiet at the alleged breaches and need for their early resolution.

- (8) RESOLVED that subject to (6) and (7) above, the enforcement strategies set out in paragraphs 5 to 22 of the report and in the Appendix be endorsed.

REGULATION COMMITTEE MENTAL HEALTH GUARDIANSHIP SUB-COMMITTEE

MINUTES of a meeting of the Regulation Committee Mental Health Guardianship Sub-Committee held in the Council Chamber, Sessions House, County Hall, Maidstone on Wednesday, 4 March 2020.

PRESENT: Mr A H T Bowles (Chairman), Mr M J Angell, Mr M A C Balfour, Mrs P M Beresford, Mrs P T Cole, Ms S Hamilton, Mrs L Hurst and Mr M J Northey

IN ATTENDANCE: Mrs C Fenton (Assistant Director Mental Health) and Mr A Tait (Democratic Services Officer)

UNRESTRICTED ITEMS

1. Minutes - 19 February 2019

(Item 3)

RESOLVED that the Minutes of the meeting held on 19 February 2019 are correctly recorded and that they be signed by the Chairman.

2. The Local Authority's Guardianship Register

(Item 4)

(1) The Assistant Director Mental Health briefly introduced the report. She said that there had been one accepted Guardianship Order since January 2019 which had subsequently been discharged. There had been two renewals of Guardianship Orders, one of which was subsequently discharged during the year. This left one person currently subject to guardianship in Kent.

(2) The Assistant Director Mental Health then said that Kent County Council was required to provide the Department of Health with data on those subject to guardianship on a bi-annual basis. The last submission of data had been on 11 June 2018 for the period 1st April 2016 to 31st March 2018. At that time, it was reported that two new Orders had been accepted during the period and that six Orders had been discharged. The next statistical submission to the Department of Health would be made in June 2020.

(3) The Assistant Director Mental Health said that the working party, made up of three officers from the Directorate of Adult Social Care and Health and the Quality Lead Officer for the Approved Mental Health Professional (AMHP) service had met on two occasions since January 2019.

(4) RESOLVED that the content of the report be noted for assurance together with the list of closed cases since January 2018, the current guardianship registers (set out in Appendix 1) and the activity in 2018 (set out in Appendix 2).

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Update from the Public Rights of Way & Access Service

A report by the Public Rights of Way and Access Service Manager to Kent County Council's Regulation Committee on Thursday 24th September 2020.

Recommendation:

I recommend that Members consider this report and note its content.

Progress with Definitive Map & Statement applications

1 Members requested that a summary of the current position in respect of applications to amend the Definitive Map and Statement (DMS) be provided annually to the Regulation Committee.

Section 53 Applications

2 Any person may make an application to the County Council, as the Surveying Authority under section 53 of the Wildlife & Countryside Act 1981, to amend the DMS to add, upgrade, downgrade, or delete a Public Right of Way. The County Council has a duty to investigate every application it receives. Investigation involves undertaking interviews with witnesses and landowners, documentary research and consultation, amongst other things. It is our policy to deal with these applications in order of receipt except where:

- the physical existence of the claimed route is threatened by development or,
- the resolution of an application would enable the County Council to properly assess or manage public safety or
- the claimed route may result in a significant improvement to the network.

In such instances a case may be accelerated.

2.1 During the period April 2019 to March 2020, 9 applications were determined of which 2 were declined, 2 Orders were made and confirmed and 5 Orders were made and are awaiting a decision. 24 cases have been allocated and are under investigation, a substantial increase on previous years. There are currently 59 unallocated applications. The number of applications received fluctuates with 7 applications being received in 2018, 22 applications in 2019 and already 27 have been received in the current year. This large increase in applications has an impact on the backlog. The next application to be allocated was received in January 2017 resulting in a backlog of just under 4 years. However, when considering that on average, 8-10 applications have been determined each year, this means that in reality the current backlog has increased to 5 - 6 years.

2.2 There are 2 cases with the Planning Inspectorate awaiting determination as objections were received to the making of an Order.

2.3 The Schedule of Applications is updated on a regular basis and can be located on the County Council's website at:

<http://www.kent.gov.uk/waste-planning-and-land/public-rights-of-way/correct-the-rights-of-way-map>

Applications to divert, extinguish or create public rights of way

3. As part of its rights of way functions, the County Council also deals with applications from landowners to divert or extinguish public rights of way using powers available to it under the Highways Act 1980. Public rights of way can be diverted for a range of reasons provided that it is 'expedient' (or necessary) to do so and that the proposed diversion is not substantially less convenient, or less enjoyable, for users. The test for extinguishing (stopping up) a right of way is considerably narrower, and it is generally only possible to do this in cases where the right of way is 'unnecessary' or 'not needed for public use'.

3.1. During the period April 2019 to March 2020, 18 Public Path Orders have been confirmed. 47 applications are currently being processed. There are 61 unallocated diversions/extinguishments resulting in a backlog of approximately 3 years between the receipt of an application and allocation to an officer.

3.2. There are 4 cases with the Planning Inspectorate awaiting determination: -

- Diversion of Public Footpath ZR408 at Selling
- Extinguishment of Public Footpath CW80 at Whitstable (Rail Crossing application)
- Extinguishment/creation of Public Footpath ER273 at Ringwould with Kingsdown
- Diversion of Public Footpaths SR563, SR568 and SR622 at Hever & Edenbridge.

3.3. The County Council also deals with applications made under the Town & Country Planning Act 1990 to close or divert public rights of way that are affected by development. This work is undertaken on behalf of Ashford, Canterbury, Dartford, Dover, Gravesham, Folkestone and Hythe, Sevenoaks, Swale, Tonbridge & Malling & Tunbridge Wells Councils and the Ebbsfleet Development Corporation. A small number of applications are also processed in respect of our own planning functions. During the period April 2019 to March 2020, 15 Public Path Orders have been confirmed/certified. There are 26 cases where Orders have been made and confirmed and are awaiting certification following the completion of the works on site.

3.4. The Schedule of Applications, which is updated on a regular basis, can be located on the County Council's website at:

<http://www.kent.gov.uk/waste-planning-and-land/public-rights-of-way/change-rights-of-way>

Statutory Deposits under section 31(6) of the Highways Act 1980 and/or section 15A(1) of the Commons Act 2006

4. This is a means by which landowners can protect their land against any, or further, public rights of way or a village green from being registered as a result of unchallenged public use.

4.1. During the period April 2019 to March 2020, 23 Deposits have been received, a decrease of 1 from the previous year.

Backlogs

5. The backlogs for applications to both divert/extinguish public rights of way and to amend the DMS reflect the complex and lengthy procedures to be followed. There is a strong correlation between the number of applications determined and the number of experienced officers available to undertake the work. Additionally, there is no ability to limit the number of applications to amend the DMS that are received in any year. The number of applications can exceed the resource available to determine them.

5.1 Within Schedule 14 of the Wildlife and Countryside Act 1981 there is provision for an applicant to apply to the Secretary of State if their application has not been dealt with within 12 months of receipt. The County Council received two Notices that an applicant had applied to the Secretary of State in the last 12 months. The Secretary of State considered the requests and, in both cases, directed the County Council to determine the applications within a given time. It is predicted that more applicants may consider this course of action as the backlog continues to increase.

5.2 The PROW & Access Team have in the last year filled a vacancy and recruited an additional Public Rights of Way Officer. It is hoped that this additional resource will help tackle the backlogs. Both Officers have been trained and are processing Highways Act Public Path Orders, Temporary Traffic Regulation Orders and CON29 searches but due to the Corona virus outbreak, training in the processing of Town & Country Planning Act Orders and section 53 applications has been delayed and is not likely to take place until next year. It has however freed capacity elsewhere in the team.

5.3 Given the impending legislative changes, highlighted below, and the 2026 cut-off date the numbers of applications for Definitive Map Modification Orders will continue to increase at an accelerating rate. This reflects with the situation in other Surveying Authorities. It is hoped that in increasing the capacity of the team that increases to the backlogs will at least be slowed.

Legislative Update

6. Deregulation Act 2015 – The Deregulation Act came into force on 27th March 2015, however the elements in relation to PROW have still not come into force as we are awaiting the associated regulations and guidance. The latest information from DEFRA is that a new officer has been appointed and the Regulations are being drafted, however we have received no further updates and there is no indication as to when the Regulations will be published.

6.1 The main user groups, i.e. the Ramblers and the British Horse Society are preparing for the regulations and in particular the bringing into force of the 2026 cut-off-date. This is where all unrecorded rights of way created before 1949 will be extinguished immediately after 1 January 2026 – subject to certain exceptions:-

- It provides for Local Authority's to designate a right of way for protection during a short window after the cut-off – a one year period.
- It preserves routes identified on the list of streets/local street gazetteer as publicly maintainable or as private streets carrying public rights.

- It preserves rights over routes that are subject to a pending application.

6.2 It is interesting to note that of the 59 unallocated section 53 applications, 29 are based upon pre-1949 historical evidence with the remaining ones being based predominately on user evidence.

Impact of COVID-19

7. The Corona virus outbreak has had an impact on the work of the Definitive Map Team. For 3 months from 23 March 2020, no Orders were made or advertised. New cases could not be started that required a site visit due to the restrictions which were put in place by the Government. In the last 2 months we have once again started to make and advertise Orders. It is, however, not possible to strictly comply with the legal requirements, for the advertising and publication of Orders due to County Council offices and many District Council offices being closed to the public. In all cases. Orders should be on display, available for inspection and copies available to the public at a reasonable cost at a Council office in the area to which the Order relates . We have sought advice on publicising Orders from DEFRA; no response was received. The Planning Inspectorate were willing to provide guidance as to practical steps that may be taken but could provide no guarantee as to the view that Planning Inspectors or the Courts may take on those measures.

7.1 As we could not feasibly delay Order making for much longer, a decision was taken to progress Orders. In order to mitigate any risk of the public not being able to view a copy of an Order at a Council Office copies of the Notice and Order have been made available on the County Council's website and an extra line has been added to Public Notices informing the public that they may also obtain a copy by contacting the case officer. This is in addition to placing a copy of the Notice on site and in the Kent Messenger, It is therefore felt that we have taken a more than reasonable approach and no-one will be disenfranchised by the offices not being open to the public

7.2 Other impacts of the outbreak are: -

- A loss of income due to case work not being progressed, fewer Traffic Regulation Orders and search requests were submitted in the first quarter although this has recovered strongly in quarter 2.
- An increase in section 53 applications as user groups have had more time to carry out the research and compile the applications. Since lockdown began 20 applications have been received.
- Delay in staff development as referred to above.

Applications to amend the Registers of Common Land and Village Greens

8. There are currently six applications outstanding to register land as a new Village Green under section 15 of the Commons Act 2006. Two of those, at Whitstable Beach and Herne Bay, are on hold pending the outcome of a case currently awaiting a hearing before the Supreme Court (postponed due to COVID-19), the judgement for which may have ramifications on the County Council's final decision in respect of those cases. Two further applications, at Snowdown and Maidstone, will be referred to the next meeting of the Regulation Committee Member Panel for decision and the remaining two, at Westbere, are either under investigation or awaiting further information from the applicant.

8.1 In addition to the applications to register new Village Greens, an application has been received to transfer the ownership of some rights of common at Higham Common, which will be referred to the next Panel meeting.

7.2 Finally, a large application to register 16 pieces of Common Land in the Sevenoaks area was received from the Open Spaces Society at the end of last year, the consultation for which was published in March¹. The application is based upon historic evidence which, it is alleged, shows that the piece of land in question were erroneously omitted from the Register of Common Land when it was originally prepared in the early 1970s. Unfortunately, progress has been delayed due to the closure (as a result of COVID-19) of the Kent History and Library Centre, at which the historical documentation is stored. However, it is understood that the documentation is now available for viewing (by appointment) which will enable work on this application to continue.

Recommendation

8. I RECOMMEND Members consider this report and note its content.

Contact Officer:

Graham Rusling – Public Rights of Way and Access Service Manager

Public Rights of Way & Access Service

Tel: 03000 413449 - Email: graham.rusling@kent.gov.uk

¹ The consultation is still available online (for information only) at:
<https://kccconsultations.inconsult.uk/consult.ti/CAA19/consultationHome>

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Update on Planning Enforcement Issues

Item 6

Report by Head of Planning Applications Group to the Regulation Committee on 24th September 2020.

Summary: Update for Members on planning enforcement matters.

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

Unrestricted

Introduction

1. This report is intended to give an insight into the experience of the County Planning Enforcement service during the lockdown period and up to date. It a reduced version of the normal format, covering the period from 20th January 2020 Regulation Committee Meeting. The 20th May 2020 Meeting was cancelled due to the national pandemic.
2. Covid-19 has presented many challenges for the delivery of the enforcement service and is part of the planning service that is most difficult to carry out from home. In mid-March, our place of work was changed (conversely) from office to home, in line with Government and KCC requirements. More accurately, we have been confined to home (with some easing very recently) trying to work. We use video-conferencing, over normal interactions. Communications in the team has been affected, as has access to files and records.
3. Our files are not readily accessible and equipment was left behind. The loss of scanning and photocopying has also been a significant drawback. We have been unable to go to sites for operational, security and medical reasons. Health & Safety and evidence gathering dictates that officers attend sites together. However, social distancing rules have precluded work car travel. One of the team also has health issues and has had to be very vigilant.
4. We cannot ensure that sites are covid-secure, which has made the work more challenging in gaining access to sites and the evidence and information needed to assess cases and respond to concerns from Members and the community. Even now we are largely deskbound, trying to gather remote information and evidence from every conceivable source.

Report format

5. Alleged unauthorised sites are considered by Members as exempt items, for information purposes, strategy and endorsement. This helps to protect the content of any planning enforcement approaches being taken, which we may subsequently rely upon in court and legal actions.
6. This report summarises alleged unauthorised activity. There is a further exempt report within (Item 8) of these papers, containing restricted details of cases. However, a list of the cases covered in the schedule is given under paragraph 7 below.

Report Content

7. Given the operational constraints outlined above, the content of this report has needed to be condensed. However, to reassure the public and Members, the planning enforcement service continues but in a modified form. Strict prioritisation is observed. This ranges from County Matter cases at one end, through to supportive work in the public interest on district cases, at the other. Within that it further includes cases that are being investigated, which may ultimately not be for this Authority and strategy and case management advice to other regulatory authorities.
8. The list of cases covered under Item 8 'Update of Planning Enforcement Cases' (Exempt report) in order of presentation are:

County Matter cases (complete, potential or forming a significant element)

New

01. **Raspberry Hill Park Farm**, Raspberry Hill Lane, Iwade, Sittingbourne.
02. **Hoads Wood Farm**, Bethersden
03. **Ringwold Alpine Nursery**, Dover Road, Ringwold

Existing

04. **Double-Quick Farm**, Lenham, Maidstone
05. **Mount Pleasant Farm**, Seasalter Lane, Yorkletts, Whitstable

District referrals (potential interest, unlikely County Matter, or partnership working)

New

06. **The Stables**, Harpole Farm, Detling
07. **Heart in Hand Road**, Canterbury
08. **Earley House**, Waltham Road, Petham

Existing

09. **Fairfield Court Farm**, Brack Lane, Brookland, Romney Marsh.
10. **Chapel Lane**, Sissinghurst, Tunbridge Wells

NB In addition to the above cases, (06) to (10), measurable time has been spent on the following further or emerging cases. This includes those that could be

handled by other authorities and agencies, without the need for our strategic input:

- Boyden Gate, Canterbury
- The Reservoir, Brook Farm, Canterbury
- Stickens Lane, East Malling
- Springhill Farm, Springhill, Penshurst
- Fitchetts Farm, Fordcombe
- Brethren Meeting Hall / Wilburton/Provender Nurseries sites / Leydenhatch Lane, Dartford.

The full extent of some of these has been difficult to assess without being able to go on the sites. An appropriate contribution or matters of jurisdiction have similarly been difficult to decide upon.

Permitted sites (compliance issues)

11. **East Kent Recycling Site D**, Oare Creek, Faversham Kent
12. **Blaise Farm Quarry**, AD Facility, Kings Hill, West Malling
13. **Wentworth Primary School**, Wentworth Drive, Dartford
14. **Maypole Community Primary School**, Franklin Road, Dartford.
15. **Tunbridge Wells Grammar School for Boys**, St Johns Road, Tunbridge Wells

Meeting Enforcement Objectives

Workload focus

9. There has been a significant surge in cases (more than double the norm) to add to existing ones. However, the whole of the workload is subject to prioritisation, in accordance within the adopted protocol i.e. those that have the greatest potential to cause environmental harm. In this context, the case focus has been on those that we have managed to attend to or progress, in the circumstances of the pandemic, rather than those which will need to be brought forward later on. None will however be missed.
10. The division of labour though has still largely been between our core County Matter cases and a raft of district referrals. Compliance issues on sites permitted by the County Council is a further and increasing work stream.

Lockdown factors

11. It is difficult to discern until later analysis, why there has been such an escalation in cases. It is also reflected at other planning authorities and the Environment Agency. It involves an increase in cases, and in the significance of more of those cases.

12. There are three likely causes, on current information. Operators and contraveners taking alleged liberties, assuming that Planning Enforcement, have been largely disabled. Secondly, those affected have been at home and experiencing the amenity impacts over longer periods of the day and more intensely, resulting in an increase in complaints and more registered cases. A third possibility, stems from the fact that the construction industry has continued through the lockdown period and 'spin-off' contraventions involving demolition and construction spoil have spiralled.

Local assistance

13. At the same time, the active involvement on the ground of the local County Members and district councillors, along with affected members of the public and interest groups, should be stressed and applauded. So should district officer 'drive-bys' of sites on our behalf, especially at distance. The EA and the police have also been supportive, with the EA's reporting 'hotline' really proving its worth. Local Authority planning websites have yielded vital information in an accessible format, further saving a great deal of time. All of this support has proved invaluable in attempting to work the cases remotely.

Other duties

14. Notwithstanding the surge in cases, another dimension of the pandemic, particularly in the earlier stages (especially during the 'panic-buying' phase) is that officers in the team and wider group have been informally volunteering. These have included shielding duties, buying groceries and collecting prescriptions for immobile or confined people locally, including neighbours and wider family. Some also answered the call for community volunteers by the NHS and KCC. This help has been supported by the County Council but equally, the officers involved have sought to weave the duties into their day job. Any loss of capacity has therefore been managed.

Monitoring

Monitoring of permitted sites and update on chargeable monitoring

15. In addition to our general visits to sites, we also undertake routine visits on permitted sites, to formally monitor against the statutory monitoring charging scheme. This provides useful compliance checks against each operational activity and an early warning of any alleged and developing planning contraventions. At the moment such visits have been suspended, in order to attend to more immediate priorities and covid-safe requirements.

Resolved or mainly resolved cases requiring monitoring

16. Alongside the above monitoring regime there is a need to maintain a watching brief on resolved or mainly resolved enforcement cases which have the potential to reoccur. Under normal circumstances, 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. For the moment, this initiative has also been reduced to allow a diversion of resources to more immediate and pressing

duties.

Conclusion

17. The main theme of this report has been to explain publicly and in a positive way, what we have managed to do, according to agreed priorities, during the constraints imposed by the pandemic. The planning enforcement service continues but for now, in an adapted way. We are working remotely at home as best we can but networking closely with our District and Environment Agency colleagues. We have just been part of a major police and multi-agency operation, which was brought together virtually. The ability to generate such a decisive operational capacity remotely should be a warning to any 'would-be contraveners in the field. Our resources are severely stretched but our capability and intent are as determined as they ever were before lockdown.

Recommendation

18. I RECOMMEND that MEMBERS NOTE & ENDORSE:

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

Case Officers: KCC Planning Enforcement

03000 413380 / 413384

Background Documents: see heading.

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

Agenda Item 9

Document is Restricted

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