

REGULATION COMMITTEE

Wednesday, 21st September, 2022

10.00 am

Council Chamber, Sessions House, County Hall,
Maidstone





AGENDA

REGULATION COMMITTEE

Wednesday, 21st September, 2022, at 10.00 am
Council Chamber, Sessions House, County Hall, Maidstone

Ask for: **Hayley Savage**
Telephone: **03000 414286**

Membership (15)

Conservative (12): Mr S C Manion (Chairman), Mrs S Hudson (Vice-Chairman),
Mr P Cole, Mr M C Dance, Ms S Hamilton, Mr D Jeffrey,
Mr R C Love, OBE, Mr J M Ozog, Mrs L Parfitt-Reid, Mr T L Shonk
and Vacancy and Vacancy

Labour (1): Mr B H Lewis

Liberal Democrat (1): Mr I S Chittenden

Green and Independent (1): Mr M Baldock

UNRESTRICTED ITEMS

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

1. Apologies and Substitutes
2. Declarations of Interests by Members in items on the Agenda for this meeting.
3. Minutes of the meeting held on 9 June 2022
4. Update from the Public Rights of Way and Access Service
5. Update on Planning Enforcement Issues
6. Other Items which the Chairman decides are Urgent
7. 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)

8. Update on Planning Enforcement Cases

Benjamin Watts
General Counsel
03000 416814

Monday, 12 September 2022

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.

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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 Thursday, 9 June 2022.

PRESENT: Mr S C Manion (Chairman) Mrs S Hudson (Vice-Chairman)
Mr M Baldock, Mr I S Chittenden, Mr P Cole, Mr M C Dance, Ms S Hamilton,
Mr B H Lewis, Mr T L Shonk and Mr H Rayner

IN ATTENDANCE: Mr R Gregory (Team Leader - Planning Enforcement),
Mr G Rusling (Public Rights of Way & Access Service Manager) and Hayley Savage
(Democratic Services Officer)

UNRESTRICTED ITEMS**7. Substitutes**

(Item 1)

Apologies were received from Mr Love, Mr Jeffrey, and Mrs Parfitt-Reid. Mr Rayner was attending as substitute for Mr Love.

8. Declarations of Interests by Members in items on the Agenda for this meeting.

(Item 2)

There were no declarations of interest.

Later in the meeting, Mrs Hudson declared an interest under Item 7 – *Update on Planning Enforcement Cases* – and said she was a school governor at Maidstone Grammar School.

9. Minutes

(Item 3)

RESOLVED that the Minutes of the Committee meeting on 27 January 2022 and of the Mental Health Guardianship Sub-Committee on 31 March 2022 are correctly recorded and that they be signed by the Chairman.

10. Update from the Public Rights of Way and Access Service (Oral Report)

(Item 4)

- (1) The Public Rights of Way and Access Service Manager provided a verbal update since the last meeting.
- (2) The Public Rights of Way and Access Service Manager said it had been concluded that there was no trigger event affecting the site of the Westbere Village Green application and a decision was taken on that basis. The decision

was subsequently subject to an application for judicial review set to be heard in the High Court on 14 and 15 July 2022.

- (3) Inspectors' Reports and Recommendations for Whitstable Beach and Herne Bay Village Green applications had been received and were with applicants and landowners for final comment. An officer report and recommendation would be presented to the Regulation Committee at a future meeting.
- (4) The Public Rights of Way and Access Service Manager referred to the 2026 cut-off date for applications to record Public Rights of Way on the Definitive Map and Statement and said in February 2022 the Department for Environment, Food and Rural Affairs (Defra) announced it was the government's intention to repeal the cut-off date and introduce other legislative measures to simplify the process around dealing with definitive map modification orders. The Planning Rights of Way and Access Service Manager said the cut-off date had been driving an increased number of applications and projections would be carried out to determine the required resource for the potential backlog, and this would be reported to the Regulation Committee and the Growth, Economic Development and Communities Cabinet Committee.
- (5) Mr M Baldock proposed, and Mr B Lewis seconded that:

"The Regulation Committee puts on the record its support for the government's decision to remove the Definitive Map cut-off date of 1 January 2026 for the recording of historic rights of way".

- (6) The motion set out in (5) above was agreed unanimously.

RESOLVED that the verbal report be noted.

11. Update on Planning Enforcement Issues

(Item 5)

- (1) The Planning Enforcement Team Leader endorsed the recognition given to Andy Tait, from the officer-side, and introduced the report which covered the work of the Planning Enforcement Team since 27 January 2022.
- (2) The Planning Enforcement Team Leader said the Planning Applications Group was in the process of recruiting a new Planning Enforcement Officer for compliance issues at permitted sites and, moving out of the covid-19 pandemic, the team was ensuring that on any case the team's knowledge and range of enforcement powers were accessible and used in the right ratio. The Planning Enforcement Team was working through a surge of cases in the unauthorised field which may be related to the lifting of restrictions following the pandemic.
- (3) The Planning Enforcement Team Leader referred to Environment Agency waste permits and thanked Members for their comments on the two consultations entitled 'Reform of the Waste Carrier, Broker, Dealer Registration System in England' and 'Introduction of Mandatory Digital Waste Tracking' which had been well received by Defra. The Planning Enforcement Team Leader highlighted the importance of working with partners and referred to HM

Revenue and Customs' (HMRC) involvement on a strategic case and their powers to prosecute any alleged organised crime in a systematic way.

RESOLVED that the actions taken or contemplated in the report be noted and endorsed.

12. Other Items which the Chairman decides are Urgent (Item 6)

This item was taken before Item 5.

Members noted the positive contribution that Andy Tait, Democratic Services Officer, who was retiring in June 2022, had made to the Regulation Committee during his time at KCC.

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)

13. Update on Planning Enforcement cases (Item 8)

- (1) The Planning Enforcement Team Leader gave an update on unauthorised (or part unauthorised) planning enforcement matters setting out actions taken or contemplated at Raspberry Hill Park Farm, Iwade; Warden Point, Eastchurch; Surf Crescent, Eastchurch; Foxdene, Stockbury; Chetney Marshes, Iwade; Springhill Farm, Fordcombe; Water Lane, Thurnham; Hoads Wood Farm, Bethersden; Double Quick Farm, Lenham; Woodside East, Shadoxhurst; Ringwold Alpine Nursery, Dover Road, Ringwold; Fairfield Court Farm, Brack Lane, Brookland, Romney Marsh; Chapel Lane, Sissinghurst; Land off Maypole Lane, Canterbury; Manor Farm, Willow Lane, Paddock Wood; Cobbs Wood Industrial Estate, Ashford; Old Tilmanstone Colliery, Pike Road, Eythorne; Flisher Energy, Fernfield Lane, Hawkinge; Cube Metals, Unit A, Highfield Industrial Estate, Bradley Road, Folkestone; R S Skips, Apex Business Park, Shorne; Unit 2, Katrina Wharf, Wharf Road, Gravesend; Mayfield Grammar School, Pelham Road, Gravesend; Maidstone Grammar School, Barton Road, Maidstone; East Kent Recycling, Oare Creek, Faversham; K & S Services, Cleve Hill Farm, Cleve Hill, Graveney; Borough Green Sandpits, Platt; Wrotham Quarry (Addington Sandpit), Addington, West Malling; H & H Celcon, Ightham; Land to the south of Manor Way Business Park, Swanscombe.
- (2) The Planning Enforcement Team Leader highlighted the importance of involving partners and government bodies with specialised powers in the enforcement of cases.
- (3) Members discussed the possibility of internal recruitment (beyond a new Planning Enforcement Officer for permitted sites) as a way of attracting people

into this part of the profession. The Planning Enforcement Team Leader noted the idea as a way to develop new capacity and to help address the lack of people specialised in this area.

- (4) RESOLVED that the enforcement strategies outlined in paragraphs 9 to 159 of the report be noted and endorsed.

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 Wednesday 21 September 2022.

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 substantially improve 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 2021 to March 2022, 9 applications were determined, 9 orders were made and 7 were confirmed. 16 cases are currently under investigation. To date there are 87 unallocated applications. The number of applications received fluctuates with 7 applications being received in 2018, 22 applications in 2019, 37 in 2020, 19 in 2021. So far this year, 22 have been received. The large increase in applications in 2020 will have an impact on the backlog. The next application to be allocated was received in December 2018 indicating a backlog of 4 years. However, when considering that on average, 10-12 applications are determined each year, the reality is that the current backlog has increased to nearer 8 years. It is hoped that 2 newer members of staff will be allocated their own applications by the end of this year, increasing the capacity allocated to this work and therefore the number of applications that can be progressed.

2.2 There are 5 cases with the Planning Inspectorate awaiting determination as objections were received to the made 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 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 2021 to March 2022, 19 Public Path Orders have been confirmed. There are 54 unallocated diversions/extinguishments resulting in a backlog of approximately 2.5 - 3 years between the receipt of an application and allocation to an officer.

3.2. There is 1 case with the Planning Inspectorate awaiting determination.

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 2021 to March 2022, 15 Public Path Orders have been confirmed/certified. There are 30 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 future unchallenged public use.

4.1. During the period April 2021 to March 2022, 30 Deposits have been received, a decrease of 3 from the previous year.

Land Searches and Temporary Traffic Regulation Orders

5. The Definitive Map Team also provide local authority search responses in respect of public rights of way and common land and village greens. The Team processes the Temporary Traffic Regulation Orders required by the Public Rights of Way and Access Service when undertaking maintenance work, or to ensure public safety. Orders are also made to facilitate work by statutory undertakers, landowners and developers. The full cost of providing these services is recovered from the applicant. Given that much of this activity is tied to the state of the housing market and the level

of development it does fluctuate and currently does impact on the capacity of the team to progress Public Path and Definitive Map Modification Order applications.

Backlogs

6. 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 received, in any one year, can exceed the resource available to determine them.

6.1 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 1 Notice that an applicant had applied to the Secretary of State in the last 12 months. The Secretary of State considered this request and directed that the County Council determine the application within 12 months. It is predicted that more applicants will consider this course of action as the backlog continues to increase.

6.2 The capacity of the team was increased at the end of 2019 to 5.3 fte. The benefits of that increase are starting to feed through in terms of the number of cases being progressed. Given the impending legislative changes, highlighted below, it is expected that the numbers of applications for Definitive Map Modification Orders will continue to increase at a higher rate than was previously experienced. This reflects with the situation in other Surveying Authorities

Legislative Update

7. Deregulation Act 2015 – The Deregulation Act came into force on 27th March 2015, however a package of reforms in relation to PROW have still not come into force as we are awaiting the associated regulations and guidance. No firm indication as to when the regulations will be published has been given by DEFRA.

7.1 Stakeholders were preparing for the regulations and specifically the bringing into force of the 2026 cut-off-date. This is where all unrecorded rights of way created before 1949 were to be extinguished immediately after 1 January 2026 – subject to certain exceptions: -

- It provided 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 anticipated that routes identified on the list of streets/local street gazetteer as publicly maintainable or as private streets carrying public rights would be preserved.
- It preserved rights over routes that were subject to a pending application.

7.2 However, earlier this year Government expressed its intention to repeal this element and not bring it into force. The cut-off-date would have in effect acted as a guillotine, after which time no further applications could have been submitted on the basis of historical evidence, subject to the savings provisions above. However, now this is to be repealed there is no such certainty. It is difficult to predict the effect that this will have on the backlog but it is anticipated that it will continue to increase,

certainly in the next few years as the main user groups are still continuing with their research and submitting applications.

7.3 It is interesting to note that of the 87 unallocated section 53 applications, 53 are based upon pre-1949 historical evidence with the remaining ones being based predominately on user evidence. This reflects a significant change in the basis on which applications had previously been made with the majority previously having relied on user evidence.

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

Update on Planning Enforcement Issues

Item 5

Report by Head of Planning Applications Group to the Regulation Committee on 21st September 2022.

Summary: Update for Members on planning enforcement matters.

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

Unrestricted

Introduction

1. This report gives an insight into events, operational matters and recent activities of the County Planning Enforcement service. The period covered, starts from the previous Regulation Committee of 9th June 2022, to date.
2. The planning enforcement service continues to work flexibly, principally from home. This appears to be the best all round arrangement at the moment. Time is saved from commuting to a fixed office location and avoiding parking issues. More focus is possible on the work itself, including important research, detecting patterns of apparent contravening activity and in workload planning.
3. KCC planning enforcement welcomes and often initiates ways to work collaboratively with other public sector enforcement agencies and there is a number of cases where this work ethic is being implemented. Seeking to work more strategically with other authorities, including the sharing of site visits and photographs (by those who are nearest) has a number of advantages.
4. This operational congruence is also an opportunity to help overcome any procedural problems, such as Environment Agency Waste Management Permits being granted ahead of the planning system.

Report Format

5. Our reporting to the Regulation Committee on planning enforcement matters comprises of two main parts.
6. The first being this 'open' report, summarising in general, our findings and observations relating to enforcement matters, for discussion. In addition, it includes the nature of the alleged unauthorised activities and types of responses, incorporating as much as can be released on operational matters and in data protection terms, without prejudicing any action that the Council may wish to take, or indeed in relation to team actions with other regulatory bodies.
7. The second is the 'closed' or exempt report (within Item 8 of these papers) containing restricted details of cases. These emphasise the work that has been

achieved, in priority order, with the strategic level cases first (those with a County Council interest / remit). These are followed by district referrals, including those where issues of jurisdiction remain and 'cross-over' work with partner bodies, and finally operational compliance issues at permitted sites.

8. This format (Item 8) provides a more in-depth analysis of alleged unauthorised development. Its confidential nature is to protect the content and strategy of any proposed planning enforcement action that may be taken and any gathered evidence, which may subsequently be relied upon in court as part of any legal proceedings. The requirement also applies to any contemplated direct action, by multi-disciplinary teams across the various enforcement authorities.
9. Data protection and security is paramount and a statutory duty of the County Council. It is important in case management terms but also concerning the personal safety and security of all the parties involved.
10. Hearing the details of cases in closed session allows for uninhibited discussion, in seeking Member endorsement, on our own or joint enforcement strategies with other regulatory authorities (who have their own need for confidentiality). In this context and especially with live cases, great care has to be taken in handling any related and sensitive information. Also, in striking the right balance against operational needs and the outcome being sought in the wider community interest.
11. Part of this balancing exercise is to provide a list, under paragraph 12 below, of the cases that will be discussed in the exempt report. This covers those sites currently active or requiring investigation. Those previously reported and inactive, remain on a 'holding / monitoring' database to be brought back to the Committee, should further activity occur, or as an update on site restoration and after-uses. A balance of attention is always sought between live activities and forward momentum on the restoration of affected sites.
12. Our current and immediate operational workload, qualified by remit and with resource priority, is as follows:

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

- 01 **Raspberry Hill Park Farm**, Raspberry Hill Lane, Iwade, Sittingbourne (and related multi-site investigations further afield).
- 02 **Spring Hill Farm**, Fordcombe, Sevenoaks.
- 03 **Water Lane, North of M20**, Thurnham, Maidstone.
- 04 **Hoads Wood Farm**, Bethersden, Ashford.

- 05 **Double-Quick Farm**, Lenham, Maidstone.
- 06 **Woodside East**, Nickley Wood, Shadoxhurst, Ashford

District referrals (or those district cases of potential interest)

- 07 **Ringwould Alpine Nursery**, Dover Road, Ringwould
 - 08 **Fairfield Court Farm**, Brack Lane, Brookland, Romney Marsh.
 - 09 **Chapel Lane**, Sissinghurst, Tunbridge Wells.
 - 10 **Land off Maypole Lane**, Hoath, Canterbury
 - 11 **Manor Farm, Willow Lane**, Paddock Wood
 - 12 **Knowle Farm**, Malling Road, Teston
13. All alleged unauthorised cases received are triaged, researched and investigated to establish whether there is a statutory remit for the County Council. That is a pre-requisite for any formal action. Among the cases are those that may ultimately be handled by other authorities and agencies, without the need for our strategic input, other than within a multi-agency context.
14. Progress has been made on a number of the cases above to the stage where the planning enforcement team is no longer pursuing the primary breach. Instead, we are either bringing restoration to a close or maintaining a watching brief. It is proposed that these cases be taken off the reporting case list and retained on our monitoring data base. The intention being to return the cases to this Committee, when there is a material change of circumstances, such as the completion of restoration for 'sign-off', the reporting of any undue delay or the resumption of the original activities.
15. This would allow for more focus at Committee on fully active cases, particularly those requiring authority to act or endorsement of actions already taken under delegated powers. That is either in a county planning enforcement capacity, or in combination with other bodies.
16. It is common that just as a case is resolved in this field, or we see a reversal in any alleged unlawful waste (and very occasionally mineral-related) activities, there are new 'replacement' sites to add to our running case list for investigation. Making way for these, would allow more attention to be put to them and to allow for this *revolving door* of incoming and outgoing cases to be more evenly balanced.

17. A further workload area relates to potential compliance issues at permitted sites, mainly alleged breaches of planning conditions. They are listed in alphabetical district order.

Permitted sites (compliance issues)

- 01 European Metals Recycling, **Cobbs Wood Industrial Estate**, Ashford.
- 02 **The Old Tilmanstone Colliery**, Pike Road, Eythorne.
- 03 **Cube Metals**, Unit A, Highfield Industrial Estate, Bradley Road, Folkestone.
- 04 **RS Skips**, Apex Business Park, Shorne.
- 05 **Unit 2, Katrina Wharf**, Wharf Road, Gravesend.
- 06 **Mayfield Grammar School**, Pelham Road, Gravesend
- 07 **Trosley Country Park**, Waterlow Road, Vigo, Vigo Village, Gravesend.
- 08 **Teston Bridge Country Park**, Teston Lane, Maidstone
- 09 **East Kent Recycling**, Oare Creek, Faversham.
- 10 **Borough Green Sandpits**, Borough Green.
- 11 **Wrotham Quarry (Addington Sandpit)**, Addington, West Malling.
- 12 **H&H Celcon**, Ightham
- 13 **Land to the south of Manor Way Business Park**, Swanscombe

Meeting Enforcement Objectives

Overview

18. The planning enforcement team strive to provide the best service possible, against a number of challenges and pressures, responding quickly to reports of (normally) alleged waste-related contraventions. These usually involve individual sites. However, the service also extends to alleged waste criminal activity that may be committed across a range of sites in an interconnected way. This is when we typically look to join forces with enforcement partners to mount an

effective challenge to such activities.

19. The service relies upon cases being thoroughly investigated and where there is sufficient evidence, the taking of robust action against the alleged perpetrators. The list of sites under paragraph 12 above, contains the full spectrum of cases from independent County Council intervention on single sites, to multiple-site scenarios, involving multi-agency teams. The aim is to achieve the best planning enforcement coverage and where needed, the best combined array of powers across partner authorities, to match the situation. Each of the three main regulators has different regulatory powers which can be used in varying ways depending upon the circumstances of the case. For this reason, there is considerable merit in our current approach to try and resolve by negotiation wherever possible or in conjunction with a Regulatory Team.
20. The list of sites under paragraph 17 above, gives the County Council's permitted site compliance workload. These largely involve alleged breaches of planning conditions, with attendant amenity, environmental and highway impacts, according to each case profile.

Internal efficiency

21. Planning enforcement has two other dimensions. The first being, the frontline 'visible' aspects of the Authority's response to any alleged wrongful activities. An example would be an overt and high-visibility presence on site. The second, is the internal and more 'invisible' aspects of the work, including landowner and company searches, the ordering of evidence and the administration of statutory processes such as Freedom of Information (FOI) requests. The latter in particular has to be approached in a systematic way, reviewing all kept files and information. This may take a considerable amount of time when involving complex cases, especially when the integrity of live and crucial evidence has to be protected in the public interest.
22. The procedural aim is to carry out the 'invisible' duties as efficiently as possible, to allow for more 'visible' on-site attention and monitoring, especially with its potential deterrent effect and other enforcement benefits.

Environment Agency (EA) Permitting

23. Members have been previously informed of a situation where Environment Agency (EA) Waste Management Permits are being granted in advance of any planning application and therefore decision on the suitability of the site and surrounding location. Planning enforcement action may then become required to address the absence of this fundamental requirement. That is potentially detrimental to all parties, including any local communities affected by the alleged unauthorised activities.
24. This preventable situation accounts for a growing part of our planning

enforcement workload. Historically, the EA would consult KCC planning enforcement and inform permitting applicants on their website that planning permission may be required, before any waste permitted activity could commence. The EA is no longer required to consult or notify KCC planning enforcement of any application for waste permits, in this way.

25. Urgent resumption of these practises is thought to be the best and most practical means of resolving the situation. Steps have already been taken to address this with planning enforcement formally requesting to be added to the consultation list, prior to a waste permit being granted. The advantage being that KCC could advise potential waste operators when planning permission would be required for that particular waste-related use. Also, the service would be alerted to any potential pre-emptive activity, before becoming established and difficult to reverse, if that is required.
26. Discussions have begun with the EA permitting hierarchy, with an initial and favourable reaction. We are now awaiting a response to our request, which has been added to the agenda of planned internal permitting discussions at the EA. Hopefully, a workable solution can be found. The planning enforcement and environmental case is strong and the procedural adjustment modest. The change however, is potentially significant, with the time saved able to be channelled back into the service.

Other Considerations

27. Planning enforcement is an important County Council service, not least through the environmental protection that it offers. The number of site inspections needed, and monitoring frequency, will vary according to the needs of the case but would always be carried out, as required. At the same time however, we are looking for opportunities to help balance this, through a sharing of site and monitoring information, principally with our district council and EA colleagues. That should help the efficiency of all parties.

Monitoring

Monitoring of permitted sites and update on chargeable monitoring

28. In addition to our general visits to sites, we also undertake monitoring visits on permitted sites. They provide useful compliance checks against each operational activity and an early warning of any alleged and developing planning contraventions. Those within the statutory monitoring charging scheme are currently restricted in favour of other work priorities, although investigation of alleged breaches that are drawn to the Council's attention have continued to be investigated.

Resolved or mainly resolved cases requiring monitoring

29. 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.

Conclusion

30. The County Planning Enforcement service strives to provide the best possible service with the resources available and is making good progress on cases. Since the Committee last met it has tried on a number of occasions to provide a replacement resource to investigate complaints relating to alleged breaches at permitted mineral and waste sites. In the interim, some limited capacity of the planning officers involved in processing planning applications has been diverted to this area of the service as a temporary measure. This is not a long-term solution and does not provide the capacity that is required. The team is however very conscious of the impact that any uncontrolled and largely waste-related activities will have on local environments and communities. As a result, we have geared the service to achieve a good response to reports of such activities and alleged waste crime. That includes operational and procedural ways to free more time for frontline work.

31. We continue to coordinate with and support other enforcement agencies to help tackle 'problem sites' holistically. That includes our current discussions, for example, with the Environment Agency, for them to consult with us prior to issuing waste management permits. That small procedural change, from closer working ties, should hopefully reverse the current procedural and operational disadvantages that arise.

Recommendation

32. 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, 6a, 6b of Part 1 of Schedule 12A of the Local Government Act 1972.

Agenda Item 8

Document is Restricted

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