

## KENT COUNTY COUNCIL

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### REGULATION COMMITTEE

MINUTES of a meeting of the Regulation Committee held in the Council Chamber, Sessions House, County Hall, Maidstone on Wednesday, 26 April 2023.

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

IN VIRTUAL ATTENDANCE: Mr D Beaney

IN ATTENDANCE: The Team Leader - Planning Enforcement, Mr G Rusling (Public Rights of Way & Access Service Manager) and Mrs S Thompson (Head of Planning Applications), The Specialist Enforcement Officer and Ms H Savage (Democratic Services Officer)

### UNRESTRICTED ITEMS

#### **32. Membership**

*(Item 1)*

The Chairman advised Members that Mr Rayner and Mr Beaney had joined the committee and a vacancy had arisen since the agenda was published.

RESOLVED that the membership be noted.

#### **33. Apologies and Substitutes**

*(Item 2)*

Apologies were received from Mr Chittenden and Mrs Parfitt-Reid. Mrs Cole was attending as substitute for Mrs Parfitt-Reid.

#### **34. Declarations of Interests by Members in items on the Agenda**

*(Item 3)*

There were no declarations of interest.

#### **35. Minutes**

*(Item 4)*

RESOLVED that:

- (a) the minutes of the Committee meeting on 24 January 2023 are correctly recorded and that they be signed by the Chairman.
- (b) The minutes of the Mental Health Guardianship Sub-Committee on 15 March 2023 be noted.

### **36. Future Meeting Dates**

*(Item 5)*

RESOLVED that the future meeting dates be noted.

### **37. Update from the Public Rights of Way and Access Service (Oral Report)**

*(Item 6)*

- (1) The Public Rights of Way and Access Service Manager provided an oral update. He said a detailed report on the Preston Parade village green application would be brought to the October 2023 meeting of the Regulation Committee and reports regarding Whitstable Beach and Herne Bay village green applications would be brought to a Member Panel of the Regulation Committee in due course. The Public Rights of Way and Access Service Manager updated Members on the ongoing Westbere village green application where the decision to proceed was appealed by the landowners on the basis that a trigger event had occurred and the High Court ruled against this. A subsequent application to the Court of Appeal was refused and the matter would now be considered at a non-statutory public inquiry in June 2023. A report would be brought back to a Member Panel of the Regulation Committee for decision.
- (2) The Public Rights of Way and Access Service Manager said Members were aware of the government's intention to repeal the 1<sup>st</sup> January 2026 cut-off date for applications to record Public Rights of Way on the basis of historic evidence. On 2 March 2023 at a meeting of the National Equine Forum the Minister of State for the Department of Environment, Food and Rural Affairs announced a change in the position and the intention of government to implement the cut-off date. He said it had since been indicated that the cut-off date would be extended until 2031 as provided for in the Deregulation Act 2015.
- (3) The Public Rights of Way and Access Service Manager said a definitive map modification order had been made amending Public Footpath ZR281 in Doddington. The Definitive Map Modification Order was objected to by the landowner and passed to the Planning Inspectorate for determination where the order was confirmed on behalf of the Secretary of State. An application to challenge that decision was made to the High Court with the Council as a second defendant, although it was unlikely the Council would actively participate.
- (4) RESOLVED that the report be noted.

### **38. Update on Planning Enforcement Issues**

*(Item 7)*

- (1) The Head of Planning Applications introduced the report which covered the work of the Planning Enforcement Team since 24 January 2023.
- (2) The Head of Planning Applications said that work continued with the Environment Agency, the borough and district councils and Kent Police, on several cases due to the complexity, range of issues and limited resource. She highlighted that the joint working approach allowed for the best use of regulatory

powers, sharing of evidence gathering, and selection of the most appropriate powers for resolution and helped ensure that regulators were not played off against each other.

- (3) The Head of Planning Applications referred to the permitting issue with the Environment Agency (EA) where EA permits were issued ahead of planning permission being in place. A meeting took place on Friday 21 April 2023 between officers, the Cabinet Member for Economic Development, and the Southeast Director for the Environment Agency to discuss concerns. The Head of Planning Applications clarified that a change to the EA's process regarding mandatory consultation with the County Council on permits was not an option as it would require primary legislation to be applied nationally. The following actions for a local solution were agreed at the meeting:
  - Officers would identify from the EA's website potential permits before they were determined and be able to provide comments to the EA's National Permitting Team for consideration in their decision-making process.
  - Officers would be able to identify operators seeking a permit and, where applicable, approach them direct to flag up any need for planning permission.
  - Strong representations were made by the Council for the EA to refer to the planning process in their national guidelines.
  - Officers and the Cabinet Member for Economic Development would meet quarterly with the Southeast Director of the EA to review working practices and discuss issues of common interest.
- (4) Members thanked officers for their work and steps taken on planning enforcement cases since January 2023 and congratulated them on the progress that had been made.
- (5) Members discussed minerals and waste sites in urban areas, where planning permission and an EA permit had been granted, and the effects of their use, for example dust, on nearby housing developments. The Head of Planning Applications said the district or borough council, when determining whether to grant permission for nearby developments had regard for mineral and waste safeguarding matters. In relation to planning enforcement the controls on the planning permission for the minerals and waste site and any recent permissions would need to be considered and if it was limited other regulatory processes would be explored. She said she would investigate the issue further in relation to specific sites brought to her attention.
- (6) Members agreed that the Chairman would write on the Committee's behalf to the Cabinet Member for Economic Development to thank him for the positive steps taken, and actions agreed, with the Environment Agency regarding the permitting issue.
- (7) RESOLVED that the actions taken or contemplated in the report be noted and endorsed.

**39. Other Items which the Chairman decides are Urgent**  
(Item 8)

There were no urgent items.

#### **40. Update on Planning Enforcement Cases**

*(Item 9)*

##### **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)*

- (1) The Head of Planning Applications summarised information she had obtained in relation to planning enforcement resources within Kent's district and borough planning authorities, including the Ebbsfleet Development Corporation.
- (2) The Planning Enforcement Team Leader gave an update on alleged unauthorised (or part unauthorised) planning enforcement matters setting out actions taken or contemplated at Ancient Woodland Adjacent to Knoxfield Caravan Site, Dartford; Oaktree Farm, London Road, Halstead; Warden Point/Third Avenue, Eastchurch; Raspberry Hill Park Farm, Iwade; Water Lane, Thurnham; Woodside East, Shadoxhurst; Land off Maypole Lane, Canterbury; Manor Farm, Willow Lane, Paddock Wood; Knowle Farm, Teston; Cobbs Wood Industrial Estate, Ashford; Old Tilmanstone Colliery, Pike Road, Eythorne; Cube Metals, Unit A, Highfield Industrial Estate, Bradley Road, Folkestone; R S Skips, Apex Business Park, Shorne; Mayfield Grammar School, Pelham Road, Gravesend; Teston Bridge Country Park, Maidstone; East Kent Recycling, Oare Creek, Faversham; Borough Green Sandpits, Platt; Wrotham Quarry (Addington Sandpit), Addington, West Malling; H & H Celcon, Ightham.
- (3) Members discussed the safeguarding and wellbeing of Planning Enforcement Officers. Mr Rayner proposed, and Mr Cole seconded that safeguarding and wellbeing precautions be put in place to recognise the work of the Council's Planning Enforcement Officers and protect their identity, and it was agreed unanimously.
- (4) The committee noted that the numbering of the paragraph that followed paragraph 93 on page 31 of the report was mistakenly numbered 97 and should be 93a and the numbering of the recommendation that followed paragraph 152 on page 46 of the report was mistakenly numbered 151 and should be 153.
- (5) RESOLVED that the enforcement strategies outlined in paragraphs 5 to 150 of the report be noted and endorsed.