

## 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 Tuesday, 17 October 2023.

PRESENT: Mr S C Manion (Chairman) Mr M Baldock, Mr T Bond, Mr I S Chittenden, Mr P Cole, Mr M C Dance, Peter Harman, Mr J M Ozog, Mrs L Parfitt-Reid, Mr H Rayner, Mr T L Shonk and Ms S Hamilton

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

### UNRESTRICTED ITEMS

#### **41. Membership**

*(Item 1)*

The Chairman advised Members that Mr Bond, Mr Harman and Ms Meade had joined the committee.

RESOLVED that the membership be noted.

#### **42. Apologies and Substitutes**

*(Item 2)*

Apologies were received from Mr Beaney, Mrs Hudson, Mr Lewis, and Ms Meade. Mrs Hamilton was attending as substitute for Mrs Hudson.

#### **43. Declarations of Interests by Members in items on the Agenda for this meeting.**

*(Item 3)*

There were no declarations of interest.

#### **44. Minutes of the meeting held on 26 April 2023**

*(Item 4)*

RESOLVED that the minutes of the Committee meeting on 26 April 2023 are correctly recorded and that they be signed by the Chairman.

#### **45. Update from the Public Rights of Way and Access Service**

*(Item 5)*

1. The Definitive Map Team Leader introduced the report and provided an update in respect of applications to amend the Definitive Map and Statement (DMS). During the period April 2022 to March 2023 14 Section 53 applications were

determined, 6 orders were made and 2 were confirmed, and 17 cases were currently under investigation. The backlog included 82 unallocated applications and on average 10-12 applications were investigated each year which meant a backlog of about 8 years. Four cases were currently with the Planning Inspectorate.

2. Applications were also processed under the Highways Act to divert or extinguish a right of way and during the period April 2022 to March 2023 15 public path orders had been confirmed and there were 43 unallocated applications which meant a backlog of about 2.5 to 3 years. One case was currently with the Planning Inspectorate.
3. The Definitive Map Team Leader said the team processed applications under the Town and Country Planning Act on behalf of all the district councils (except Maidstone and Thanet) through a Service Level Agreement. Applications were also considered under the council's own planning function for example schools and minerals extraction. During the period April 2022 to March 2023 12 public path orders had been confirmed and there were 39 cases where the order had been made and confirmed but was awaiting certification. One case was with the Planning Inspectorate.
4. In relation to deposits where a landowner could protect their land from future Section 53 applications and village green applications The Definitive Map Team Leader said during the period April 2022 to March 2023 25 deposits had been received.
5. The Definitive Map team provided local authority search responses in respect of public rights of way, village green and common land. Temporary Traffic Regulation Orders were processed on behalf of the Council, statutory undertakers, landowners, and developers.
6. The Definitive Map team Leader highlighted that the backlogs reflected the complex and lengthy procedures that were required and when objections were received applications were submitted to the Planning Inspectorate who themselves had a lengthy backlog.
7. Within the last year the team had received 1 direction from the Secretary of State for a Section 53 application to be determined within 12 months. The Definitive Team Leader said she expected to see more as the backlog continued to grow.
8. The Definitive Map Team Leader referred to the Deregulation Act 2015 and said the provisions for this to come into force was still awaited, however task groups had been set up to look at the reforms package.
9. The Definitive Map Team Leader referred to the 2026 cut off date where all unrecorded rights of way created before 1949 were to be extinguished immediately after 1 January 2026 and said a statement issued in March 2023 by the Department for Environment, Food & Rural Affairs (DEFRA) determined that the cutoff date would be brought into force. However, due to the delay caused by the pandemic the cutoff date had been extended to 1<sup>st</sup> January 2031.

An increased number of applications, based on historical use, were therefore expected.

10. The Definitive Map Team Leader set out new guidance that had recently been issued as of August 2023 setting out government policy on changes to public rights of way.
11. Mr Baldock asked about the amount charged to developers for Public Rights of Way (PROW) diversions and the Public Rights of Way and Access Service Manager said this was in the region of £2,000 to £3,000 and was strictly regulated and reviewed in terms of the cost of the Council's service provision.
12. Mr Cole asked about Section 53 applications and appeals to the Secretary of State. The Definitive Map Team Leader said the Council provided information regarding priorities and backlog to the Secretary of State and there was not a standard length of time issued for determination.
13. Mr Bond asked about staff resource and the Public Rights of Way and Access Service Manager said there were 5.3 FTE (full-time equivalent) members of staff within the team and approximately 1.2 FTE were currently dealing with 17 Section 53 applications. He said Section 53 applications were not chargeable unlike public path orders and Town and Country Planning Act orders. Benchmarking across the Southeast had shown that the Council was ahead of other local authorities in terms of productivity.
14. Mr Shonk asked about the pressure of development on PROW applications and the Public Rights of Way and Access Service Manager said this put pressure on the team in terms of recording rights of way and the work carried out under the Service Level Agreements with 10 of the 13 planning authorities within Kent.
15. Mr Baldock asked about the King Charles III England Coast Path (KCIIIIECP) and the Public Rights of Way and Access Service Manager said this had not had an impact on the Definitive Map Team as it was led by Natural England on behalf of DEFRA. However, the team had been heavily involved and progress had been good. The costs of the Council's involvement were met through Natural England and grants.

RESOLVED that the report be noted.

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

*(Item 6)*

1. The Head of Planning Applications introduced the report which covered the work of the Planning Enforcement Team since 26 April 2023.
2. The Head of Planning Applications said the team remained very busy and there had been a notable development in alleged organised waste crime activity spreading across a number of sites which had mixed planning uses and involved a range of regulators. The team was continuing to work well with other regulatory bodies including the Environment Agency, district and borough councils, His Majesty's Revenue & Customs (HMRC), Natural England and Kent Police. The Head of Planning Applications said the joint approach was a

good use of limited resources, provided a united front, enabled evidence sharing, the sharing of monitoring responsibilities, and provided a range of regulatory tools and prosecution options.

3. The Team continued to triage and research complaints to identify whether there was a KCC interest and a lead role for the County Council. Where sites were resolved they continued to be monitored and, where appropriate, brought back for investigation.
4. The Head of Planning Applications referred to the Environment Agency's permitting issue (where sites had an EA permit but not planning permission) and, working with the EA, early warning systems had been put in place so that the team were aware of potential breaches much earlier than before. The EA had revoked the permit on several cases (where planning had not been permitted) which activated their site clearance responsibility.

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

#### **47. Other Items which the Chairman decides are Urgent**

*(Item 7)*

The Chairman advised Members that a Regulation Committee Training Session for Members would take place on Monday 4 December 2023.

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

*(Item 8)*

1. The Head of Planning Applications introduced the report which covered the work of the Planning Enforcement Team since 26 April 2023.
2. Members discussed the complexity of some of the cases and the enforcement action available to different agencies, and collectively, to combat the planning enforcement pressures faced by the Council. The committee agreed that the Chair would speak to the Chair of the Kent and Medway Police and Crime Panel regarding the possible attendance of the Police and Crime Commissioner at a future meeting of the Regulation Committee.
3. The Planning Enforcement Team Leader gave an update on unauthorised (or part unauthorised) planning enforcement matters setting out actions taken or contemplated at Hoads Wood, Betersden, Ashford; Ancient Woodland Adjacent to Knoxfield Caravan Site, Dartford; Oaktree Farm, London Road, Halstead; Warden Point/Third Avenue, Eastchurch, Isle of Sheppey; Raspberry Hill Park Farm, Iwade; Water Lane, Thurnham; Woodside East, Shadoxhurst; Land off Maypole Lane, Hoath, Canterbury; Manor Farm, Willow Lane, Paddock Wood; Knowle Farm, Malling Road, 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, East Kent Recycling, Oare Creek, Faversham; Borough Green Sandpits, Platt; Wrotham Quarry (Addington Sandpit), Addington, West Malling; H & H Celcon, Ightham.

4. The Head of Planning Applications amended her recommendations relating to Raspberry Hill Park Farm at paragraph 64 of the report and Cube Metals, Folkestone, at paragraph 126 of the report and this was unanimously agreed.

RESOLVED that:

- a. subject to paragraph 4 above the enforcement strategies outlined in paragraphs 6 to 155 of the report be noted and endorsed; and
- b. The Chair would speak to the Chair of the Kent and Medway Police and Crime Panel regarding the possible attendance of the Police and Crime Commissioner at a future meeting of the Regulation Committee.