

REGULATION COMMITTEE

Tuesday, 17th October, 2023

10.00 am

Council Chamber, Sessions House, County Hall,
Maidstone





AGENDA

REGULATION COMMITTEE

Tuesday, 17th October, 2023, at 10.00 am Ask for: **Hayley Savage**
Council Chamber, Sessions House, County Telephone: **03000 414286**
Hall, Maidstone

Membership (15)

Conservative (10): Mr S C Manion (Chairman), Mrs S Hudson (Vice-Chairman),
Mr D Beaney, Mr T Bond, Mr P Cole, Mr M C Dance, Mr J M Ozog,
Mrs L Parfitt-Reid, Mr H Rayner and Mr T L Shonk

Labour (2): Mr B H Lewis and Ms J Meade

Liberal Democrat (1): Mr I S Chittenden

Green and Mr M Baldock and Peter Harman
Independent (2):

UNRESTRICTED ITEMS

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

1. Membership
To note that Mr Bond, Mr Harman and Ms Meade have joined the committee.
2. Apologies and Substitutes
3. Declarations of Interests by Members in items on the Agenda for this meeting.
4. Minutes of the meeting held on 26 April 2023 (Pages 1 - 4)
5. Update from the Public Rights of Way and Access Service (Pages 5 - 8)
6. Update on Planning Enforcement Issues (Pages 9 - 14)
7. Other Items which the Chairman decides are Urgent

Motion to exclude the press and public for exempt business

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.

8. Update on Planning Enforcement Cases (Pages 15 - 44)

Benjamin Watts
General Counsel

Monday, 9 October 2023

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 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 1st 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.

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 Tuesday 17 October 2023.

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 2022 to March 2023, 14 applications were determined, 6 orders were made and 2 were confirmed. 17 cases are currently under investigation. To date there are 82 unallocated applications. The number of applications received fluctuates with 7 applications being received in 2018, 22 in 2019, 37 in 2020, 19 in 2021, 21 in 2022 and 5 have been received so far this year. The large increase in applications between 2020 and 2022 will have an impact on the backlog. The next application to be allocated was received in May 2019 indicating a backlog of close to 4.5 years. However, when considering that on average, 10-12 applications are determined each year, the reality is that the current backlog is nearer 8 years. As reported last year, 2 newer members of staff were to be allocated their own applications. This has now happened, resulting in an increased capacity allocated to this area of work and therefore the number of applications that can be progressed.

2.2. There are 4 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 2022 to March 2023, 15 Public Path Orders have been confirmed. There are 43 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 2022 to March 2023, 12 Public Path Orders have been confirmed/certified. There are 39 cases where orders have been made and confirmed and are awaiting certification following the completion of the works on site.

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

3.5. 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 2022 to March 2023, 25 Deposits have been received, a decrease of 5 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 may 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, especially as the newer officers have now started processing section 53 applications.

Legislative Update

7. Deregulation Act 2015 – The Deregulation Act was enacted on 27 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 but we are aware that momentum is building and anticipate that for some elements it will be months as opposed to years.

7.1. 2026 cut-off-date - This is where all unrecorded rights of way created before 1949 are 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. I reported at the last update that Government had decided to repeal this element. However, in a Statement issued on 22 March 2023, Defra has determined that the cut-off-date will be brought into force. This will, in effect, act as a guillotine, after which time no further applications can be submitted based on historical evidence, subject to the savings provisions above. However, the Secretary of State also stated that due to the reforms being delayed by covid, they intend to use existing powers within the Countryside & Rights of Way Act 2000 to extend the cut-off-date by

5 years to 1 January 2031. It is therefore expected that many more applications will be received before the cut-off-date comes into force, as the main user groups are continuing with their research and submitting applications.

7.3. It is interesting to note that of the 82 unallocated section 53 applications, 51 are based upon pre-1949 historical evidence with the remaining cases being based predominately on user evidence. This reflects a significant change in the basis on which applications had been made with the majority previously having relied on user evidence.

New Guidance

8. Defra has introduced new guidance (August 2023) setting out Government policy on changes to public rights of way where they pass through a garden or curtilage of a residential dwelling, a farmyard or other commercial or industrial premises. Where the guidance applies, the Order making authority should weigh the interests of the owner/and or occupier against the overall impact of the proposal on the public as a whole. Reducing or eliminating the impact of the current route on the owner and/or occupier, in terms of privacy, security and safety are important considerations to which due weight should be given.

8.1. Whilst the guidance introduces a presumption in favour of diverting or extinguishing a public right of way through certain types of land, where privacy, safety or security are a concern, the relevant legislative tests, as detailed above, at paragraph 3, must be satisfied. Where a proposal has already been considered and declined by the Secretary of State, it is highly unlikely that we will process a new application, unless the proposal has altered substantially.

8.2. The guidance refers to the diversion of a right of way onto other land where landowner consent is not forthcoming. However, having considered this, we are not in a position to process an application unless all landowner consents are in place. This is because the compensation provisions within section 28 of the Highways Act 1980 are triggered; an affected landowner can claim compensation from the County Council if they can demonstrate that the value of their land has depreciated, or they have suffered damage by being disturbed in their enjoyment of the land. The costs for this could be significant and would have to be paid in full by the County Council. Processing these claims and recovering the costs from applicants could have a disproportionate impact on officer time meaning fewer applications can be dealt with.

8.3. The General Notes which accompany the application form have been updated to reflect this new guidance and these are available on the County Council's website.

Recommendation

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

Contact Officers:

Laura Wilkins – Definitive Map Team Leader
Tel 03000 41 34 80 – Email: laura.wilkins@kent.gov.uk

Graham Rusling – Public Rights of Way and Access Service Manager
Tel: 03000 41 34 49 - Email: graham.rusling@kent.gov.uk
Public Rights of Way & Access Service

Update on Planning Enforcement Issues

Item 6

Report by Head of Planning Applications Group to the Regulation Committee on 17th October 2023.

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 26th April 2023, to date.
2. KCC planning enforcement remains under both resourcing and operational pressures, with an increasing caseload and complexity, especially at the strategic end of the spectrum. There is a notable development in alleged waste criminal activity spread across a network of sites. These in turn display a mix of planning uses, as well as waste-related elements, attracting the attention of a range of official authorities and agencies.
3. Historically, the County Council has worked with other local planning authorities the Environment Agency (EA) and the police. However, more frequently of late, we have also forged closer operational links with other government bodies such as Natural England (NE) and His Majesty's Revenue and Customs (HMRC).
4. Collaboration among all of these bodies is increasingly required as the depth and extent of the challenges involved continue to escalate. By necessity and design, joint operational working at all levels is becoming more common and sophisticated. The range of options and powers open to the participants, have expanded accordingly. In the planning field, this has importantly added to our traditional armoury.

Report Format

5. The 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 without prejudicing any action that the Council may wish to take, or in relation to team actions with other regulatory bodies. Data security in this field of work is

becoming increasingly important.

7. The second is the 'closed' or 'exempt' report (within Item 8 of these papers) containing restricted details on cases. These report the work conducted, in priority order, with the strategic level cases first (with a County Council interest / remit). These are followed by district referrals, including those where issues of jurisdiction remain, and including 'cross-over' work with partner bodies and finally alleged compliance issues at permitted sites.
8. In this way, a more in-depth analysis of alleged unauthorised activities becomes possible, with cross-comparisons between sites and the search for patterns of alleged contravening behaviour. It also enables the confidentiality of the content and strategy of any proposed planning enforcement action to be protected, along with any active gathered evidence.
9. Data protection and security is paramount, underpinning the integrity of any contemplated actions, along with the personal safety and security of all the parties involved. 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 in turn, have their own need for confidentiality). Great care has to be taken at all times, in handling any related and sensitive information, in order to preserve operational security.
10. As a counter-balance to security restrictions, a list is provided, under paragraph 11 below, of the cases that will be covered 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. This particularly now includes, sites close to completion, allowing a revised balance of attention towards live activities. Notwithstanding that, forward momentum still continues in the background, on the restoration of affected sites.
11. Our current and immediate operational workload, qualified by remit and with resource priority (with other cases on a 'holding' database) is as follows:

County Matter cases (complete, potential, forming a significant element or as a regulatory group contribution)

01 **Hoads Wood**, Bethersden, Ashford

02 **Ancient Woodland Adjacent to Knoxfield Caravan Site**, Darenth Wood Road, Dartford

03 **Oaktree Farm**, Halstead, Sevenoaks

- 04 **Warden Point and Third Avenue**, Eastchurch, Isle of Sheppey
- 05 **Raspberry Hill Park Farm**, Raspberry Hill Lane, Iwade, Sittingbourne

District or EA referrals (or those district or EA cases of potential interest)

- 06 **Water Lane, North of M20**, Thurnham, Maidstone.
- 07 **Woodside East**, Nickley Wood, Shadoxhurst, Ashford
- 08 **Land off Maypole Lane**, Hoath, Canterbury
- 09 **Manor Farm, Willow Lane**, Paddock Wood
- 10 **Knowle Farm**, Malling Road, Teston, Maidstone

12. All alleged unauthorised cases received are triaged, researched and investigated to establish whether there is a statutory remit for the County Council, unless it is clearly not for KCC planning enforcement. Among the cases are those that may ultimately be handled by other authorities and agencies or where we contribute within multi-agency settings.

13. A further workload area relates to alleged compliance issues at permitted sites. These mainly relate to alleged breaches of planning conditions, arising from site management issues.

Permitted sites (compliance issues)

- 01 **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 **East Kent Recycling**, Oare Creek, Faversham
- 06 **Borough Green Sandpits**, Platt, Borough Green
- 07 **Wrotham Quarry (Addington Sandpit)**, Addington, West Malling

08 H&H Celcon, Ightham

Meeting Enforcement Objectives

Resourcing & skills base

14. Members were informed at the last Regulation Committee in April, that the developing and retention of skills and capacity within County planning enforcement is a key priority. Indeed, it was reported that a Royal Town Planning Institute survey had confirmed that the problems experienced in Kent relating to recruitment, retention and development of new officers were generic within the country.
15. This becomes particularly important in relation to alleged and organised waste crime (as mentioned in paragraph 2 of this report) where speed, agility and originality of actions are needed. The government has recognised this by handing bespoke powers to the Environment Agency and His Majesty's Revenue and Customs (HMRC). Updated and commensurate powers have not been invested within County Planning Authorities. In Kent, the forging of links with these government organisations has therefore long been seen as an operational necessity, with the initiative advancing well.
16. KCC Planning Enforcement has sought to be at the vanguard of these new enforcement trends. That includes an ambition to upgrade our skill set beyond the traditional type of enforcement action, to help combat more directly, the increase in alleged organised waste crime.

EA Permitting issue

17. As a further initiative, Members have been active with officers in seeking solutions to the 'EA Permitting issue'. That is where waste cases have been developing with the benefit of an Environment Agency Waste Management Permit but in the absence of a pre-requisite planning permission. Planning enforcement interventions have then been needed to address any pre-emptive and damaging activities.
18. A number of early warning data type solutions have been discussed with the EA. These are being trialled and reinforced by front-line exchanges of information on pending waste cases with our EA counterparts. Good combined work has also taken place on several sites where the Permit itself has been allegedly breached, to the extent where revocation is being considered by the EA, with an in-built duty to ensure restoration of the site to its pre-existing condition. In other words, the Permit issue is being challenged at both ends, in an active way, by both organisations.

Other considerations

19. There are many dimensions to county planning enforcement, from responding to individual unauthorised sites, to strategic initiatives in the absence of planning permission, with allied regulatory bodies. In addition, monitoring and compliance work at permitted sites.

Monitoring

Monitoring of permitted sites and update on chargeable monitoring

20. In addition to 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. Alleged planning contraventions at permitted sites are currently being addressed with additional support from agency staff.

Resolved or mainly resolved cases requiring monitoring

21. 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, especially the more complex cases, alongside other regulators.

Conclusion

22. KCC Planning enforcement is being continually challenged by complex cases that stretch our existing powers and capacity. The operational response has been to join forces with allied enforcement bodies, particularly on the more serious cases. Our contribution is wide, with our sights set on adding to our existing skills base, beyond the traditional style of enforcement action, through original solutions and working in an agile way. In turn, such collaborations can amount to enforcement measures in their own right, with the pooling of intelligence, shared monitoring, presentation of a shared front on site and the integration of skilled enforcement staff and related management expertise. This operational format is proving it's worth in a number of settings, at different scales of activity and particularly the five strategic examples, listed under paragraph 11 of this report.

Recommendation

23.I RECOMMEND that MEMBERS NOTE & ENDORSE:

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

Case Officers: KCC Planning Enforcement
413380

03000

Background Documents: see heading.

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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