

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, 7 May 2024.

PRESENT: Mr S C Manion (Chairman) Mr M Baldock, Mr T Bond, Miss S J Carey, Mr I S Chittenden, Mr P Cole, Mr M C Dance, Peter Harman, Mr B H Lewis, Ms J Meade, Mrs L Parfitt-Reid and Mr H Rayner.

ALSO PRESENT: Cllr D Murphy.

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

UNRESTRICTED ITEMS

58. Apologies and Substitutes

(Item 1)

Formal apologies had been received from Mr Beaney who was attending virtually.

59. Election of Vice-Chair

(Item 2)

1. Mr Rayner proposed, and Mr Dance seconded that Miss Carey be elected Vice-Chair of the Regulation Committee.
2. Mr Chittenden proposed, and Mr Lewis seconded that Mr Baldock be elected Vice-Chair of the Regulation Committee.
3. Members voted on the election of Vice-Chair, and it was agreed by majority vote that Miss Carey be elected Vice-Chair of the Regulation Committee.
4. RESOLVED that Miss Carey be elected Vice-Chair of the Regulation Committee.

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

(Item 3)

There were no declarations of interest.

61. Minutes

(Item 4)

RESOLVED that:

- a) the minutes of the Committee meeting on 30 January 2024 are correctly recorded and that they be signed by the Chairman.
- b) The minutes of the Regulation Committee Member Panel on 24 November 2023 are correctly recorded and that they be signed by the Chairman.
- c) The minutes of the Regulation Committee Mental Health Guardianship Sub-Committee on 18 January 2024 be noted.

Mr Baldock voted against the recommendation to approve the minutes of the Regulation Committee Member Panel on 24 November 2023.

62. Update from Public Rights of Way and Access Service (Oral Report)
(Item 5)

1. The Public Rights of Way and Access Service Manager provided an oral report. He explained that statutory instruments required to implement amendments in relation to the Right to Apply under the Highways Act 1980 were scheduled to be put in place later in the year. The Public Rights of Way and Access Service Manager explained that the power to make orders under the Highways Act 1980 sat with both county and district councils equally but in practice the districts had not exercised their power for approximately 30 years. Districts would be obliged to determine an application within 4 months, maintain a schedule of applications, appoint a scale of charges, and have the resources to process applications.
2. The Public Rights of Way and Access Service Manager said districts councils would have the option to either deliver the service or delegate it to the County Council. Delegation to the County Council was the preferred option of the PROW and Access Service due to economies of scale, the Council's expertise, consistency, and the outcome where the Council would be responsible for the highway post confirmation. This would need to be agreed before introduction of the Right to Apply to allow sufficient time for Districts to complete their governance requirements.
3. The Public Rights of Way and Access Service Manager explained the regulations for the 2031 cut-off date for applications (subject to exceptions specified in the Countryside and Rights of Way Act 2000 or the regulations) were still awaited and were expected to include highways recorded in the list of streets and highways in current use at the cut off date.
4. The Public Rights of Way and Access Service Manager updated the committee on Common Land and Village Green applications. The Westbere Village Green application had been determined by a Member Panel and the application had been declined. The Public Inquiry in relation to Bunyard Farm Village Green had been concluded, and the Inspector's Report would be received in due course.
5. Mr Baldock asked about the legal position regarding alleyways between houses and whether there was an obligation on the Council to maintain them. The Public Rights of Way and Access Service Manager said they may be recorded as highways and be included in the list of streets and maintained at public expense. Applications could be made by the public for those not recorded to register them as PROW.

6. Mr Baldock commented, in relation to new developments, that in some cases alternative PROW routes were not provided before building had commenced, and asked why replacement routes could not be in place before the existing route was extinguished. The Public Rights of Way and Access Service Manager said this was a national problem and the only approach was by way of planning condition to require the provision of the new route, at a certifiable standard, at an earlier point or phase of the development.
7. Mr Bond asked about the maintenance and safety of a route, which had been accepted as a right of use, being used by the public. The Public Rights of Way and Access Service Manager explained that in circumstances where the public had acquired the right to use the route through 20 years of use, but it had not been adopted under Section 38 of the Highways Act, the Council was responsible for its safe use by the public but not for its maintenance.
8. RESOLVED that the oral report be noted.

63. 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 30 January 2024.
2. The Head of Planning Applications said that since the report was published enabling legislation for the new enforcement tools under the Levelling Up and Regeneration Act 2023 had been enacted, and in summary these included:
 - The temporary stop notice which used to have a 28 day provision now had a 56 day provision.
 - The four year rule, which previously applied if no enforcement action had been taken since a building or engineering operation had taken place, had increased to ten years.
 - There was a new provision for an enforcement warning notice.
 - The secretary of State could lodge an appeal and the determination of appeals for Lawful Development Certificates (LDC) had been removed.
 - Fines available for planning enforcement had changed and were now unlimited.
3. RESOLVED that the actions taken or contemplated in the report and any legislative changes for planning enforcement arising from the Levelling Up and Regeneration Act 2023 be noted and endorsed.

64. Future Meeting Dates

(Item 7)

RESOLVED to note that future meetings of the Regulation Committee will take place on the following dates:

Tuesday 17 September 2024 at 10am

Tuesday 21 January 2025 at 10am

Tuesday 17 June 2025 at 10am

Post Meeting Note:

It was resolved later in the meeting that an additional meeting of the Regulation Committee would take place before the September meeting.

65. Other Items which the Chairman decides are Urgent

(Item 8)

The Chair welcomed the Cabinet Member for Economic Development who had responsibility within his portfolio for minerals and waste to the meeting.

66. 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 introduced the report which covered the work of the Planning Enforcement Team since 30 January 2024. She said 7 strategic cases and a further additional site accounted for more than half of the current workload and those sites were being prioritised.
2. Members discussed the activities at Raspberry Hill Park Farm, Hoads Wood, Swanton Lane, and Warden Point/Third Avenue, Eastchurch and the recent press coverage for some of these sites.
3. Mr Chittenden said for many years planning enforcement had been understaffed and expressed the need for more resource within planning enforcement to achieve results.
4. 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, Bethersden, Ashford; Swanton Lane, Littlebourne, Canterbury; 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; Manor Farm, Willow Lane, Paddock Wood; Knowle Farm, Malling Road, Teston; Court Paddock Farm, Ightham; Former Travel Lodge/Brother Hood Woods, Boughton Bypass Dunkirk; The Pines Nursery, Gravel Castle Road, Barham; Pike Road/Thornton Kennels, Tilmanstone; Shelford Landfill, Broad Oak Road, Canterbury; Cube Metals, Unit A, Highfield Industrial Estate, Bradley Road, Folkestone; R S Skips, Apex Business Park, Shorne; East Kent Recycling, Oare Creek, Faversham; Borough Green Sandpits, Platt; Wrotham Quarry (Addington Sandpit), Addington, West Malling; H & H Celcon, Ightham.
5. In relation to Hoads Wood, Bethersden, the Committee agreed that the recommendation at paragraph 22 of the report be amended.

6. In relation to Warden Point, the Committee agreed that the recommendation at paragraph 42 of the report be amended.
7. In relation to Raspberry Hill Park Farm, the Committee agreed that the recommendation at paragraph 51 of the report be amended.
8. The Committee agreed that an additional meeting of the Regulation Committee be arranged, to consider a report setting out a planning enforcement framework to include:
 - The legal framework available to the Council and other regulatory parties in addressing the strategic cases linked to alleged waste crime cases.
 - A cost and resource assessment.
 - Collaborative working with other regulatory parties.
 - Counsel's opinion regarding Raspberry Hill Park Farm.

And delegation be given to the Chair of the Committee regarding flexibility over the timing of the meeting in accordance with Member and Officer availability.

9. RESOLVED that:
 - a) Subject to paragraphs 5, 6 and 7 above the enforcement strategies outlined in paragraphs 16 to 128 of the report be noted and endorsed; and
 - b) An additional meeting of the Regulation Committee be arranged to consider a report setting out a planning enforcement framework.