

Report by Head of Planning Applications Group to the Regulation Committee on 28th January 2021.

Summary: Update for Members on planning enforcement matters.

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

Unrestricted

Introduction

1. This report is intended to give an insight into the experience of the County Planning Enforcement service, in the context of further national Covid-19 restrictions. It covers the period from 24th September 2020 Regulation Committee Meeting to date.
2. It has been difficult to continue running the service to any normal degree under the uncertainty of lockdowns, the frequent rule changes with relation to the virus and the need to ensure safe covid working practices. What is certain though is that new waste cases have escalated markedly.
3. Although the planning enforcement team has predominately been working from home, prior to the current lockdown, limited arrangements have been made to go into the office when there is an essential need to access files, photocopy documents and prepare for formal actions. Face-to-face rather than video case-conferencing has been important in the more complex cases. The benefit of the contact itself, in work where morale and positive thinking are vital, cannot be underestimated.
4. As with much of current economic activity, the drawbacks of lockdown in a planning enforcement sense are the disruption to normal working patterns, isolation and some slippage on timescales, with our external and joint enforcement partners also running reduced services. Practical workarounds have been introduced where appropriate. The real concern though is the health and safety considerations with regard to the virus, of visiting sites where confrontation is common but social distancing is largely non-existent.

Report format

5. Alleged unauthorised sites are considered by Members as exempt items. This helps to protect the content of any planning enforcement approaches being taken, which may subsequently be relied upon in court or in legal actions.
6. This report summarises the alleged unauthorised activity. There is a further exempt report within (Item 10) of these papers, containing restricted details of cases. It also includes discussions on our own or joint strategies with other partner bodies (with their own need for confidentiality) and the seeking of Member endorsement. Notwithstanding these restrictions, a list of the cases covered in the schedule is given under paragraph 8 below.

Report Content

7. Given the operational constraints outlined above, the content of this and the confidential companion report have needed to be condensed. However, to reassure the public and Members, the planning enforcement service continues but in a modified form taking account of covid requirements and Government advice. Strict prioritisation of cases is being observed with the emphasis on the most pressing of cases that fall within the County Council's remit. The call upon the Council's enforcement resources ranges from County Matter cases (mineral and waste management) at one end, through to supportive work in the public interest on district cases, at the other. Within that it further includes cases that are being investigated, which may ultimately not be (or not completely) for this Authority and strategy and case management advice to other regulatory authorities.
8. The list of cases covered under Item 10 'Update of Planning Enforcement Cases' (Exempt report) in order of presentation are:

County Matter cases (or those having the potential to be or forming a significant element)

01. **Raspberry Hill Park Farm**, Raspberry Hill Lane, Iwade, Sittingbourne.
02. **Springhill Farm**, Springhill, Fordcombe, Sevenoaks.
03. **Hoads Wood Farm**, Bethersden
04. **Ringwould Alpine Nursery**, Dover Road, Ringwould
05. **Double-Quick Farm**, Lenham, Maidstone
06. **Mount Pleasant Farm**, Seasalter Lane, Yorkletts, Whitstable

District referrals (unlikely to be a County Matter, or advice / joint-working)

07. **The Stables**, Harpole Farm, Detling
08. **Heart in Hand Road**, Canterbury
09. **Earley House**, Waltham Road, Petham
10. **Fairfield Court Farm**, Brack Lane, Brookland, Romney Marsh.
11. **Chapel Lane**, Sissinghurst, Tunbridge Wells.
12. **Woodside East**, Nickley Wood Road, Shadoxhurst.

13. Hollow Street, Chislet.

NB In addition to the above cases, (01) to (13), measurable time has also been spent on the following further or emerging cases. This includes those that could be handled by other authorities and agencies, without the need for our strategic input, or those where we have offered advice and support:

- Badgers Mount, Old London Road, Sevenoaks.
- Site adjoining Knockholt train station, Sevenoaks.
- Basser Hill site, Iwade, Sittingbourne
- Blean Wood, site adjacent to former Canterbury Airfield, Dunkirk, Canterbury.
- Nethergong site, Chislet, Canterbury
- Tonge Mill pond, Church Road, Sittingbourne

The full extent of some of these sites and alleged breaches have been difficult to assess without being able to go onto the sites. An appropriate contribution or matters of jurisdiction have similarly been difficult to decide upon.

Permitted sites (compliance issues)

- 14. East Kent Recycling Site D, Oare Creek, Faversham Kent.**
- 15. Blaise Farm Quarry, AD Facility, Kings Hill, West Malling.**
- 16. Dungeness Borrow Pit, Dungeness.**
- 17. Maidstone Grammar School, Barton Road, Maidstone.**
- 18. Cobbs Wood Industrial Estate, Ashford**
- 19. Tunbridge Wells Grammar School for Boys, St Johns Road, Tunbridge Wells.**

Meeting Enforcement Objectives*Workload focus*

9. It appears that the lockdown and restrictions associated with the virus have not deterred and indeed in some cases seem to have encouraged a significantly higher level of contravening behaviour than previously seen by this Authority. Peer group links with other County Councils seem to indicate a similar pattern across at least the south-east of England and probably wider afield.
10. The workload in Kent is prioritised according to the potential level of harm and phased according to our capacity. It is also being shared as much as possible with our enforcement partners (district councils, the EA and the police) to give a strong and combined approach at a time of need. Joint-working is encouraged in any event by the

Government and is an approach that KCC Planning Enforcement has pursued for many years.

11. The balance of our work has still largely been between our core County Matter cases and a raft of district referrals. Compliance issues on sites permitted by the County Council is a further work stream.

Lockdown factors

12. Our observations concerning the escalation of cases and their severity, fall into three main areas.
13. Firstly, the assumption may have been made among those willing to operate outside of planning law, that with officers largely based at home, they may continue with their activities with impunity. That is not the case, as many have found to their cost during the pandemic, having been confronted with multi-agency enforcement teams.
14. Secondly, those affected have been at home and experiencing the amenity impacts over longer periods of the day and more intensely, resulting understandably in more complaints and more registered cases.
15. Thirdly, construction and other associated industries have lawfully continued throughout the crisis, generating waste materials, with some finding its way into the 'wrong hands' and to sites potentially quoted within these papers.

Local assistance

16. A valuable feature of the lockdown restrictions has been the inter-linking of interested parties, with officers in the planning and related enforcement fields being kept informed of local concerns and activities at alleged contravening sites. Notwithstanding key worker status, there have been practical, health & safety and capacity issues for officers in visiting sites sufficiently. Accurate and helpful feedback and updates on 'problem sites', by local residents / groups and local / County Members has proved crucial in helping to plan the best use of our responses.
17. District officer 'drive-bys' of sites on our behalf and briefings from the EA and the police have also been very helpful in allowing some continuity of service. Local Authority planning websites have proved particularly useful for help in researching planning histories. A virtual network of frontline officers across the various enforcement bodies has also been of crucial assistance in terms of support and information sharing, when tied to a remote working location.

Other duties

18. Alongside our core planning enforcement duties, we have also sought to assist others, particularly family members that are shielding. Infection risks at site become more serious in that context.

Monitoring**Monitoring of permitted sites and update on chargeable monitoring**

19. In addition to our general visits to sites, we also undertake routine visits on permitted sites, to formally monitor against the statutory monitoring charging scheme. This provides useful compliance checks against each operational activity and an early warning of any alleged and developing planning contraventions. At the moment such visits have been suspended, in order to attend to more immediate priorities and covid-safe requirements.

Resolved or mainly resolved cases requiring monitoring.

20. 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.

Conclusion

21. Various phases of lockdown and changing rules and restrictions have set an uncertain context for the planning enforcement service. Nevertheless, adjustments have been made in order to help continue the service, whilst recognising covid restriction requirements. Site visits and face to face meetings among officers have necessarily been curtailed. However, a positive aspect from this more remote style of working is that officers and agencies have had to rely on each other more and to network accordingly. A strategic case has been organised along such lines and others in the pipeline are expected to benefit from the same approach. It is an operational template, which can be built upon when the pandemic subsides. Ironically, keeping people apart may result in the longer term in closer working units and stronger combined enforcement actions.

Recommendation

22. I RECOMMEND that MEMBERS NOTE & ENDORSE:

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

Case Officers: KCC Planning Enforcement

03000 413380 / 413384

Background Documents: see heading.