

Active Enforcement Cases

Schedule 1: Contraventions on (part) unauthorised sites

	<u>Site & Case Reference</u>	<u>Alleged Breach</u>	<u>Objectives / Actions</u>	<u>Progress</u>	<u>Notes / Remarks</u>
1	<p>Ashford</p> <p>DC3/AS/03/COMP/0090 Shaw Grange, Charing (Member: Richard King)</p>	<p>Previous multiple breaching of landfill permissions, Enforcement Notices and High Court Injunctions.</p>	<p>To secure restoration of the site in the public interest.</p>	<p>The site has now been restored and is being monitored and landscaped.</p>	<p>A site visit by Members to view the overall progress reached is to be re-arranged from its original 13th July 2012 date.</p>
2	<p>Canterbury</p> <p>DC3/CA/03/COMP/0053 Larkey Wood Farm, Chartham (Member: John Simmonds)</p>	<p>A recent Environment Agency visit to this site has found new alleged unauthorised waste –related activities taking place, including the depositing and storage of waste materials.</p>	<p>This site is the subject of a confirmed Enforcement Notice, whose terms prohibit the importation, stockpiling and storage of waste materials and processing equipment. The Notice is underwritten by County Court Injunctions and a County Court Control Order.</p>	<p>Compliance was reached with the Enforcement Notice in late 2009, following a staged site-recovery plan.</p> <p>Regrettably, this has started to slip again, with stockpiles of waste wood, soils and hardcore appearing on site.</p>	<p>The aim is to return the site to the way it was left in 2009, through strict enforcement monitoring. Nevertheless, I would still seek Members support on a contingency basis, for prosecution under the Enforcement Notice and / or contempt proceedings, should they be needed.</p>

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3	<p>Dartford</p> <p>KCC/DA/0123/12 LanceBox Ltd Plot 14 Manor Way Business Park, Swanscombe</p> <p>(Member: Richard Lees)</p>	Alleged receipt, storage and processing of construction / demolition waste, including wood waste.	<p>A '4-point' plan has been devised, in return for KCC reserving enforcement action. The terms include:</p> <ul style="list-style-type: none"> a) Withdrawal of a Lawful Use Application (LDC) b) Submission of delayed planning application; c) Continued trading only under tight KCC / EA interim controls. d) Reduction of stockpiles / 'stand-off' distance from adjoining chalk cliff face. 	<p>Concerning the '4-point - plan': the LDC has been withdrawn; the planning application has been progressed through a series of consultant reports, which are now being drawn together; trading has continued under interim controls and the stockpile of wood has been noticeably reduced.</p> <p>I am currently monitoring the site to evidential standard on a monthly basis, combining as necessary with the EA.</p>	<p>I am satisfied that the owner / occupiers are making genuine efforts to subdue the use and finalise the outstanding draft planning application. I have asked for a timetable for submission, in time for the Meeting. In the meanwhile, the operators are urgently seeking authorised outlets for the remaining quantities of wood-waste.</p> <p>In order to ensure continued progress towards compliance, I would seek Member support for the taking of enforcement action on a contingency basis. That would include the serving of an Enforcement Notice; underwritten if necessary by a County / High Court Injunction.</p>

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4	<p>Shepway</p> <p>DC3/SH/10/COMP/A02 Keith Cornell Waste Paper Ltd, Lympe Industrial Park, Lympe</p> <p>(Member: Ms Susan Carey)</p>	Alleged unauthorised waste-related recycling use on industrial land, resulting in noise complaints and related disturbance to local residents.	<p>To achieve a reduction in the current amenity impacts through voluntary restraint, pending the outcome of an application for retention of the use.</p> <p>A meeting of regulators (including the local EHO) has agreed that further enclosure of site activities represents the most appropriate solution to the main noise impacts.</p>	<p>The applicant is willing to amend the current application to allow for further site enclosure. Noise consultants are advising accordingly, in a case of form following function</p> <p>The applicant hopes to be in a position to submit the amended details before the Meeting.</p>	<p>Revised proposals involving extended site enclosure are still awaited. I am seeking a written explanation for the delay and timetable for submission.</p> <p>I shall inform Members on the latest position at the Meeting. Meanwhile, I am seeking continued Member support for enforcement action on a contingency basis, should the required scheme be any further delayed.</p>
5	<p>DC3/SH/11/COMP Johnsons Recycling Ltd, Unit 1 Park Farm Close, Folkestone</p> <p>(Member: Richard Pascoe)</p>	Shepway DC reported this alleged unauthorised waste scrap metal recycling use within an industrial estate, near other independent waste uses.	To investigate and establish whether the reported activity falls within the County Council's planning enforcement remit.	It was established that the current operator had re-located to this site from a residential area in Folkestone.	A retrospective planning application is overdue. A draft scheme has been prepared but submission is now required. I am seeking a timescale from the planning agent in order to update Members at the Meeting.

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6	DC3/SH/12 Cube Metal Recycling Unit A Highfield Industrial Estate Folkestone (Member: Roland Tolputt)	This site was brought to the attention of KCC by Kent Police and the Environment Agency (EA). Its operation consists of the importation, sorting and processing of scrap metals, for later despatch.	To achieve planning compliance and supportive control through an EA Permit. I am adopting the same consistent approach with numbers 4 (Cornell's) and 5 (Johnsons) above.	I have sought submission of a retrospective planning application. I shall continue to monitor the site in the interim.	The use appears capable of officer level support but I would still seek Member support on a contingency basis for the serving of an Enforcement Notice , should full co-operation not be achieved and an application not be made.
7	Swale DC3/SW/11/COMP/ Milton Creek Sittingbourne. (Member: Mike Whiting & Alan Willicombe)	Over stacking and stock-piling of site materials causing collapse to the banks of the creek, resulting in blocked water flow within the creek and obstruction to navigation. This partly involves an alleged trespass onto Medway Ports Authority land.	To see whether enforcement of the district planning permission for production of ' <i>growing media</i> ' (i.e. soil-based compost) at the site, warrants the further intervention of the County Council? A multi-agency approach has been adopted involving KCC, Swale BC (SBC), the Environment Agency (EA) and Medway Ports Authority (MPA).	I have negotiated submission of a planning application, for a return to the scope of the original permission and a remedial package. That has been made to Swale BC and includes a scaling down of site activities and repair to the land and navigation channel. KCC has been consulted, lending support and technical guidance (including suggested conditions and legal controls) to the scheme.	I am confident that the negotiated scheme if granted and implemented (with suggested controls), would address the alleged contraventions on site and reverse the severe damage caused to land and water interests. The owner / occupiers in the ultimate would otherwise be exposed to concerted enforcement action from SBC, KCC, the EA and MPA. I shall keep Members informed on this case.

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8	KCC/SW/0136/12 Sheerness Recycling Ltd Unit 34 Klondyke Industrial Estate, Queenborough (Member: Ken Pugh)	Alleged importation of construction and demolition spoil, with mechanical screening.	To ensure compliance with planning control.	I remain unconvinced on the lawful use arguments. Indeed, agreement has now been reached with the operator, for withdrawal of the Lawful Use application in favour of a retrospective planning application. That is due to be submitted on conclusion of related and commercially confidential negotiations.	The operator's planning consultant is keeping me informed on progress. The required planning application is being compiled and the EA Permit is already drafted. As a contingency , pending submission of the planning application, I would seek Member's continued support for the service of an Enforcement Notice .
9	DC3/SW/12 Wey Street Farm Hernhill (Member: Andrew Bowles)	Alleged unauthorised land-raising under the presumption of agricultural permitted development rights.	To investigate and establish the planning status of the activity, along with jurisdiction. In the opinion of officers, planning permission is required and the Borough Council would seem to be the relevant authority.	It has been agreed that the County Council (subject to Members' views) would defer to Swale Borough Council, on the basis that retrospective permission is sought and that this authority is consulted on the scheme. The EA are separately advising on drainage details.	The owner / occupier is prepared to accept these stipulations and I understand that a planning application is in the process of being submitted. I propose to leave the case with the Borough Council and remove from these schedules , with an open offer of technical advice as required.

	Site & Case Reference	Alleged Breach	Objectives / Actions	Progress	Notes / Remarks
10	SW/05/COMP/0016 Woodgers Wharf, Horsham Lane, Upchurch (Member: Keith Ferrin)	Unauthorised use of marine wharf for screening and crushing of imported concrete beams and alleged related waste management breaches.	<p>To arrest the alleged breaches and return the site to its lawful wharf-related use.</p> <p>A County Council confirmed Enforcement Notice (EN) requires restoration of the site, largely through the direct removal of the central stockpile of concrete beams.</p> <p>Crushing of the greater quantity of waste beams for sale to the open market is prohibited under the EN.</p>	<p>Potential sea defence contracts offered the prospect of complete removal by barge. However, the contracts have failed to materialise.</p> <p>Independent advice organised by the County Council through Remade South-East, has similarly failed to find alternative outlets for removal of the beams as they stand.</p> <p>In all the circumstances, negotiation has now switched to active pursuit of an 'on-site' solution i.e. using the beams in whole, broken or in a highly specified crushed form to create a hard-surface platform, ready for a beneficial after-use.</p>	<p>Negotiations have progressed, with draft plans and proposals under active consideration. These will be informed by new and updated site surveys.</p> <p>An 'on-site' solution would ensure that any amenity impacts arising from 'off-site' haulage were avoided. This represents a potentially sustainable solution, within the spirit and purpose of the new National Planning Policy Framework. Subject in this case, to nature conservation interests being adequately safeguarded.</p> <p>The parking of boats has been suggested as a Borough Council controlled surface use, compatible with the wharf.</p> <p>I shall keep Members informed on this potential site solution whilst reserving action under the Enforcement Notice.</p>

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11	<p>DC3/SW/04/COMP/0049 Raspberry Hill Park Farm, Iwade</p> <p>(Members: Mike Whiting & Allan Willicombe)</p>	<p>Unauthorised importation, burning and depositing of mixed construction spoil, stationing of mobile homes and haulage distribution use on the waste deposit</p>	<p>KCC and Swale BC's 3 Enforcement Notices were upheld on Appeal. They require the unauthorised uses to be removed from the site, within given timescales, which have since expired.</p> <p>Restoration of the deposited material has been pursued but complications have arisen. Key site personnel are in custody and there is a Court Restraining Order, preventing removal of potential further evidence from the land.</p>	<p>I am reporting this case again to Committee, in the prospect of a different approach to restoration of the County Council interest in the site.</p> <p>Swale BC has an application for 5 gypsy / traveller caravans and 1 touring caravan. This effectively covers the area the subject of KCC's Enforcement Notice.</p>	<p>Swale BC has invited the County Council's view. The line I have taken is a pragmatic one.</p> <p>Levelling, ground preparation and the construction of multiple caravan pitches, with associated surfacing and circulation spaces, could be argued to represent an alternative, though no less exacting form of restoration than that envisaged under our own Enforcement Notice.</p> <p>A tightly specified scheme with planning conditions could well offer a more precise and controllable solution to the site, than the generic steps within the Notice.</p> <p>I would seek Members endorsement of the position taken in relation to the Borough Council application.</p>

Schedule 2: Alleged breaches on Permitted Minerals & Waste Sites

Appendix 2

	<u>Site & Case Reference</u>	<u>Alleged Breach</u>	<u>Objectives / Actions</u>	<u>Progress</u>	<u>Notes / Remarks</u>
1	<p>Dartford</p> <p>DA/09/853 Crossways Recycling Ltd, Manor Way Business, Park, Manor Way, Swanscombe</p> <p>(Member: Richard Lees)</p>	<p>Planning permission for the continued operation of the site as a waste transfer station was granted in December 2009. That includes the provision of a materials recycling building amongst other infrastructure to support the use.</p> <p>Following a site monitoring visit it became apparent that the recycling building has been erected approximately 1 metre out from the agreed position, moving the building closer to the adjacent industrial estate road. Additional ancillary development, which was not included within the permitted site layout, has also been provided on site.</p>	<p>To ensure compliance with the base planning permission or seek a new application to regularise the built development on site. That includes container storage and an additional office/welfare building.</p>	<p>We have met with the operator and impressed upon them the importance of having the correct permissions in place for the physical development on site in order to support the ongoing operation of the transfer station.</p> <p>The Company has been invited to make a planning application to regularise the development.</p>	<p>The Company has responded positively and are in the process of drawing up a retrospective application.</p> <p>I am viewing these alleged internal site breaches in a pragmatic way. The operator has in general submitted to planning control and is currently in negotiations with me over finding ways to optimise the waste management capacity on site.</p> <p>I shall maintain monitoring contact and report further on any planning submissions. In the meanwhile, I shall remove from these schedules.</p>

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2	<p>DC3/DA/11/COMP Waste Recycling Centre 2-8 Little Queen Street, Dartford</p> <p>(Member: Avtar Sandhu MBE)</p>	<p>Complaints from local residents regarding the use of large goods vehicles damaging and blocking the approach route to the site in alleged contravention of the lawful Established Use Certificate for the site, granted on appeal in 1993.</p>	<p>To help KHS, Dartford BC, the Traffic Commissioners and the Police in alleviating the problem of damage to the highway, pavements, street furniture and buildings when LGVs approach and exit the site. At the same time, encouraging re-location of this historic use.</p>	<p>We have met with the operator and his planning consultant and impressed upon them the sensitivity of the site and the Company's responsibility towards local residents. They have agreed to institute tighter operational procedures.</p>	<p>Discussions are now firmly focussed on the subject of relocation. Contact has been arranged with our Minerals & Waste Development Framework Team and invitation dates for a follow-up meeting have been sent.</p> <p>I shall keep Members informed of progress.</p>
3	<p>Swale</p> <p>SW/10/1436 Countrystyle Recycling Ltd, In -Vessel Composting (IVC) and Materials Recovery Facility (MRF), Ridham Dock Road, Iwade.</p> <p>(Member: Mr Whiting / Mr Willicombe)</p>	<p>A number of breaches have been previously reported to Members, including: open/broken roller shutter doors; external storage / processing of wood waste; dust control problems and containment issues; a concrete pad outside of the permission area and some minor alterations to the approved site layout.</p>	<p>To seek redress thorough means of retrospective planning applications.</p>	<p>Planning permission for the concrete pad has now been granted and the further operational issues are subject to another application which is currently being processed.</p>	<p>I am satisfied that contingency support from Members for the service of Breach of Condition Notices offers sufficient sanction and control in this instance.</p>

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4	<p>Tunbridge Wells</p> <p>DC3/TW/12 CLC Construction Ltd Westdene Five Oaks Green</p> <p>(Member: Alex King MBE)</p>	<p>Material change of use from a former scrapyard to the servicing of utility contracts, with the stockpiling of spoil on site and the exchange of material between jobs, with the remainder being sent for processing and alternative re-use.</p> <p>The site is within the countryside and the Metropolitan Green Belt. It is also close to housing.</p>	<p>To control the level of use on the site pending the outcome of the current retrospective planning application.</p> <p>The stockpile is growing in height. I am therefore imposing an interim restriction to the height of the lorry cab of the vehicles bringing the material to the site. That would be clear to all parties and visibly enforceable.</p>	<p>The application is currently delayed (in part) by the applicant's reluctance to properly include screening and crushing (on a campaign basis), within a full description of the proposed use. The term '<i>ancillary process</i>' is being used, which in my view unduly relegates in importance the key processing element on site.</p>	<p>I recommend overall that County Council enforcement powers are reserved in this instance but only on the basis that:</p> <ul style="list-style-type: none"> a) stockpile levels are no higher than the top of any lorry cabs on site and b) a full description of the proposed use is given or the screening and crushing element excluded altogether from the proposal, without further delaying the retrospective application. <p>Should co-operation and compliance be lacking on either of these counts, I would seek Members' support for the serving of an Enforcement Notice.</p>

Schedule 3: Alleged breaches on Permitted County Council Developments

Appendix 3

	<u>Site & Case Reference</u>	<u>Alleged Breach</u>	<u>Objectives / Actions</u>	<u>Progress</u>	<u>Notes / Remarks</u>
1	<p>Swale</p> <p>KCC/SW/0155/2012</p> <p>Tunstall CE (Aided) School, Sittingbourne.</p> <p>(Members: Mr. Whiting & Mr. Willicombe)</p>	External storage for outdoor play and maintenance equipment.	To seek regularisation through the planning route.	A retrospective planning application was granted at the 24 th July Planning Application Committee (Item D3 for reference).	This minor planning infringement is now resolved and I shall remove from these schedules.
2	<p>Thanet</p> <p>KCC/PRE/TH/0288/2012</p> <p>Cliftonville Primary School, Northumberland Avenue, Cliftonville, Margate, Kent, CT9 3LY</p> <p>(Members: Mr C Wells and Mr M Jarvis)</p>	A complaint was received from nearby residents about a 'number of portacabin like out buildings' erected on the site and the 'outlook onto the school not being an aesthetically pleasing view but a large number of large shed like rooftops'.	<p>To investigate and seek to regularise through a retrospective planning application.</p> <p>An investigation was carried out which found that some seven sheds, cabins and/or garages had been erected on the site over the last few years.</p>	Some of the sheds are used for Special Education Needs and others for storage purposes. Four of these are covered by permitted development rights, one was granted planning permission in 2007, and the remaining two neither benefit from permitted development rights nor planning permission.	<p>The School were advised of the position and agreed to submit an application for the retention of these two sheds.</p> <p>That is imminent.</p>

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3	<p>KCC/TH/0195/2012</p> <p>Ellington and Hereson School, Newlands Lane, Ramsgate, Kent, CT12 6RH</p> <p>(Members: Elizabeth Green & John Kirby)</p>	Erection of 2.4m metal palisade replacement fencing along the school playing field boundary.	To regularise through a retrospective planning application	A retrospective planning application has been received and is being processed.	I shall inform Members of the outcome of the application.
4	<p>Tunbridge Wells</p> <p>KCC/TW/0192/2012</p> <p>The Skinners Kent Academy, Blackhurst Lane, Tunbridge Wells, Kent. TN2 4PY.</p> <p>(Member: Mr J.Tansley)</p>	Alternative flood lighting specification relating to previously permitted Multi-Use Games Area on Site 1 of the Academy.	To regularise through a retrospective planning application.	Retrospective planning permission was granted at the 24 th July Planning Application Committee (Item D4 for reference).	Conditions attached to the permission hold the use of the lighting to these alternative specifications.