

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 style="text-align: center;">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 has been re-arranged for 26th March 2013.</p>
2	<p style="text-align: center;">Canterbury</p> <p>DC3/CA/03/COMP/OO53 Larkey Wood Farm, Chartham (Member: John Simmonds)</p>	<p>An Environment Agency (EA) visit to this site has uncovered alleged unauthorised waste –related activities taking place, including the depositing and storage of waste materials.</p>	<p>This site is subject to a confirmed Enforcement Notice, whose terms prohibit the importation, stockpiling and storage of waste materials and subsequent processing through screening / crushing. 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. The preferred means is by strict enforcement monitoring. However, the reticence of the owner / occupier means that we shall have to contemplate using available powers. The case is subject to an Exempt Report as Item 11.</p>

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3	<p style="text-align: center;">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> <p>a) Withdrawal of a Lawful Use Application (LDC)</p> <p>b) Submission of delayed planning application;</p> <p>c) Continued trading only under tight KCC / EA interim controls.</p> <p>d) Reduction of stockpiles / ‘stand-off’ distance from adjoining chalk cliff face.</p>	<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 but submission is still awaited; trading has continued under interim controls and the stockpile of wood has been noticeably reduced, being progressively pulled back from the face of the adjacent chalk cliff .</p> <p>I am currently monitoring the site to evidential standard on a monthly basis, combining as necessary with the EA.</p>	<p>I remain satisfied that the owner / occupiers are making genuine efforts to reduce and permanently remove the waste wood stockpiles but I have concerns over the finalisation of the outstanding draft planning application. I shall continue to pressure on this point by requiring a detailed explanation for the delay and a more definite timetable for submission.</p> <p>In order to ensure continued progress towards addressing this alleged significant breach, I would seek Members continued 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 style="text-align: center;">Maidstone</p> <p>DC3/MA/04/COMP/0060 Tutsham Farm, West Farleigh</p> <p>(Member: Mrs Paulina Stockell)</p>	<p>Unauthorised depositing and burying of builders waste in agricultural land on the bank of the River Medway.</p>	<p>Cessation of tipping and burying of waste.</p>	<p>Teston Parish Council has reported apparent renewed waste material burying on site. However, there is no apparent new tipping from outside sources.</p> <p>The EA were immediately alerted to this alleged breach. They have visited the site and will take the enforcement lead with support from KCC as necessary.</p>	<p>This site has been the subject of previous enforcement action. It was agreed that the EA would take the lead enjoying powers more tailored to the problem but supported by the KCC. The resulting court conviction in 2010, led to a fine in excess of £71,000.</p> <p>An EA Waste Removal Notice was then served which is believed to have triggered the removal of the existing builders waste to a new site within the landholdings. The EA are currently considering their enforcement options on this latest activity.</p> <p>I shall keep Members informed as the case progresses.</p>

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5	<p style="text-align: center;">Shepway</p> <p>DC3/SH/10/COMP/A02 Keith Cornell Waste Paper Ltd, Lympne Industrial Park, Lympne</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) agreed that further enclosure of site activities represents the most appropriate solution to the main noise impacts.</p>	<p>The owner / occupier was willing to amend a draft application to allow for further site enclosure. Noise consultants were advising in this case of form following function.</p> <p>However, the business of the applicant has recently gone in to receivership. This has resulted in the removal of the breach and any previous amenity impacts.</p> <p>The site has now been sublet to a local business created by former employees who are operating a small scale paper-shredding operation.</p>	<p>The planning status of this new fledging use will need to be agreed with Shepway District Council, along with site jurisdiction.</p> <p>All operations are taking place under cover and there are no evident external amenity impacts at present. Previous complaints by local residents, particularly concerning noise have now ceased.</p> <p>It appears that a retrospective planning application is the best approach in this instance, once the planning lead is confirmed between the County and District Council Authorities.</p> <p>I shall report on the outcome to the next Meeting.</p>

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6	KCC/SH/0333/2012 [DC3/SH/11/COMP] Johnsons Recycling Ltd, Unit 1 Park Farm Close, Folkestone (Member: Richard Pascoe)	Shepway DC reported this alleged unauthorised waste scrap metal recycling use within an industrial estate, near other independent waste uses. The operator had re-located from a residential area in Folkestone.	To investigate and establish whether the reported activity falls within the County Council's planning enforcement remit.	A retrospective application was received on 29 th October 2012 and is being processed. It will be reported to PAC or determined under delegated authority as appropriate.	I intend to remove from these schedules for now, returning when the outcome of the planning application is known.
7	KCC/SH/0323/2012 [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 5 (Cornell's) and 6 (Johnsons) above.	A retrospective planning application has now been submitted and validated, with recent re-consultation on a further noise assessment report.	In principle the use appears capable of officer level support, subject to satisfactory amenity considerations. However, I would seek Member support for the serving of an Enforcement Notice , should full co-operation not continue. I shall continue to monitor the situation in the meanwhile.

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8	<p style="text-align: center;">Swale</p> <p>DC3/SW/11/COMP/ Milton Creek Sittingbourne.</p> <p>(Member: Mike Whiting & Alan Willicombe)</p>	<p>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.</p>	<p>To see whether enforcement of the district planning permission for production of 'growing media' (i.e. soil-based compost) at the site, warrants the further intervention of the County Council?</p> <p>A multi-agency approach has been adopted involving KCC, Swale BC (SBC), the Environment Agency (EA) and Medway Ports Authority (MPA).</p>	<p>I have negotiated submission of a planning application, for a return of 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.</p>	<p>I am confident that the negotiated scheme if granted (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 action from SBC, KCC, the EA and MPA.</p> <p>I now intend to remove from these schedules, returning when the outcome of the planning application is known.</p>
9	<p>KCC/SW/0136/12 Sheerness Recycling Ltd Unit 34 Klondyke Ind Est Queenborough</p> <p>(Member: Ken Pugh)</p>	<p>Alleged importation of construction and demolition spoil, with mechanical screening.</p>	<p>To exact compliance and planning control.</p> <p>On the evidence I have seen, I remain unconvinced on any lawful use arguments.</p>	<p>Agreement has been reached with the operator for withdrawal of the Lawful Use application, in favour of a retrospective planning application.</p>	<p>The required planning application is still awaited. I shall chase for submission but as a contingency, I would seek Member's continued support for the service of an Enforcement Notice should it be necessary.</p>

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10	DC3/SW/04/COMP/0059 Four Gun Field, Upchurch (Member: Keith Ferrin)	Alleged waste activities on a former brickfield site with an associated lawful use.	To ensure that no waste-related use is carried out on site, particularly given its sensitivity close to housing.	<p>Following the exhaustion of planning and High Court Appeals, the terms of the County Council's Enforcement Notice were eventually complied with.</p> <p>A planning application has since been submitted to Swale B.C. for the development of 36 houses and a residential care home with 80 beds, accompanied by public open space for wildlife.</p> <p>In the interim, applications to retain site infrastructure and the current status quo have been granted permission by the Borough Council.</p>	<p>Concerning the main and outstanding application, I have asked the Borough Council to ensure that the problematic Lawful Use Certificates are surrendered as a pre-requisite to any new permission. In other words, to achieve a complete development overlay, giving final surety of a normal quality of life to neighbouring residents.</p> <p>I propose to remove from these schedules for the time-being, returning when the outcome of the main planning application is known.</p>

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11	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>Intense negotiations have ensued, with draft plans and proposals under active consideration. These will be informed by new 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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12	<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>New owner / occupation has led to constructive negotiations between their representatives and the Borough and County Planning Authorities.</p> <p>Former unauthorised land- raising has already been reduced, representing a significant move forward in the case.</p>	<p>Swale BC has invited the County Council's view on the current planning application. 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 shall keep Members informed of this encouraging turn of events.</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 style="text-align: center;">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 operational breaches have been previously reported to Members, such as external storage / processing of wood waste; dust control problems; a concrete pad outside of the permission area and 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 remaining operational issues, the subject of a further application are due for determination shortly.</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. I am monitoring the site more closely in step with a more stringent approach to the Company and its operation.</p>

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2	<p>Tunbridge Wells</p> <p>Officers are 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 having grown in height is restricted in the interim to the height of the lorry cab of the vehicles bringing the material to the site. That is clear to all parties and very visibly enforceable.</p>	<p>A retrospective planning application is being processed with outstanding issues relating to site layout, noise/dust (from screening and crushing), floodlighting, highways and landscaping.</p> <p>On reflection, the applicants have been advised to withdraw the crushing and screening elements and seek a temporary permission for the storage of material subject to the submission of updated highways information, lighting details, landscaping and an improved site layout - with the intention that this would resolve the immediate planning breaches, whilst also allowing progress on the EA Environmental Permit, with its operational controls.</p>	<p>Enforcement powers with Members' endorsement are currently in reserve.</p> <p>The stockpile height was exceeded on one occasion but was quickly redressed.</p> <p>Should co-operation be lacking on any other occasion during this planning application phase, I would seek Members' support for the servicing of an Enforcement Notice.</p> <p>I shall keep the Committee informed on progress at this sensitive location.</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 style="text-align: center;">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>	<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>	<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>	<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>	<p>The application was considered by the Planning Applications Committee at the December meeting when Members resolved to grant planning permission.</p> <p>I shall therefore now remove from these schedules.</p>
2	<p>KCC/TH/0195/2012</p> <p>Ellington and Hereson School, Newlands Lane, Ramsgate, Kent, CT12 6RH</p> <p>(Member: Elizabeth Green & John Kirby)</p>	<p>Erection of 2.4m metal palisade replacement fencing along the school playing field boundary.</p>	<p>To regularise through a retrospective planning application</p>	<p>Planning permission has now been granted</p>	<p>I shall now remove from these schedules.</p>

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3	<p>Tunbridge Wells</p> <p>The Skinners Kent Academy, Blackhurst Lane, Tunbridge Wells, Kent. TN2 4PY.</p> <p>(Member: Mr J.Tansley)</p>	<p>Alternative flood lighting specification relating to previously permitted Multi-Use Games Area on Site 1 of the Academy.</p>	<p>To regularise through a retrospective planning application.</p>	<p>Retrospective planning permission was granted at the 24th July Planning Application Committee (Item D4 for reference).</p>	<p>Conditions attached to the permission hold the use of the lighting to these alternative specifications.</p> <p>I shall therefore now remove from these schedules.</p>