

Report by Head of Planning Applications Group to the Regulation Committee on 13<sup>th</sup> May 2014.

Summary: Update for Members on planning enforcement matters.

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

Local Member: Given by case in Appendices 1 to 3

Unrestricted

### Introduction

1. This report provides an update on planning enforcement and monitoring work carried out by the Planning Applications Group since the 28<sup>th</sup> January 2014 Regulation Committee Meeting.
2. Summary schedules of all current cases have been produced (see Appendices 1, 2 and 3). They cover alleged unauthorised breaches of planning control and those occurring on permitted sites, primarily waste-related. The emphasis is on live and active cases along with those resolved between Meetings. Cases resolved or sufficiently progressed to be removed from our immediate workload, are highlighted in bold.

### Report Format

3. The report follows its established format, equipping Members with the essential facts of a series of cases, varying in their degree of complexity and challenge. Summary schedules are attached, with the following sub-divisions:
  - Achievements / successes [including measurable progress on existing sites]
  - New cases, especially those requiring Member endorsement for action
  - Significant on-going cases
  - Other cases / issues of interest and requests by Members
4. Members may wish to have verbal updates at Committee on particular sites from the schedules, (ideally with prior notice) or reports returned to the next Meeting. The report continues to give details of general site monitoring and progress on chargeable monitoring for minerals development.

### Meeting Enforcement Objectives

#### *Structural Changes*

5. Since the last Meeting, the Planning Applications Group, along with others has joined the newly formed Environment, Planning & Enforcement Division, within the Growth, Environment & Transport Directorate. The Minerals & Waste Planning Policy Team has also joined the Group.

### *Office Move*

6. The Planning Applications part of the enlarged Group has recently moved to a temporary location within Invicta House, pending a new and permanent location being made ready, within a smaller footprint. There has been a need to drastically reduce the volume of files and information that we carry in order to fit the space. As part of this transition, a major commitment has had to be made to electronically scan the vast majority of paper planning enforcement files (alongside the planning application files). These include major case, court and Public Inquiry documents. The task has been immense and time-consuming, involving an unavoidable (but contained) impact on current casework. The exercise has had to be carried out meticulously, given the evidential status of many of the documents and a statutory need to respect the confidentiality of the information being handled and to protect our sources.

### *Surge in Cases*

7. I reported to the previous Meeting that in the lead-up to the Committee there had been a marked surge in serious planning enforcement cases. Indeed, a number of confidential reports were required. It was speculated that the sudden influx in cases was largely reflective of the upturn in the economy. The generation of surplus development spoil always holds the potential for a percentage of such material to go astray.
8. I am pleased to inform Members that this surge in work has been absorbed and a return made to a more normal level of casework. It will be noticed for instance that there has been no need to produce confidential reports for this Meeting.

### *Prevention of Potential Planning Breaches*

9. It has been drawn to my attention that the operating hours over Bank Holidays at the Studd Hill, Herne Bay Householders Recycling site has the potential to generate flytipping problems, particularly in relation to green waste. As a result of this concern, I have checked the opening hours and can advise that there is planning permission to open on Sundays and Bank Holidays. However, the decision on whether to do so or not is a matter for KCC Waste Management. I am not aware of a particular flytipping problem at this site and in any event, there is a requirement at all such facilities for swift action to be taken to curb and control activity of this type.

### *Co-ordinating and Advisory Role*

10. Alongside the Group's main workload, I am also continuing to offer advice on a number of district enforcement cases. I reported to the last Meeting that County Officers have been adopting for some time a supportive role, acting in a co-ordinating capacity and forging links between the relevant local planning authority, the Environment Agency and increasingly of late the Kent Police Rural Liaison Team. Virtual teams are ready to be deployed at short notice on most of the more difficult planning enforcement cases.
11. The Larkey Wood, Chartham case (Schedule 1, No.1); Nt Rix Scaffolding Ltd, Dover (Schedule 1, No.4); Foxdene, Stockbury (Schedule 1, No.6); Orchard Place, Sutton Valance (Schedule 1, No.7); Little Neverend Farm, Ulcombe (Schedule 1, No. 8); Willow

Farm, Ospringe (Schedule 1, No.12) and Top Bungalow, Cranbrook (Schedule 1, No.13) are representative examples. Jurisdiction is often an issue given the division of planning responsibilities between County and District Planning Authorities and the complexity of some of the alleged unauthorised activities. A guiding principle however, established by case law, is that mixed-use sites fall to the respective District Council to deal with; even those involving some waste element, which of itself would usually be for the County Council to handle. In these sorts of cases we still freely offer technical and procedural advice to our district colleagues in order to help them with this work and in the overall interests of the public, local amenity and the environment.

### *Case focus*

12. Since the last Meeting resources have been focussed on 3 sites where formal enforcement action has been taken, 3 cases where investigations are underway and a further 4 cases that have been satisfactorily progressed.

### **Achievements / Successes [including measurable progress on sites]**

13. Nt Rix Scaffolding Ltd, Astley Avenue, Dover (Schedule 1, No.4), is now in compliance and the land has been restored.
14. Planning permission has been granted for a new waste management facility at Units 6, 13 & 14 Detling Airfield (Schedule 1, No. 5). The original and alleged site contraventions have been resolved by the current operator, who now intends to implement the planning permission with modern appointed buildings and related safeguarding measures.

### **New Cases, especially those requiring action / Member support**

15. Four new County Matter cases have arisen since the last Meeting. They include: Little Neverend Farm, Ulcombe (Schedule 1, No.8); Willow Farm & Equestrian Centre, Ospringe (Schedule 1, No. 12) and renewed issues at Top Bungalow, Cranbrook (Schedule 1, No.13) and Sheerness Recycling, Tonbridge (Schedule 2, No.2).

### **Significant on-going cases**

16. The most significant cases at the moment are at Larkey Wood, Chartham (Schedule 1, No.1) and the related site at Thirwell Farm, Hernehill (Schedule 1, No.11). Each is subject to proceedings, which should bring new landowners onto the scene, capable and willing to carry out the required level of restoration at both sites.

### **Other cases / issues of interest and requests from Members**

17. No cases identified on this occasion.

### **Monitoring**

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

18. In addition to our general visits to sites as a result of planning application work, we also undertake routine visits to formally monitor them. Since the last Regulation Committee, we have made a further 10 chargeable monitoring visits to mineral and waste sites, yielding a related income to the Group.

#### **Resolved or mainly resolved cases requiring monitoring**

19. Alongside the chargeable monitoring regime there is a need to maintain a watching brief on resolved or mainly resolved enforcement cases which have the potential to recur. That accounts for a significant and long-established pattern of high frequency site monitoring.

20. Cases are periodically removed (with Members agreement) to make way for others when the situation on site has been stabilised; restoration has been achieved, a district or Environment Agency (EA) remit confirmed (or with action being a realistic possibility by them). Another occasion is where a planning application would address the various issues and there is the realistic prospect of one being submitted. Cases then go onto a 'reserve' data base, with an in-built monitoring commitment; ready to be returned to the Committee's agenda should further enforcement issues emerge or a positive planning solution becomes available. Among the examples this time are those listed within the Achievements / Success section between paragraphs 13 to 14 of this report.

### **Conclusion**

21. The Planning Applications Group is now within a new Division and Directorate, following the recent structural changes to the County Council. Integration has also taken place with the Minerals & Waste Planning Policy Team. Office re-location has spurred the need to move as (far as possible) from paper to electronic record-keeping within the planning enforcement field. The size of the task has inevitably meant some diversion of effort from main casework but is now largely complete. Notwithstanding this business pressure the surge in cases reported to the last Meeting, has either been absorbed into the main work stream or passed to the relevant district authority, the Environment Agency, or both. The Planning Enforcement Team is continuing with its co-ordination and advisory role, offering detailed assistance in the main, to our district counterparts.

### **Recommendation**

22. I RECOMMEND that MEMBERS NOTE & ENDORSE:

- (i) the actions taken or contemplated on the respective cases set out in paragraphs 5 to 20 above and those contained within Schedules / Appendices 1, 2 and 3.

## Update on Planning Enforcement Issues

Item 6

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Background Documents: see heading