

Report by Head of Planning Applications Group to the Regulation Committee on 2<sup>nd</sup> September 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 13<sup>th</sup> May 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 statutory chargeable monitoring for minerals development.

### Meeting Enforcement Objectives

#### *Themes*

5. The main themes of this report are flexibility of work style and further integration of services, both inside and outside of the County Council. Internal links within the Environment, Planning and Enforcement Division following recent structural changes include: Village Greens, Public Rights of Way, Community Wardens, Trading Standards and the Gypsy & Travellers Unit. Principal external links are District Planning / Enforcement Officers, Environment Agency Teams and Kent Police.

### *Office Move*

6. The amalgamated Planning Applications Group and Minerals & Waste Planning Policy Team is due to come together physically on 1<sup>st</sup> September 2014, in a new office layout within Invicta House. This will include hot-desking and remote-working by agreement. To ease the accommodation pressures, the enforcement team (consisting of two people) has volunteered to work in an ultra flexible way, with very little access if any, to fixed desks.

### *Staffing*

7. The current Senior Planning Enforcement Officer will have left by the date of the Meeting. I shall advise on my succession plan at the next Regulation Committee Meeting on 28<sup>th</sup> January 2015. I wish to complete a full calendar year review of current workloads and the type of cases that are now emerging as we come out of the recession and the economy recovers. In the interim, I am fortunate in having an officer from within the Group's Technical / Administrative Team, who has allied enforcement experience. The service is therefore continuing through an internal transfer of relevant and specialist skills. This arrangement shows the flexibility of the Group in creatively meeting an immediate business need and is illustrative of new ways of working.
8. In addition, it will allow for new networking approaches to be tried (to those existing), linking with the enforcement resources of other regulatory bodies, such as District Council Planning Enforcement Officers, Environment Agency Inspectors / Crime Team officers and Kent Police. This will help to reinforce a continuing trend.

### *Co-ordinating and Advisory Role*

9. Alongside the Group's main workload, I am also continuing to offer advice on a number of district enforcement cases, including Top Bungalow, Cranbrook (Schedule 1, No. 8). A virtual team of the kind envisaged under the previous paragraph is being put together. On this occasion, the case is a very mixed-use site and not within the County Council's remit. However, the same principle of a virtual team approach applies with County Matter cases such as Larkey Wood, Chartham (Schedule 1, No.1) and Nt Rix Scaffolding Ltd, Dover (Schedule 1, No. 5). This supportive and coordinating role, is assuming more importance at a time of staff reductions among interlinking authorities. Virtual teams of this kind allow a pooling of resources and expertise. They are also important as a deterrent, often averting the need for time-consuming and expensive court action.
10. Planning enforcement jurisdiction among some sites remains an issue between County and District Planning Authorities. The complexity of some of the alleged unauthorised activities, serves to reinforce the problem. A guiding principle previously reported and 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 (and indeed to our own Gypsy & Traveller colleagues) in order to help them with this work and in the overall interests of the public, local amenity and the environment. We shall periodically seek legal advice from Counsel to ensure that we are abreast of the latest case law on this vexed issue.

### *Revised Fines for 'Flytipping'*

11. Members may have picked-up from the press and other sources that new measures have been introduced to deter fly tipping. The Sentencing Council, a body created by the Coroners and Justice Act 2009 has set new guidelines for magistrates to make greater use of fines for environmental crime from 1<sup>st</sup> July 2014. Low-level offending can now attract fines of up to £10,000, and those who break the law could serve up to three years in prison. More serious environmental crime and damage typically prosecuted by the Environment Agency may now attract an escalating level of fines up to £3m for companies and £95,000 for individuals.
12. Whilst fly tipping is not a matter for this Committee (except on Highway and other KCC land) these enhanced fines available to Magistrates are a useful tool in sending out the general message that Magistrates Courts will deal more severely with those found guilty of fly tipping and is an indicator as to how the Courts will view all environmental crime in the future.

### *Case focus*

13. Since the last Meeting resources have been focussed on 3 sites where formal enforcement action has been taken, 8 cases where investigations are underway and a further 4 cases that have been satisfactorily progressed.

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

14. Wilson Skips, Wealden Forrest, Herne Common (Schedule 1, No.2), is now in compliance, with the allegedly unauthorised waste handling activity having been re-located.
15. The fly-tipping problem on the river bank next to the Greenbridge Park Gypsy & Travellers Site, Vauxhall Road, Canterbury Planning has been contained (at least for now) by secure fencing.

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

16. Four new County Matter cases have arisen since the last Meeting; they include: Court Wood House, New Barn Road (Schedule 1, No.4); Ovendens, Thornton Lane, Eastry (Schedule 1, No. 1); Ideal Waste Paper and Teardrop Centre, London Road, Farningham (Schedule 2, No. 2).

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

17. 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.7), along with Court Wood House, New Barn Road (Schedule 1, No.4).

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

18. No cases identified on this occasion.

### **Monitoring**

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

19. 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 28 chargeable monitoring visits to mineral and waste sites, yielding a related income to the Group.

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

20. 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.

21. 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 14 to 15 of this report.

### **Conclusion**

22. The amalgamated Planning Applications Group and Minerals & Waste Planning Policy Team is soon coming together on one floor, with all other sections of the Environment, Planning and Enforcement Division. The Planning Enforcement Team itself is re-forming and reviewing its workload and approaches to the work. A feature that will always be needed is ever closer ties, both internally and with parallel regulatory bodies such as District Councils, the Environment Agency and Kent Police. Co-ordination and advisory work tends to flow naturally from these connections.

### **Recommendation**

23. I RECOMMEND that MEMBERS NOTE & ENDORSE:

- (i) the actions taken or contemplated on the respective cases set out in paragraphs 5 to 21 above and those contained within Schedules / Appendices 1, 2 and 3.

## **Update on Planning Enforcement Issues**

**Item 7**

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Background Documents: see heading