

## Update on Planning Enforcement Issues

## Item 5

Report by Head of Planning Applications Group to the Regulation Committee on 28<sup>th</sup> September 2017.

Summary: Update for Members on planning enforcement matters.

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

Unrestricted

### Introduction

1. This report provides an update on planning enforcement and monitoring work carried out by the Planning Applications Group since the 26<sup>th</sup> July 2017 Regulation Committee Meeting.
2. As part of the reporting format, alleged unauthorised sites are considered by Members as exempt items, for information purposes, strategy and endorsement. This helps to protect the content of any planning enforcement approaches being taken, which we may subsequently rely upon in court and legal actions.
3. This report summarises alleged unauthorised activity and is supported by a schedule, which is also exempt. However, a list of the cases covered in the schedule is given below under paragraph 7 of this report.

### Report Content

4. The exact content of the report will be tailored to each Meeting. In general however, it will cover planning enforcement objectives, themes and patterns of alleged contraventions. This in turn will be complemented by information on new and impending legislation and modernising proposals for the development of the service within an overall County Council vision.
5. At its core, the report will always include a series of cases which the planning enforcement team are currently investigating or acting upon. These will usually vary in their degree of complexity and challenge.
6. There is also a section on general site and compliance monitoring, incorporating the statutory chargeable element with relation to minerals development and final concluding comments.
7. The list of cases covered under the schedule, attached to Item 8 'Update of Planning Enforcement Cases' (Exempt report) are:
  - **Ashford Waste Water Treatment Works**, Canterbury Road, Bybrook, Ashford
  - **Glebe Farm**, Shadoxhurst
  - **Lenham Saw Mills**, Double Quick Farm, Lenham Heath
  - **Hoath Primary School**, School Lane, Hoath.

## **Update on Planning Enforcement Issues**

## **Item 5**

- **Dartford Technology College**, Heath Lane, Dartford
  - **Wilmington Academy**, Common Lane, Wilmington, Dartford
  - **Wentworth Primary School**, Wentworth Drive, Dartford
  - **Land adjoining Long Hill playing field**, Romans Road, Dover
  - **Reserved land to protect highway widening corridor**, Downs Road, Studdal
  - **Longton Wood**, Detling Maidstone
  - **Water Lane / Moat Road**, Headcorn, Maidstone
  - **Little Neverend Farm**, Pye Corner, Ulcombe.
  - **Land at Crockenhill**, Sevenaoks
  - **Thirwell Farm**, Drove Lane, Hernhill
  - **Land at Sites A and C**, Oare Creek, Faversham
  - **Willow Farm Equestrian Centre**, Hanslett Lane, Faversham
  - **Land adjoining White Leaf Riding Stables**, Teynham
  - **Corio Farm, Wateringbury Road**, East Malling
  - **Spratling Court Farm**, Spratling Street, Manston
8. The above represents the core and current workload of the Planning Enforcement Team but is not exhaustive in terms of advice given to other regulatory authorities and cases investigated, which are ultimately not for this Authority. Particular cases though of interest to local County Councillors will still be included.

### **Meeting Enforcement Objectives**

#### *Background*

9. As stated in my report to the last Committee, there is a high Member and public expectation for this Authority to act in a proportionate but decisive way against alleged County Matter breaches.
10. In this context and for the benefit of new Committee Members, the County Council has policies within its adopted Minerals & Waste Local Plan which are particularly relevant to the planning enforcement arena. I would draw attention to two of them:

## Update on Planning Enforcement Issues

## Item 5

- **Policy CSW3** 'Waste Reduction' – This seeks the minimisation of construction spoil at source, as an example of positive development management. This in turn should help reduce the potential for planning enforcement problems further along the line (see first attached extract).
- **Policy DM22** – 'Enforcement' – This gives policy support to existing planning enforcement work and seeks to reinforce the County Council's position in any formal actions (see second attached extract).

### *Operational matters*

11. Work within the planning enforcement field requires an exacting level of information on any alleged breach and increasingly robust evidence as cases develop. This demands an exact site location, planning history and knowing and understanding the full extent of district level involvement in a case to date, in the more complex cases. Counsel will in turn need this to assist with all aspects of an alleged contravention including issues of jurisdiction. In this context, cases need to be dissected and planning and legal judgements applied, including the latest case law.
12. Once the planning status of an activity is determined, information can be given to the complainant(s), at the same time appraising our partner authorities on our findings, for team regulatory purposes. New technology such as the setting of site boundaries / ground footprints by global positioning systems (GPS) is of use, especially as a basis for drone surveys. Smart water to trace waste from '*cradle to grave*' is also available to some of our enforcement partners to use.

### *The proliferation of waste crime*

13. Our normal planning enforcement workload is continuing but waste crime is becoming increasingly evident and more organised. A key aspect since its introduction in 1996 is the alleged evasion of Landfill Tax. New forms of enforcement collaboration with other bodies and the inventive use of existing powers are being urgently devised and worked upon. The Government are also alive to this issue. Up-to-date information and training on the powers available to complement our planning enforcement efforts are an ongoing requirement. More detail on this aspect is given within Exempt Item 8 of these papers.

## **Achievements / Successes**

14. **Aylesham Road, Dover** - is an example of a recent team success which deserves recognition. A regulatory team of County and District Council officers was formed to stop flytipping in the vicinity, to clear and restore the damaged site and ensure that those allegedly responsible were brought to court. Dover DC brought a prosecution on behalf of the team. Deterrent sanctions were imposed, including suspended prison sentences, community service orders, fines and confiscation of vehicles. This successful intervention serves as a useful template for similar actions.

## **Monitoring**

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

## **Update on Planning Enforcement Issues**

## **Item 5**

15. In addition to our general visits to sites as a result of planning application work, we also undertake routine visits to some sites to formally monitor them under the statutory monitoring charging scheme. Since the last Meeting some 16 visits to date have been undertaken. These provide a useful means for checking compliance on site.

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

16. 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. 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. In this instance, there are no cases to report back.

### **Conclusion**

17. The County Planning Enforcement Team is continuing within its traditional role but also keeping an open mind on new ways to achieve even more effective and cost efficient outcomes. The interchange of high quality and up to date information is vital in ensuring the success of any single or joint action. Even establishing planning jurisdiction on enforcement cases between the County Council and its district counterparts can be an involved process but is crucial to the handling and success of a case. However, if any action is contemplated, unfailing planning precision is required in all cases. These operational demands need to be set against the understandable and urgent expectations of the public, in providing an efficient and effective enforcement service.

### **Recommendation**

18. I RECOMMEND that MEMBERS NOTE & ENDORSE:

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

Case Officers: KCC Planning Enforcement

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Background Documents: see heading.