

## **Update on Planning Enforcement Issues**

## **Item 7**

Report by Head of Planning Applications Group to the Regulation Committee on 26<sup>th</sup> September 2018.

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 23<sup>rd</sup> May 2018 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. This report covers planning enforcement objectives, in response to the nature and patterns of alleged contraventions. This in turn is complemented by information on new and impending legislation and modernising proposals for the development of the service within the overall vision and values of the County Council.
5. The current throughput of cases is included, which are those the planning enforcement team are currently engaged in or advising upon. These vary in their degree of complexity and challenge. The level of involvement of the County Council also varies, according to remit and case management among the regulatory bodies.
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 10 'Update of Planning Enforcement Cases' (Exempt report) are:
  - **Ashford Waste Water Treatment Works**, Canterbury Road, Bybrook, Ashford
  - **Mount Pleasant Farm**, Seasalter Lane, Yorkletts, Whitstable.
  - **Mount Pleasant House**, Seasalter Lane, Yorkletts, Whitstable

- **Hawthorn Cottages**, May Street, Herne Bay
  - **Wilmington Academy**, Common Lane, Wilmington, Dartford
  - **Wentworth Primary School**, Wentworth Drive, Dartford
  - **Maypole Community Primary School**, Franklin Road, Dartford.
  - **Land adjoining Long Hill playing field**, Romans Road, Dover
  - **Reserved land to protect highway widening corridor**, Downs Road, Studdal
  - **Fleetmix Ltd**, Aggregate Stockpile, Northfleet, Kent
  - **Former Petrol Station / Car Wash**, London Road, Gravesend.
  - **Land at Stockbury Valley (Longton Wood)**, Detling Maidstone
  - **Water Lane / Moat Road**, Headcorn, Maidstone
  - **Little Neverend Farm**, Pye Corner, Ulcombe
  - **Environment First Ltd**, Lested Farm, Chart Sutton, Maidstone
  - **Thirwell Farm**, Drove Lane, Hernhill
  - **Land at Sites A and C**, Oare Creek, Faversham
  - **Three Lakes Caravan Park**, Murston, Sittingbourne
  - **Wrotham Quarry**, Addington, West Malling
8. The above represents the current case 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. In fact, new procedures are being introduced to ensure that case referrals (in the main from district councils) are made with more accurate reference to the County Council's planning enforcement remit and supported by the necessary information. This will allow for tighter focus on our core strategic duties and remit. Action by the County Council in default of other bodies with the necessary powers and remit would be similarly inappropriate.

### **Meeting Enforcement Objectives**

#### *Background*

9. The reality of planning enforcement is that there is always a high expectation from the public, their representatives and other interested parties for this Authority (or allied public

regulators) to act in a swift and decisive way against alleged planning breaches. Any County Matter action however, must be robust and *intra vires* i.e. within the powers and control of the County Council. This requirement is a critical starting point. The material facts of the case therefore have to be carefully elicited and the planning status of an activity verified, often with the help of advice from specialist barristers. The demand for legal opinion is increasing, which reflects the complexity of cases and related issues of planning jurisdiction.

### *Operational matters*

10. Planning enforcement rests on the 'fact and degree' of cases and planning and legal judgement. Cases must be dealt with on their own individual merits. A judgement is also required in all cases, on the likelihood of planning permission being granted, or not. Any formal actions taken or contemplated must also be proportionate.
11. With all these planning legal disciplines, a significant part of the job is to research the full and accurate facts. Cases also need to be filtered and triaged, according to likely planning jurisdiction, environmental urgency and amenity impacts being caused to sensitive sites and local communities. Actions must further fit within our core responsibilities. This allows for the proper distribution of work among the key enforcement regulators and ensures that any actions taken, with related investment of public funds are secure and robust and not left vulnerable to challenge on legal grounds.

### *The proliferation of waste crime*

12. Waste crime continues to be a prominent feature of our workload, along with the Environment Agency. I reported to the last Meeting that the Government had introduced new tax measures. These allow Her Majesty's Revenue and Customs (HMRC) informed by relevant authorities to pursue individuals, companies and their supporting networks for the alleged evasion of Landfill Tax. The County Council's Planning Enforcement Team has been anticipating and preparing for this move and will wish to play an active part in its use on appropriate cases.

## **Monitoring**

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

13. In addition to our general visits to sites, we also undertake routine visits on permitted sites, to formally monitor them under the statutory monitoring charging scheme. They are useful compliance checks against each operational activity and an early warning of any alleged and developing planning contraventions.

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

14. 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**

15. The County Planning Enforcement workload continues at a pace and to an increasing level of complexity and expectation. Stricter rules on the receipt of cases and more scrutiny over issues of planning jurisdiction are helping to alleviate the pressures on frontline staff. This streamlining will hopefully bring operational and resourcing benefits. At the same time however, true and effective enforcement within the public sector, requires at its optimum, seamless and collaborative working between those bodies charged with such duties. Every effort by the County Planning Enforcement team is made to achieve such links, whom still advise on enforcement strategies, even when cases fall outside of our remit.

**Recommendation**

16. I RECOMMEND that MEMBERS NOTE & ENDORSE:

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

Case Officers: KCC Planning Enforcement

03000 413380 / 413384

Background Documents: see heading.