

Update on Planning Enforcement Issues

Item 5

Report by Head of Planning Applications Group to the Regulation Committee on 22nd May 2019.

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 24th January 2019 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. An exempt report (Item 8), is included within these papers and summarises alleged unauthorised activity. It 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 the responsibilities and resources available to the enforcement service.
5. The current throughput of cases is included, which are those the planning enforcement team are currently engaged in, leading or advising upon. These vary in their degree of complexity and challenge. The level of involvement of the County Council also varies, according to enforcement jurisdiction, legal technicalities and case sharing and 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 8 'Update of Planning Enforcement Cases' (Exempt report) are:
 - **Ashford Waste Water Treatment Works**, Canterbury Road, Bybrook, Ashford
 - **Casa Amica & Ripley's**, Bilsington, Ashford
 - **Mount Pleasant Farm**, Seasalter Lane, Yorkletts, Whitstable.

- **Mount Joy**, Coombe Walk, Yorkletts
- **Hawthorn Cottages**, May Street, Herne Bay
- **Spires Academy**, Bredlands Lane, Sturry, Canterbury
- **Wentworth Primary School**, Wentworth Drive, Dartford
- **Maypole Community Primary School**, Franklin Road, Dartford.
- **Borough Green Sandpits**, St Mary's Platt.
- **Stone Pit 2, St James Lane, Greenhithe, Dartford**
- **Land adjoining Long Hill playing field**, Romans Road, Dover
- **Fleetmix Ltd**, Aggregate Stockpile, Northfleet, Kent
- **Mayfield Grammar School**, Pellham 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
- **St Francis Catholic Primary School**, Queens Road, 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 workload of the Planning Enforcement Team but is not exhaustive in terms of advice given to other regulatory authorities and cases investigated.

Meeting Enforcement Objectives

Background

9. An important part of any enforcement work is to follow trends and be aware of emerging legislation. As reported previously, mainstream planning contraventions at the County strategic level are increasingly becoming linked to the growth in waste crime. KCC Planning Enforcement is also encountering waste sites that are subject to other types of crime. The government is alive to these trends and last November DEFRA commissioned an urgent and independent review into serious and organised crime within the waste sector.
10. Research and evidence were gathered from interviews, site visits, the National Crime Agency (NCA), the Environment Agency and Interpol. The evidence concluded that criminal-gangs were colonising existing waste crime sites, taking them into other serious and organised areas. The DEFRA report found that:

"They engage in large scale fraud, threaten and intimidate legitimate competitors, disregard environmental and safety regulations and feed an illegal economy that draws on modern slavery (in some cases).

11. The report's recommendations were considered in relation to the government's 'Resources and Waste Strategy', published in December 2018 and will help inform the 'Environment Bill'.

Operational matters

12. Whilst waste enforcement problems have developed, the public regulatory framework has lagged behind. KCC Planning Enforcement welcomes DEFRA's proposals with interest and with a view to working with a range of government agencies to help in dealing holistically with the more challenging criminal waste sites. County Planning Enforcement already works with other regulatory bodies, making enquiries into unauthorised activities, and coordinating actions or tasks, such as site recovery. This arrangement, however, is fairly loose and fluid, based more on mutual cooperation and interests.
13. Our experience of planning enforcement is that a more sophisticated intelligence-led style of dealing with the crime sites, working under a government mandated public agency response is needed. The DEFRA report strikes this tone and is therefore to be welcomed in this regard. Part of the problem (also mentioned in the DEFRA report) is that the public sector as a whole needs more meaningful and updated powers, gathered expertise and resources to achieve the kind of holistic results against organised crime that is expected.

Going forward

14. In reality, waste criminals are becoming more adept at diversifying and circumventing any enforcement action, through a number of legal loopholes. County Planning Enforcement has seen the need for the existing regulatory authorities to diversify their combined approach in response and is developing partnerships with others to achieve

this.

15. County waste planning breaches still occur on single sites, involving single operators, reminiscent of more traditional planning enforcement. Conventional planning action is largely reserved for these once common, but now dwindling types of sites. Mixed activity sites are becoming more the norm, with a range of contraventions and income streams. There are examples of both types of sites and activities within the workload list under paragraph 7 of this report. They make up half to two-thirds (at times) of the overall number of cases. The remainder may feature activities of a waste crime nature.

Monitoring

Monitoring of permitted sites and update on chargeable monitoring

16. 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

17. 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 further breaches are occurring are reported back to the Committee. In this instance, there are no cases to report back.

Conclusion

18. As part of the County Planning Enforcement work it is becoming apparent that the nature of waste enforcement activity is changing with a greater increase in mixed-use activities and larger scale sites that may link to organised crime. The government has also seen this at a national level. These problems and our intentions on how to tackle them have been anticipated and reported to this Committee on an increasingly regular basis. KCC Planning Enforcement has reviewed the 'Independent review into serious and organised crime in the waste sector' and agrees with its sentiments and analysis. This part of the recently published 'Resources and Waste Strategy', will be reported to Members in due course.

Recommendation

19. I RECOMMEND that MEMBERS NOTE & ENDORSE:

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

Update on Planning Enforcement Issues

Item 5

Background Documents: see heading.