

Report by Head of Planning Applications Group to the Regulation Committee on 25th September 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 22nd May 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. This report summarises alleged unauthorised activity. There is a further exempt report within (Item 8) in these papers with an attached schedule, containing restricted details of cases. However, a list of the cases covered in the schedule is given under paragraph 7 below.

### 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, 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 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:

01. **Ashford Waste Water Treatment Works**, Canterbury Road, Bybrook, Ashford.

02. **Mount Pleasant Farm**, Seasalter Lane, Yorkletts, Whitstable.

03. **Mount Joy**, Coombe Walk, Yorkletts.
04. **Hawthorn Cottages**, May Street, Herne Bay.
05. **Spires Academy**, Bredlands Lane, Sturry, Canterbury.
06. **Wentworth Primary School**, Wentworth Drive, Dartford .
07. **Maypole Community Primary School**, Franklin Road, Dartford.
08. **Borough Green Sandpits**, Platt Industrial Estate, St Marys Platt.
09. **Stonepit Restoration Ltd**, Stone Pit 2, St James Lane, Greenhithe, Dartford.
10. **NT Rix Scaffolding Yard**, Longhill Astley Avenue, Dover.
11. **Land adjoining Long Hill playing field**, Romans Road, Dover.
12. **Fairfield Court Farm**, Brack Lane, Brookland, Romney Marsh.
13. **Fleetmix Ltd**, Aggregate Stockpile, Northfleet, Kent.
14. **Mayfield Grammar School**, Pelham Road, Gravesend.
15. **Land at Stockbury Valley** (Longton Wood), Detling Maidstone.
16. **Water Lane / Moat Road**, Headcorn, Maidstone.
17. **Little Neverend Farm**, Pye Corner, Ulcombe.
18. **Environment First Ltd**, Lested Farm, Chart Sutton, Maidstone
19. **St Francis Catholic Primary School**, Queens Road, Maidstone
20. **Thirwell Farm**, Drove Lane, Hernhill
21. **East Kent Recycling Site D**, Oare Creek, Faversham Kent
22. **Three Lakes Caravan Park**, Murston, Sittingbourne
23. **Wrotham Quarry**, Addington, West Malling
24. **Rear of Orchard at Crouch Lane**, Sandhurst, Tunbridge Wells

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, which are ultimately not for this Authority.

### Meeting Enforcement Objectives

#### *Background*

9. A theme for this Meeting is the resource that the County Planning Enforcement Team has to dedicate towards handling an increasing number of case referrals from district councils. These are passed on as 'County Waste Matters'. However, after reviewing the case details, including the planning histories, we have found, in practically all instances that they are not for the County, as indicated by the district councils and that we do not have planning jurisdiction.
10. Some cases are escalated and in others' complainants are simply directed to this Authority. In order to establish correct jurisdiction, it is necessary to direct considerable resources investigating alleged breaches and site histories. In some cases, this will need the drafting of detailed briefs for Counsel's advice and guidance. In addition to this activity, we are still attending sites involving the most pressing cases. To free up more time, we are also offering specialist planning enforcement and bulk material handling advice to district councils, to help them to maximise the use of their own powers, before referring cases onto us. This is important as the County Council does not have a planning remit in mixed use cases, which are often at the heart of the matter.

#### *Operational matters*

11. To ensure the efficient use of resources and capacity to investigate County Matter cases, a rebalancing of priorities is needed in order to meet the strategic challenges set.  
The referred district council cases may be progressed more effectively in any event through operational advice and support from the County Planning Enforcement team.

#### *Going forward*

12. Those parties involved in planning breaches relating to waste crime are becoming more adept at finding ways to circumvent the planning system. As a result, it is important for there to be a close working relationship between ourselves, the district councils and the Environment Agency, if the planning enforcement team are to effectively tackle the larger more challenging sites. This includes prioritising resources for cases where the County Council has a remit. This also involves making a judgement where work could more appropriately be handled, within the wider range of powers of the other regulators. That does not preclude the County Council from becoming involved. It recognises instead our primary strategic role and the holistic endeavour needed from all parties.

### 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 against the statutory monitoring charging scheme. This

provides 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. With limited resources, and an increase in cases and referrals, these resources need to be focussed on those cases where the County Council has jurisdiction and a remit to act. Alternative solutions to settling cases needs to be found with the other regulators, rather than resorting to resource intensive legal routes. The enforcement team will continue to seek solutions where cases can be shared operationally without single authorities having to hold exclusive jurisdiction. That traditional approach may apply in the case of smaller sites but medium to larger sites with multiple uses will require a more collegiate and holistic approach.

**Recommendation**

16. 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.