

Report by Head of Planning Applications Group to the Regulation Committee on 17th October 2023.

Summary: Update for Members on planning enforcement matters.

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

Unrestricted

Introduction

1. This report gives an insight into events, operational matters and recent activities of the County Planning Enforcement service. The period covered starts from the previous Regulation Committee of 26th April 2023, to date.
2. KCC planning enforcement remains under both resourcing and operational pressures, with an increasing caseload and complexity, especially at the strategic end of the spectrum. There is a notable development in alleged waste criminal activity spread across a network of sites. These in turn display a mix of planning uses, as well as waste-related elements, attracting the attention of a range of official authorities and agencies.
3. Historically, the County Council has worked with other local planning authorities the Environment Agency (EA) and the police. However, more frequently of late, we have also forged closer operational links with other government bodies such as Natural England (NE) and His Majesty's Revenue and Customs (HMRC).
4. Collaboration among all of these bodies is increasingly required as the depth and extent of the challenges involved continue to escalate. By necessity and design, joint operational working at all levels is becoming more common and sophisticated. The range of options and powers open to the participants, have expanded accordingly. In the planning field, this has importantly added to our traditional armoury.

Report Format

5. The reporting to the Regulation Committee on planning enforcement matters comprises of two main parts.
6. The first being this 'open' report, summarising in general, our findings and observations relating to enforcement matters, for discussion. In addition, it includes the nature of the alleged unauthorised activities and types of responses, incorporating as much as can be released on operational matters without prejudicing any action that the Council may wish to take, or in relation to team actions with other regulatory bodies. Data security in this field of work is

becoming increasingly important.

7. The second is the 'closed' or 'exempt' report (within Item 8 of these papers) containing restricted details on cases. These report the work conducted, in priority order, with the strategic level cases first (with a County Council interest / remit). These are followed by district referrals, including those where issues of jurisdiction remain, and including 'cross-over' work with partner bodies and finally alleged compliance issues at permitted sites.
8. In this way, a more in-depth analysis of alleged unauthorised activities becomes possible, with cross-comparisons between sites and the search for patterns of alleged contravening behaviour. It also enables the confidentiality of the content and strategy of any proposed planning enforcement action to be protected, along with any active gathered evidence.
9. Data protection and security is paramount, underpinning the integrity of any contemplated actions, along with the personal safety and security of all the parties involved. Hearing the details of cases in closed session allows for uninhibited discussion, in seeking Member endorsement, on our own or joint enforcement strategies with other regulatory authorities (who in turn, have their own need for confidentiality). Great care has to be taken at all times, in handling any related and sensitive information, in order to preserve operational security.
10. As a counter-balance to security restrictions, a list is provided, under paragraph 11 below, of the cases that will be covered in the exempt report. This covers those sites currently active or requiring investigation. Those previously reported and inactive, remain on a 'holding / monitoring' database to be brought back to the Committee, should further activity occur, or as an update on site restoration and after-uses. This particularly now includes, sites close to completion, allowing a revised balance of attention towards live activities. Notwithstanding that, forward momentum still continues in the background, on the restoration of affected sites.
11. Our current and immediate operational workload, qualified by remit and with resource priority (with other cases on a 'holding' database) is as follows:

County Matter cases (complete, potential, forming a significant element or as a regulatory group contribution)

01 **Hoads Wood**, Bethersden, Ashford

02 **Ancient Woodland Adjacent to Knoxfield Caravan Site**, Darent Wood Road, Dartford

03 **Oaktree Farm**, Halstead, Sevenoaks

- 04 **Warden Point and Third Avenue**, Eastchurch, Isle of Sheppey
- 05 **Raspberry Hill Park Farm**, Raspberry Hill Lane, Iwade, Sittingbourne

District or EA referrals (or those district or EA cases of potential interest)

- 06 **Water Lane, North of M20**, Thurnham, Maidstone.
- 07 **Woodside East**, Nickley Wood, Shadoxhurst, Ashford
- 08 **Land off Maypole Lane**, Hoath, Canterbury
- 09 **Manor Farm, Willow Lane**, Paddock Wood
- 10 **Knowle Farm**, Malling Road, Teston, Maidstone

12. All alleged unauthorised cases received are triaged, researched and investigated to establish whether there is a statutory remit for the County Council, unless it is clearly not for KCC planning enforcement. Among the cases are those that may ultimately be handled by other authorities and agencies or where we contribute within multi-agency settings.

13. A further workload area relates to alleged compliance issues at permitted sites. These mainly relate to alleged breaches of planning conditions, arising from site management issues.

Permitted sites (compliance issues)

- 01 **Cobbs Wood Industrial Estate**, Ashford.
- 02 **The Old Tilmanstone Colliery**, Pike Road, Eythorne.
- 03 **Cube Metals**, Unit A, Highfield Industrial Estate, Bradley Road, Folkestone.
- 04 **RS Skips**, Apex Business Park, Shorne.
- 05 **East Kent Recycling**, Oare Creek, Faversham
- 06 **Borough Green Sandpits**, Platt, Borough Green
- 07 **Wrotham Quarry (Addington Sandpit)**, Addington, West Malling

08 H&H Celcon, Ightham

Meeting Enforcement Objectives

Resourcing & skills base

14. Members were informed at the last Regulation Committee in April, that the developing and retention of skills and capacity within County planning enforcement is a key priority. Indeed, it was reported that a Royal Town Planning Institute survey had confirmed that the problems experienced in Kent relating to recruitment, retention and development of new officers were generic within the country.
15. This becomes particularly important in relation to alleged and organised waste crime (as mentioned in paragraph 2 of this report) where speed, agility and originality of actions are needed. The government has recognised this by handing bespoke powers to the Environment Agency and His Majesty's Revenue and Customs (HMRC). Updated and commensurate powers have not been invested within County Planning Authorities. In Kent, the forging of links with these government organisations has therefore long been seen as an operational necessity, with the initiative advancing well.
16. KCC Planning Enforcement has sought to be at the vanguard of these new enforcement trends. That includes an ambition to upgrade our skill set beyond the traditional type of enforcement action, to help combat more directly, the increase in alleged organised waste crime.

EA Permitting issue

17. As a further initiative, Members have been active with officers in seeking solutions to the 'EA Permitting issue'. That is where waste cases have been developing with the benefit of an Environment Agency Waste Management Permit but in the absence of a pre-requisite planning permission. Planning enforcement interventions have then been needed to address any pre-emptive and damaging activities.
18. A number of early warning data type solutions have been discussed with the EA. These are being trialled and reinforced by front-line exchanges of information on pending waste cases with our EA counterparts. Good combined work has also taken place on several sites where the Permit itself has been allegedly breached, to the extent where revocation is being considered by the EA, with an in-built duty to ensure restoration of the site to its pre-existing condition. In other words, the Permit issue is being challenged at both ends, in an active way, by both organisations.

Other considerations

19. There are many dimensions to county planning enforcement, from responding to individual unauthorised sites, to strategic initiatives in the absence of planning permission, with allied regulatory bodies. In addition, monitoring and compliance work at permitted sites.

Monitoring

Monitoring of permitted sites and update on chargeable monitoring

20. In addition to general visits to sites, we also undertake monitoring visits on permitted sites. They provide useful compliance checks against each operational activity and an early warning of any alleged and developing planning contraventions. Those within the statutory monitoring charging scheme are currently restricted in favour of other work priorities, although investigation of alleged breaches that are drawn to the Council's attention have continued to be investigated. Alleged planning contraventions at permitted sites are currently being addressed with additional support from agency staff.

Resolved or mainly resolved cases requiring monitoring

21. 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. Under normal circumstances, 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. For the moment, this initiative has also been reduced to allow a diversion of resources to more immediate and pressing duties, especially the more complex cases, alongside other regulators.

Conclusion

22. KCC Planning enforcement is being continually challenged by complex cases that stretch our existing powers and capacity. The operational response has been to join forces with allied enforcement bodies, particularly on the more serious cases. Our contribution is wide, with our sights set on adding to our existing skills base, beyond the traditional style of enforcement action, through original solutions and working in an agile way. In turn, such collaborations can amount to enforcement measures in their own right, with the pooling of intelligence, shared monitoring, presentation of a shared front on site and the integration of skilled enforcement staff and related management expertise. This operational format is proving it's worth in a number of settings, at different scales of activity and particularly the five strategic examples, listed under paragraph 11 of this report.

Recommendation

23.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.