

Report by Head of Planning Applications Group to the Regulation Committee on 7th May 2024.

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 into events, operational matters and activities of the County Planning Enforcement service, since the 30th January 2024 Regulation Committee.
2. KCC planning enforcement remains under both resourcing and operational pressures, with an increasing caseload and complexity, especially at the priority strategic end of the spectrum. Such cases rarely have a singular regulatory interest. The County Council therefore regularly works with allied bodies and the police to maximise the regulatory resources available in the public interest. Collaboration and sharing of knowledge and expertise is particularly important within the public sector, and effective in cost and enforcement terms.

Report Format

3. Our reporting to the Regulation Committee on planning enforcement matters comprises of two main parts.
4. 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 vital, to all interested parties.
5. The second is the 'closed' or 'exempt' report (within Item 9 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, including 'cross-over' work with partner bodies and finally alleged compliance issues at permitted sites.
6. Analysis across and between sites, allows for patterns of alleged contravening

behaviour to be revealed. This in turn is discussed confidentially with Members, in order to safeguard both enforcement strategies and evidence. Member endorsement is sought on individual sites and in terms of group regulatory initiatives.

7. As a counter-balance to security restrictions, a list is provided, under paragraph 8 below, of the cases that are 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.
8. Our current and immediate operational workload, qualified by remit and with resource priority is as follows:

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

- 01 **Hoads Wood**, Bethersden, Ashford
- 02 **Swanton Lane**, Littlebourne, Canterbury
- 03 **Ancient Woodland Adjacent to Knoxfield Caravan Site**, Darenth Wood Road, Dartford
- 04 **Oaktree Farm**, Halstead, Sevenoaks
- 05 **Warden Point and Third Avenue**, Eastchurch, Isle of Sheppey
- 06 **Raspberry Hill Park Farm**, Raspberry Hill Lane, Iwade, Sittingbourne

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

- 07 **Manor Farm, Willow Lane**, Paddock Wood
- 08 **Knowle Farm**, Malling Road, Teston, Maidstone
- 09 **Court Paddock Farm**, Ightham
- 10 **Former Travel Lodge / Brother Hood Woods**, Boughton Bypass Dunkirk
- 11 **The Pines Nursery**, Gravel Castle Road, Barham
- 12 **Pike Road / Thornton Kennels**, Tilmanstone

9. All alleged unauthorised cases received are triaged, researched and investigated to establish whether there is a statutory remit for the County Council. Some cases may ultimately revert to other authorities and agencies and there will be those which we may contribute to within multi-regulatory settings.
10. 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 **Shelford Landfill, Broad Oak Road, Canterbury**
- 02 **Cube Metals**, Unit A, Highfield Industrial Estate, Bradley Road, Folkestone.
- 03 **RS Skips**, Apex Business Park, Shorne.
- 04 **East Kent Recycling**, Oare Creek, Faversham
- 05 **Borough Green Sandpits**, Platt, Borough Green
- 06 **Wrotham Quarry (Addington Sandpit)**, Addington, West Malling
- 07 **H&H Celcon**, Ightham

Meeting Enforcement Objectives

Alleged strategic waste crime

11. There are now seven strategic planning enforcement cases spread across the county, requiring priority attention in a group regulatory context. Each site has attracted a dedicated task force, drawn from specialised staff with police involvement from all operational perspectives. Two sites, at Third Avenue, Eastchurch (Isle of Sheppey) and Hoads Wood, Bethersden, Ashford are subject to Environment Agency Restriction Orders, preventing alleged unauthorised access for the importation of waste materials and associated environmental damage and amenity impacts. Others are under consideration.

Other, largely small to medium size sites

12. There are a range of small to medium size sites, which to some degree are also responding well to group regulatory attention. The format may not always be appropriate but experience is showing that techniques at the strategic scale are in the main, translatable to these further categories of sites.

13. Collaborative efforts help to overcome the limitations of single authority actions and generally speaking, provide a quicker and more complete response from the public sector side. It is also suited towards combating alleged organised waste crime with the sharing of secure intelligence, including the apparent interconnection of sites across the county. Better control and management of workloads within each partner authority is further made possible by this approach.

Monitoring

Monitoring of permitted sites and update on chargeable monitoring

14. 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

15. 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 the priority strategic enforcement cases mentioned within this report but remains on a reactive basis.

Levelling up and Regeneration Act 2023

16. At the last Committee Meeting, an outline of provisions under the 'Levelling up and Regeneration Act' came into force on 26th October 2023. It includes a number of new provisions which impact upon planning enforcement, although further enabling legislation is required before the provisions come into force.

17. In summary the changes are:

- The power to issue Temporary Stop Notices (TSN) in respect of works to Listed Buildings – in force for up to 56 days;
- New Development Commencement Notices' and 'Completion Notices', and

- A number of revised enforcement of planning controls.
18. Members will be kept informed, as enabling procedures activate the various provisions, with more detail given on the relevant parts, in context, as they arise. Some activations are understood to be imminent and any necessary updates will be given at the committee meeting.

Conclusion

19. County planning enforcement is a demanding sphere of work both in content and through increasing complexity. There is a notable increase in strategic sites, on a landscape scale and associated with alleged organised waste crime. These sites and their small to medium counterparts, usually respond well to multi-regulatory attention, culminating in several at the larger end of the spectrum being halted. Seeking opportunities for direct action, within available resources, is becoming an option needing to be considered more often in the light of the challenge to authority, the environment and local amenity being contended with.

Recommendation

20. I RECOMMEND that MEMBERS NOTE & ENDORSE:

- (i) the actions taken or contemplated in this report and any legislative changes for planning enforcement arising from the Levelling Up and Regeneration Act 2023.

Case Officers: KCC Planning Enforcement
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Background Documents: see heading.