

REGULATION COMMITTEE

Thursday, 23rd September, 2021

10.00 am

Council Chamber, Sessions House, County Hall,
Maidstone





AGENDA

REGULATION COMMITTEE

Thursday, 23rd September, 2021, at 10.00 am
Council Chamber, Sessions House, County Hall, Maidstone

Ask for: **Andrew Tait**
Telephone: **03000 416749**

Membership (15)

Conservative (12): Mr S C Manion (Chairman), Mrs S Hudson (Vice-Chairman), Mr P Cole, Mr M C Dance, Ms S Hamilton, Mr D Jeffrey, Mr R C Love, OBE, Mr R A Marsh, Mr J M Ozog, Mrs L Parfitt-Reid and Mr T L Shonk

Labour (1) Mr B H Lewis

Liberal Democrat (1) Mr I S Chittenden

Green/Independents (1): Mr M Baldock

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UNRESTRICTED ITEMS

(During these items the meeting is likely to be open to the public)

1. Substitutes
2. Declarations of Interests by Members in items on the Agenda for this meeting.
3. Minutes - 1 July 2021 (Pages 1 - 6)

4. Update from the Public Rights of Way and Access Service (Pages 7 - 10)
5. Update on Planning Enforcement Issues (Pages 11 - 16)
6. Other Items which the Chairman decides are Urgent
7. Motion to exclude the public

That under Section 100A of the Local Government Act 1972 the public be excluded for the following business on the grounds that it involves the likely disclosure of exempt information as defined in paragraphs 5 and 6 of Part 1 of Schedule 12A of the Act.

EXEMPT ITEMS

(During these items, the meeting is likely not to be open to the public.)

8. Update on Planning Enforcement cases (Pages 17 - 36)

Benjamin Watts
General Counsel
03000 416814

Wednesday, 15 September 2021

Please note that any background documents referred to in the accompanying papers maybe inspected by arrangement with the officer responsible for preparing the relevant report.

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KENT COUNTY COUNCIL**REGULATION COMMITTEE**

MINUTES of a meeting of the Regulation Committee held in the Council Chamber, Sessions House, County Hall, Maidstone on Thursday, 1 July 2021.

PRESENT: Mr S C Manion (Chairman) Mr M Baldock, Mr I S Chittenden, Mr P Cole, Mr M C Dance, Mr D Jeffrey, Mr B H Lewis, Mr R C Love, OBE, Mr R A Marsh, Mr J M Ozog, Mrs L Parfitt-Reid, Mr H Rayner (Substitute for Mrs S Hudson) and Mr T L Shonk

IN ATTENDANCE: Mr A Ballard (Principal Democratic Services Officer), Ms M McLauchlan (Definition Officer), Mr R Gregory (Team Leader - Planning Enforcement) and Mr A Tait (Democratic Services Officer)

UNRESTRICTED ITEMS**8. Election of Vice-Chairman**

(Item 3)

(1) Mr D Jeffrey moved seconded by Mr R Love that Mrs S Hudson be elected Vice-Chairman of the Committee.

Carried

(2) RESOLVED that Mrs S Hudson be elected as Vice-Chairman of the Committee.

9. Terms of Reference of the Committee

(Item 4)

The Committee noted its Terms of Reference.

10. Minutes

(Item 5)

RESOLVED that the Minutes of the Committee meetings held on 28 January 2021 and 27 May 2021 and of the Regulation Committee Member Panel on 24 February 2021 are correctly recorded and that they be signed by the Chairman.

11. Introduction to Education Transport Appeals: Presentation

(Item 6)

(1) The Principal Democratic Service Officer briefly explained the role of the Committee's Transport Appeals Panels. He said that parents whose children attended Primary, Secondary or Special Schools could appeal against the Authority's decision not to provide free transport to the school they were attending. The Panel had to assess whether the Authority's School Transport Policy had been correctly applied but that it could not consider the Policy's merits. The Panel then had to

consider whether the case presented by the parents was sufficiently strong for it to make an exception in this instance.

(2) The Principal Democratic Services Officer then informed the Committee that a Panel had to meet physically but that the parents could choose whether they wished to attend physically, virtually or to rely on a paper-based appeal.

(3) The Principal Democratic Services Officer said that a full virtual training session would be held on 28 July 2021 after which all those who had attended would be eligible to sit on the Panels.

(4) The Chairman strongly recommended that all Committee Members should attend the training session.

(5) RESOLVED that the report be noted.

12. Update from the Public Rights of Way and Access Service

(Item 7)

(1) The Definition Officer gave an oral report in which she said that 5 new village green applications had been received since the January meeting of the Committee. 17 applications relating to Public Rights of Way had been received in 2021, a significant proportion of which were proposed diversions which had been prompted by greater public footpath use during the pandemic.

(2) The Definition Officer said that the Public Rights and Access Service had been able to adapt successfully during the lockdown, although those cases which had been referred to Public Inquiries had experienced delays.

(3) The Definition Officer then said that training for Members in respect of Village Green and Public Rights of Way cases was in the process of being arranged.

(4) The Definition Officer informed the Committee of the Supreme Court judgement in the *T W Logistics Ltd (Appellant) v Essex County Council* and said that this judgement would be circulated separately to Members of the Committee.

(5) RESOLVED that the report be noted.

13. Update on Planning Enforcement Issues

(Item 8)

(1) The Team Leader Planning Enforcement introduced the report, explaining the work of the Planning Enforcement Team and highlighting the strengthening of partnership working arrangements with other enforcement agencies which had developed in response to the covid-19 pandemic. He said that this was an essential aspect of meeting the challenges posed by the organised criminal nature of many of the cases identified.

(2) In response to a question from Mr Chittenden, the Team Leader Planning Enforcement agreed to inform Members of the Committee of the composition and purpose of the cross-party group on Environmental Waste Crime referred to in paragraph 23 of the report.

(3) RESOLVED that the report be noted.

EXEMPT ITEMS

(Open Access to Minutes)

(Members resolved under Section 100A of the Local Government Act 1972 that the public be excluded for the following business on the grounds that it involved the likely disclosure of exempt information as defined in paragraphs 5 and 6 of Part 1 of Schedule 12A of the Act)

14. Update on Planning Enforcement cases

(Item 11)

(1) The Team Leader-Planning Enforcement gave an update on unauthorised planning enforcement matters setting out actions taken or contemplated at Raspberry Hill Park Farm, Iwade; Warden Point, Eastchurch; Surf Crescent, Eastchurch; Foxdene, Stockbury; Chetney Marshes, Iwade; Springhill Farm, Fordcombe; Water Lane, Thurnham; Hoads Wood Farm, Bethersden; Ringwould Alpine Nursery; Double Quick Farm, Lenham; Woodside East, Nickley Wood Road, Shadoxhurst; Chapel Lane, Sissinghurst; Worth Centre, Jubilee Road, Worth; East Kent Recycling, Oare Creek, Faversham; Blaise Farm Quarry, Kings Hill; Dungeness Borrow Pit, Dungeness; Cobbs Wood Industrial Estate, Ashford; Courts Lodge Farm, Stack Road, Horton Kirby; R S Skipps, Apex Business Park, Shorne; Flisher Energy, Fernfield Lane, Hawkinge; Sall Haulage Ltd, Unit 2, Katrina Wharf, Wharf Road, Gravesend; Cube Metals, Unit A, Highfield Industrial Estate, Folkestone; and Wrotham Quarry (Addington Sandpit), Addington, West Malling.

(2) The Team Leader Planning Enforcement drew the Committee's attention to the practice of operators applying to the Environment Agency for an Exemption from their controls for recycling purposes, or for the seeking of a Permit to allow the carrying out of waste-related activities). He said that this was encouraging the establishment and escalation of activities which the County Council (as waste planning authority) was forced to seek to correct under extremely difficult circumstances. He informed the Committee that the LGA was requesting Local Authorities to contribute to its lobbying in respect of the nationwide problem of slow response to planning enforcement cases.

(3) Mr H Rayner moved, seconded by Mr R Love that the Team Leader Planning Enforcement in consultation with the Chairman write a response on behalf of the Committee to the LGA with the aim of stopping the Environment Agency from issuing Permits on sites which do not have the benefit of planning permission.

Carried Unanimously

(4) RESOLVED that:-

- (a) the enforcement strategies outlined in paragraphs 5 to 130 of the report be noted and endorsed; and
- (b) the Team Leader Planning Enforcement in consultation with the Chairman write a response on behalf of the Committee to the LGA with

the aim of stopping the Environment Agency from issuing Permits on sites which do not have the benefit of planning permission.

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Update from the Public Rights of Way & Access Service

A report by the Public Rights of Way and Access Service Manager to Kent County Council's Regulation Committee on Thursday 23 September 2021.

Recommendation:

I recommend that Members consider this report and note its content.

Progress with Definitive Map & Statement applications

1 Members requested that a summary of the current position in respect of applications to amend the Definitive Map and Statement (DMS) be provided annually to the Regulation Committee.

Section 53 Applications

2 Any person may make an application to the County Council, as the Surveying Authority, under section 53 of the Wildlife & Countryside Act 1981, to amend the DMS to add, upgrade, downgrade, or delete a Public Right of Way. The County Council has a duty to investigate every application it receives. Investigation involves undertaking interviews with witnesses and landowners, documentary research and consultation, amongst other things. It is our policy to deal with these applications in order of receipt except where:

- the physical existence of the claimed route is threatened by development or,
- the resolution of an application would enable the County Council to properly assess or manage public safety or
- the claimed route may result in a significant improvement to the network.

In such instances a case may be accelerated.

2.1 During the period April 2020 to March 2021, 13 applications were determined, 12 orders were made, 7 were confirmed and 5 are awaiting a decision. 12 cases are currently under investigation. To date there are 60 unallocated applications. The number of applications received fluctuates with 7 applications being received in 2018, 22 applications in 2019, 37 in 2020 and so far, this year 6 have been received. This large increase in applications in 2020 will have an impact on the backlog. The next application to be allocated was received in August 2017 indicating a backlog of 4 years. However, when considering that on average, 10-12 applications have been determined each year, the reality is that the current backlog has increased to 5 - 6 years.

2.2 There are 5 cases with the Planning Inspectorate awaiting determination as objections were received to the making of an order.

2.3 The Schedule of Applications is updated on a regular basis and can be located on the County Council's website at:

<http://www.kent.gov.uk/waste-planning-and-land/public-rights-of-way/correct-the-rights-of-way-map>

Applications to divert, extinguish or create public rights of way

3. As part of its rights of way functions, the County Council also deals with applications from landowners to divert or extinguish public rights of way using powers available to it under the Highways Act 1980. Public rights of way can be diverted for a range of reasons provided that it is 'expedient' (or necessary) to do so and that the proposed diversion is not substantially less convenient, or less enjoyable, for users. The test for extinguishing (stopping up) a right of way is considerably narrower, and it is generally only possible to do this in cases where the right of way is 'unnecessary' or 'not needed for public use'.

3.1. During the period April 2020 to March 2021, 10 Public Path Orders have been confirmed. 27 applications are currently being processed. There are 66 unallocated diversions/extinguishments resulting in a backlog of approximately 3 years between the receipt of an application and allocation to an officer.

3.2. There are 3 cases with the Planning Inspectorate awaiting determination.

3.3. The County Council also deals with applications made under the Town & Country Planning Act 1990 to close or divert public rights of way that are affected by development. This work is undertaken on behalf of Ashford, Canterbury, Dartford, Dover, Gravesham, Folkestone and Hythe, Sevenoaks, Swale, Tonbridge & Malling & Tunbridge Wells Councils and the Ebbsfleet Development Corporation. A small number of applications are also processed in respect of our own planning functions. During the period April 2020 to March 2021, 11 Public Path Orders have been confirmed/certified. There are 27 cases where orders have been made and confirmed and are awaiting certification following the completion of the works on site.

3.4. The Schedule of Applications, which is updated on a regular basis, can be located on the County Council's website at:
<http://www.kent.gov.uk/waste-planning-and-land/public-rights-of-way/change-rights-of-way>

Statutory Deposits under section 31(6) of the Highways Act 1980 and/or section 15A(1) of the Commons Act 2006

4. This is a means by which landowners can protect their land against any, or further, public rights of way or a village green from being registered as a result of future unchallenged public use.

4.1. During the period April 2020 to March 2021, 33 Deposits have been received, an increase of 10 from the previous year.

Land Searches and Temporary Traffic Regulation Orders

5. The Definitive Map Team also provide local authority search responses in respect of public rights of way and common land and village greens. The Team also processes the Temporary Traffic Regulation Orders required by the Public Rights of Way and Access Service when undertaking maintenance work, or to ensure public safety. Orders are also made to facilitate work by statutory undertakers, landowners and developers. The full cost of providing these services is recovered from the applicant. Given that much of this activity is tied to the state of the housing market

and the level of development it does fluctuate and currently does impact on the capacity of the team to progress Public Path Orders.

Backlogs

6. The backlogs for applications to both divert/extinguish public rights of way and to amend the DMS reflect the complex and lengthy procedures to be followed. There is a strong correlation between the number of applications determined and the number of experienced officers available to undertake the work. Additionally, there is no ability to limit the number of applications to amend the DMS that are received in any year. The number of applications received, in any one year, can exceed the resource available to determine them.

6.1 Within Schedule 14 of the Wildlife and Countryside Act 1981 there is provision for an applicant to apply to the Secretary of State if their application has not been dealt with within 12 months of receipt. The County Council received 1 Notice that an applicant had applied to the Secretary of State in the last 12 months. The Secretary of State has yet to issue a decision on this request. It is predicted that more applicants will consider this course of action as the backlog continues to increase.

6.2 The capacity of the team was increased at the end of 2019 to 5.3 fte. The benefits of that increase are starting to feed through in terms of the number of cases being progressed. Given the impending legislative changes, highlighted below, and the 2026 cut-off date, it is expected that the numbers of applications for Definitive Map Modification Orders will continue to increase at a higher rate than was previously experienced. This reflects with the situation in other Surveying Authorities

Legislative Update

7. Deregulation Act 2015 – The Deregulation Act came into force on 27th March 2015, however the elements in relation to PROW have still not come into force as we are awaiting the associated regulations and guidance. No firm indication as to when the regulations will be published has been given by DEFRA.

7.1 Stakeholders are preparing for the regulations and specifically the bringing into force of the 2026 cut-off-date. This is where all unrecorded rights of way created before 1949 will be extinguished immediately after 1 January 2026 – subject to certain exceptions:-

- It provides for Local Authority's to designate a right of way for protection during a short window after the cut-off – a one year period.
- It is anticipated that routes identified on the list of streets/local street gazetteer as publicly maintainable or as private streets carrying public rights will be preserved.
- It preserves rights over routes that are subject to a pending application.

7.2 It is interesting to note that of the 60 unallocated section 53 applications, 39 are based upon pre-1949 historical evidence with the remaining ones being based predominately on user evidence. This reflects a significant change in the basis on which applications had previously been made.

Continuing Impact of COVID-19

8. The corona virus outbreak has had an impact on the work of the Definitive Map Team. During the first period of lockdown, no orders were made or advertised. New cases could not be started that required a site visit due to the restrictions which were in place at the time. It is still not possible to strictly comply with the legal requirements, for the advertising and publication of orders due to County Council and many District Council offices remaining closed to the public. In all cases orders should be on display, available for inspection and copies available to the public at a reasonable cost at a Council office in the area to which the order relates.

8.1 As we could not feasibly delay order making for any longer, a decision was taken to progress orders. In order to mitigate any risk of the public not being able to view a copy of an order at a Council Office copies of the notice and order have been made available on the County Council's website and an extra line has been added to public notices informing the public that they may also obtain a copy by contacting the case officer. This is in addition to placing a copy of the notice on site and in the Kent Messenger. It is therefore felt that we have taken a more than reasonable approach and no-one will be disenfranchised by the offices not being open to the public. It is interesting to note that an order has recently been confirmed by the Planning Inspectorate where this process was adopted.

8.2 One of the more positive outcomes from the COVID outbreak was the holding of a number of virtual public inquiries by the Planning Inspectorate. Two of these inquiries related to rail crossing extinguishment and diversion orders at Whitstable and Otford respectively. In some respects the inquiries were less onerous and easier to arrange than those held in person. One of the greatest benefits was that inquiries could be followed on the Planning Inspectorates you tube channel.

Member Training

9. I am aware that a number of Members are new to the County Council and the Regulation Committee. We are liaising with the Chair and Committee Secretary to find a convenient date or dates on which to provide training on the Definitive Map and Statement, Definitive Map Modification Orders, Public Path Orders and Common Land and Village Greens. I would like to take the opportunity to encourage all to attend.

Recommendation

9. I RECOMMEND Members consider this report and note its content.

Contact Officer:

Graham Rusling – Public Rights of Way and Access Service Manager
Public Rights of Way & Access Service
Tel: 03000 413449 - Email: graham.rusling@kent.gov.uk

Update on Planning Enforcement Issues

Item 5

Report by Head of Planning Applications Group to the Regulation Committee on 23rd September 2021.

Summary: Update for Members on planning enforcement matters.

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

Unrestricted

Introduction

1. This report is intended to give an insight into events, operational matters and recent activities of the County Planning Enforcement service. The reporting period covers matters from the previous Regulation Committee of 1st July 2021 to date. The Committee was held in person then, following the partial lifting of the imposed covid - lockdown.
2. I have reported previously on the challenges to the planning enforcement team, in trying to meet the expectations of the community, whilst simultaneously complying with the Government's pandemic requirements on safe working practices, and to run as near as normal a service, as possible. I am pleased to report that we have successfully managed maintain the service, in turn allowing us to keep in check and where possible help reverse, at least the worst of the alleged unauthorised waste operations in Kent.
3. The aim is to resume a full service as soon as conditions allow. That includes making use of new hybrid working arrangements. A mix of home and office working will apply, to ensure flexibility. The latter will give access to meeting rooms, for case-conferencing and for preparing public inquiry and court evidence.
4. We are further increasing our working ties with other regulatory authorities and agencies, to help ensure a holistic approach to the work, as often the sites are involved in a wider range of alleged unauthorised and criminal activities, beyond our main waste-related brief. This invariably brings with it the need for more formal action, though we still try for negotiated settlements in the early stages.

Report Format

5. Our reporting to the Regulation Committee on planning enforcement matters comprises of two main parts.
6. Firstly, there is 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.
7. Secondly, there is a further 'closed' or exempt report (within Item 6 of these papers) containing restricted details of cases. Those emphasise the work that has been achieved, in priority order, with the strategic level cases first (with a County Council

interest / remit) followed by district referrals, including those where issues of jurisdiction remain and 'cross-over' work with partner bodies and finally compliance issues at permitted sites.

8. This format (Item 6) provides a more in-depth analysis of alleged unauthorised sites and the behaviour of alleged contraveners. Its confidential nature is to protect the content and strategy of any proposed planning enforcement action to be taken and any gathered evidence, which may subsequently be relied upon in court as part of any legal proceedings.
9. Data protection and security is paramount and a statutory duty of the County Council. Hearing the details of cases in closed session also allows for uninhibited discussion on our own or joint enforcement strategies with other regulatory authorities (who have their own need for confidentiality) and in the seeking of Members' endorsement.
10. Notwithstanding these restrictions and as a balance in terms of information disclosure to the public, a list of the cases covered in the companion report is given under paragraph 12. below. 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.
11. The aim is to achieve a continuous flow of cases in and out, with attention given, at the centre of this 'conveyor belt', to the most recent, pressing and harmful (in amenity and environmental terms). Those are the cases demanding our most immediate attention, independently, or in company with other regulatory bodies. At the same time however, a balance of attention needs to be found between live activities and forward momentum on restoration of affected sites.
12. Our current and immediate operational workload, qualified by remit and with resource priority, is as follows:

County Matter cases (complete, potential or forming a significant element)

- 01 **Raspberry Hill Park Farm**, Raspberry Hill Lane, Iwade, Sittingbourne (and related multi-site investigations further afield).
- 02 **Spring Hill Farm**, Fordcombe, Sevenoaks.
- 03 **Water Lane, North of M20**, Thurnham, Maidstone.
- 04 **Hoads Wood Farm**, Bethersden, Ashford.
- 05 **Double-Quick Farm**, Lenham, Maidstone.
- 06 **Woodside East**, Nickley Wood, Shadoxhurst, Ashford

District referrals (potential interest)

- 07 **Ringwould Alpine Nursery**, Dover Road, Ringwould
 - 08 **Fairfield Court Farm**, Brack Lane, Brookland, Romney Marsh.
 - 09 **Chapel Lane**, Sissinghurst, Tunbridge Wells.
 - 10 **Worth Centre**, Jubilee Road, Worth, Deal.
- 13 All alleged unauthorised cases received are triaged, researched and investigated on an ongoing basis to establish whether there is a statutory remit for the County Council. Determining whether there is a statutory remit is important as successful formal action by the County Council is dependent upon holding this remit. Among the cases are those that may ultimately be handled by other authorities and agencies, without the need for our strategic input. Those joining the workload of the Planning Enforcement Team will be reported to the next Meeting, including any contribution to multi-agency interventions.
- 14 In order to efficiently identify potential strategic cases a comprehensive briefing is needed from the referring authority or agency. However, that is not always received. An appropriate contribution or matters of jurisdiction are similarly difficult to decide upon. We continue to seek ways for this flow of information to be improved, at this first and crucial stage of any case.
15. A further workload area relates to compliance issues at permitted sites, mainly alleged breaches of planning conditions.

Permitted sites (compliance issues)

- 11 **East Kent Recycling**, Oare Creek, Faversham Kent.
- 12 **Cobbs Wood Industrial Estate**, Ashford.
- 13 **Court Lodge Farm**, Horton Kirby.
- 14 **RS Skips**, Apex Business Park, Shorne.
- 15 **Flisher Energy, Fernfield Lane**, Hawkinge.
- 16 **Sall Haulage Ltd, Unit 2**, Katrina Wharf, Wharf Road, Gravesend.
- 17 **Cube Metals**, Unit A, Highfield Industrial Estate, Bradley Road, Folkestone

- 18 **Borough Green Sandpits**, Borough Green.
- 19 **Aggregates Recycling Facility**, Land to the south of Manor Way Business Park, Swanscombe.
- 20 **Wrotham Quarry (Addington Sandpit)**, Addington, West Malling.

Meeting Enforcement Objectives

Overview

16. Planning enforcement is a high public profile function. It is a key part of the Development Management service within the Planning Applications Group. It is endorsed and given weight through planning policy and guidance at national and local plan level. The adopted Kent Minerals and Waste Local Plan enforcement policy (DM22) is proposed to be revised to reflect Brexit as part of the Council's local plan review. There is however, discretion as to how such action may be carried out. This in turn depends upon a number of factors including whether it is expedient to act, if it is in the public interest to do so, or whether the breach is already lawful through the passage of time.
17. The work is primarily waste management related and takes place within a well-developed legislative framework, including allied controls and options through other enforcement bodies, particularly the Environment Agency's permitting processes. It is often constrained by the complexity of cases, the involvement of alleged organised crime in its widest sense, jurisdictional issues with district councils and in particular the need for more congruency with the Environment Agency in waste enforcement matters.
18. Our first response is usually to seek a negotiated settlement; pointing out the alleged breach and to discuss how it might be rectified within a set timeframe, plan and written scheme. No ambiguity must be left and enforcement markers given for each required stage. Precise and detailed research on the site, its planning history and a full understanding of the planning land units and uses involved (along with any relevant planning law) are crucial to know in all cases, before action can be contemplated. That in turn needs to be proportionate but focussed so as those involved are aware of what they are required to do and the consequences of not doing so.

Workload focus

19. An increasingly demanding workload divides into two main strands. Firstly, single site self-contained waste activities, in a traditional planning sense, and secondly networks of sites, operating from a hub and with alleged organised criminal elements.
20. Notwithstanding the operational differences, both types of arrangements require in-depth planning analysis and tight co-ordination with other enforcement bodies. The interconnected version includes difficulties in accessing the sites, with them having their own and often sophisticated security defences and the related issue of securing the

level of evidence required. The assistance of the police and more recourse to legal actions are increasingly needed in combatting this order of challenge to public amenity and the environment. Police drone surveys and escorted site visits are a necessity. Joint working with other bodies too, helps to overcome some of the resourcing pressures and reduces the opportunity for alleged contraveners to play the regulators off against each other.

Synchronisation of powers

21. As referred to at the last Meeting, the Local Government Association and planning peer groups are becoming increasingly concerned at the way in which Environment Agency Permits may be issued to a waste management activity in the absence of planning permission, often at unsuitable sites in planning terms. Government legislation would be required to ensure formal synchronisation of the Environment Agency and planning authorities, who represent the two major waste enforcement bodies. Representations to promote such changes through Government are gaining ground, with networks of interested parties coalescing around the issue.

Monitoring

Monitoring of permitted sites and update on chargeable monitoring

22. In addition to our 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 being challenged with additional support from an outside planning consultancy firm.

Resolved or mainly resolved cases requiring monitoring

23. 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.

Conclusion

24. Notwithstanding covid-lockdown arrangements, alleged waste-related planning contraventions have continued unabated. Indeed, this national emergency seems to have been viewed at the more serious end of our caseload as an opportunity to expand rather than contract activities. In response, we have maintained a credible threat and deterrent, whilst adjusting to remote working as a prominent feature, in a balance between office and home working, according to operational needs. Operational links with other enforcement bodies has also helped to broaden the scope and impact of the

interventions that we have made.

Recommendation

25. 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.

By virtue of paragraph(s) 5, 6a, 6b of Part 1 of Schedule 12A of the Local Government Act 1972.

Agenda Item 8

Document is Restricted

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