

REGULATION COMMITTEE

Wednesday, 26th April, 2023

10.00 am

Council Chamber, Sessions House, County Hall,
Maidstone





AGENDA

REGULATION COMMITTEE

Wednesday, 26th April, 2023, at 10.00 am Ask for: **Hayley Savage**
Council Chamber, Sessions House, County Telephone: **03000 414286**
Hall, Maidstone

Membership (15)

Conservative (12): Mr S C Manion (Chairman), Mrs S Hudson (Vice-Chairman),
Mr D Beaney, Mr P Cole, Mr M C Dance, Ms S Hamilton,
Mr D Jeffrey, Mr J M Ozog, Mrs L Parfitt-Reid, Mr H Rayner,
Mr T L Shonk and Mr S Webb

Labour (1): Mr B H Lewis

Liberal Democrat (1): Mr I S Chittenden

Green and
Independent (1): Mr M Baldock

UNRESTRICTED ITEMS

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

1. Membership
2. Apologies and Substitutes
3. Declarations of Interests by Members in items on the Agenda
4. Minutes (Pages 1 - 8)
 - (a) Committee: 24 January 2023
 - (b) Mental Health Guardianship Sub-Committee: 15 March 2023 (for information only)
5. Future Meeting Dates
All meetings will be held at 10am in the Council Chamber, Sessions House, Maidstone, Kent ME14 1XQ.

Tuesday 17 October 2023
Tuesday 30 January 2024
Tuesday 7 May 2024

6. Update from the Public Rights of Way and Access Service (Oral Report)
7. Update on Planning Enforcement Issues (Pages 9 - 14)
8. Other Items which the Chairman decides are Urgent

Motion to exclude the press and public for exempt business

That under section 100A of the Local Government Act 1972 the public be excluded from the meeting 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.

9. Update on Planning Enforcement Cases (Pages 15 - 46)

Benjamin Watts
General Counsel
03000 416814

Tuesday, 18 April 2023

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.

This page is intentionally left blank

KENT COUNTY COUNCIL

REGULATION COMMITTEE

MINUTES of a meeting of the Regulation Committee held in the Council Chamber, Sessions House, County Hall, Maidstone on Tuesday, 24 January 2023.

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

IN ATTENDANCE: Mr R Gregory (Team Leader - Planning Enforcement),
Mr G Rusling (Public Rights of Way & Access Service Manager), Mrs S Thompson
(Head of Planning Applications), Mr A Ballard (Principal Democratic Services Officer)
Mr S Whitehead (Specialist Enforcement Officer) and Ms H Savage (Democratic
Services Officer)

UNRESTRICTED ITEMS**22. Apologies and Substitutes**

(Item 1)

Apologies were received from Mr Chittenden and Mr Lewis. Mr Rayner was attending as substitute for a vacancy.

23. Declarations of Interests by Members in items on the Agenda for this meeting.

(Item 2)

There were no declarations of interest.

24. Minutes of the meeting held on 21 September 2022

(Item 3)

RESOLVED that the Minutes of the Committee meeting on 21 September 2022 are correctly recorded and that they be signed by the Chairman.

25. Home to School Transport Appeals Update

(Item 4)

Mr Love disclosed a non-pecuniary interest in that Home to School Transport Appeals fell under his portfolio as a Cabinet Member.

- (1) The Chairman thanked Members who sat on the Home to School Transport Appeals Panel for their time and commitment.
- (2) The Principal Democratic Services Officer introduced a report giving an overview of Home to School Transport Appeal statistics for the period between 1 January and 31 December 2022 together with a brief comparison to those from 2010 to 2021.

- (3) In response to a question from a Member regarding the number of paper-based appeals upheld in comparison to appeals held face-to-face, the Principal Democratic Services Officer explained that decisions for paper-based appeals were solely based on the information provided on the application, whereas face-to-face appeals enabled Panel Members to ask questions and glean additional information. This resulted in more face-to-face appeals being upheld. The Principal Democratic Services Officer confirmed applicants were advised accordingly in this regard and were encouraged to provide as much information as possible.
- (4) Members discussed the budget for Home to School Transport appeals and a Member requested that future reports to the committee include the monthly costs of upheld appeals to provide an understanding of the financial impact of decisions.
- (5) The Chairman thanked officers involved in supporting residents and Members on Home to School Transport Appeals.

RESOLVED that the report be noted.

26. Update from the Public Rights of Way and Access Service - Common Land and Village Greens

(Item 5)

- (1) The Public Rights of Way and Access Service Manager introduced the report and explained the Council's role as a 'Commons Registration Authority'. The Public Rights of Way and Access Service Manager explained that most applications received were made under Section 15(1) of the Commons Act 2006 and voluntary applications could also be made under Section 15(8) of the Act. There were currently 12 outstanding applications to record new Village Greens.
- (2) The Public Rights of Way and Access Service Manager explained that a request to withdraw an application to record Common Land at Preston Parade Cliff at Whitstable (CAA22) had been made by the Applicant.
- (3) The Public Rights of Way and Access Service Manager updated Members on a challenge to a decision made by the Regulation Committee Member Panel on 2 December 2021, and the referral of the application to register land known as Two Fields at Westbere to a Public Inquiry for further consideration. The claim for Judicial Review was dismissed and an application had been made to the Court of Appeal.
- (4) Mr Dance referred to an application for a Public Spaces Protection Order by Canterbury District Council in relation to Preston Parade Cliff at Whitstable. Mr Dance proposed, and Mr Baldock seconded, that the withdrawal of the application be paused until further clarification and information had been established, and the motion was agreed unanimously. The Public Rights of Way and Access Service Manager said that further information relating to the proposed withdrawal of the application would be brought to a future meeting of the Regulation Committee.

RESOLVED that:

- a) The report be noted and;
- b) further information would be provided in respect of the withdrawal of application CAA22 at a future Regulation Committee, and the decision to withdraw the application be put on hold.

27. Applications to voluntarily register land as new Village Greens at Loose and Boughton Monchelsea

(Item 6)

- (1) The Public Rights of Way and Access Service Manager introduced the report and explained that four applications had been received to voluntarily register land as village greens under Section 15(8) of the Commons Act 2006, and these included the lands known as Salts Wood at Loose, Boughton Monchelsea Green, Brooks Field at Loose, and Walk Meadow at Boughton Monchelsea.
- (2) The Public Rights of Way and Access Service Manager referred to an updated plan for Brooks Field at Loose which is attached to these minutes.
- (3) Mr Baldock proposed and Mrs Parfitt-Reid seconded that all four applications be formally registered as village greens, and it was agreed unanimously.

RESOLVED that the applications to register the lands known as: 1) Salts Wood at Loose; 2) Boughton Monchelsea Green; 3) Brooks Field at Loose; and 4) Walk Meadow at Boughton Monchelsea; have been accepted, and that those lands be formally registered as Village Greens.

28. Update on Planning Enforcement Issues

(Item 7)

- (1) The Head of Planning Applications introduced the report which covered the work of the Planning Enforcement Team since 21 September 2022.
- (2) The Head of Planning Applications highlighted a survey that had recently been undertaken by the Royal Town Planning Institute (RTPI) on local planning authorities and the effectiveness of planning enforcement services, which had identified serious challenges in terms of recruitment and retention nationally.
- (3) The Head of Planning Applications referred to the Environment Agency (EA) permitting issue discussed at the last meeting of the Regulation Committee and confirmed that the Cabinet Member for Economic Development had written to various parties regarding this, and responses had been received.

RESOLVED that the actions taken or contemplated in the report be noted and endorsed.

29. Other Items which the Chairman decides are Urgent

(Item 8)

There were no urgent items.

30. Motion to exclude the public

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)

31. Update on Planning Enforcement Cases

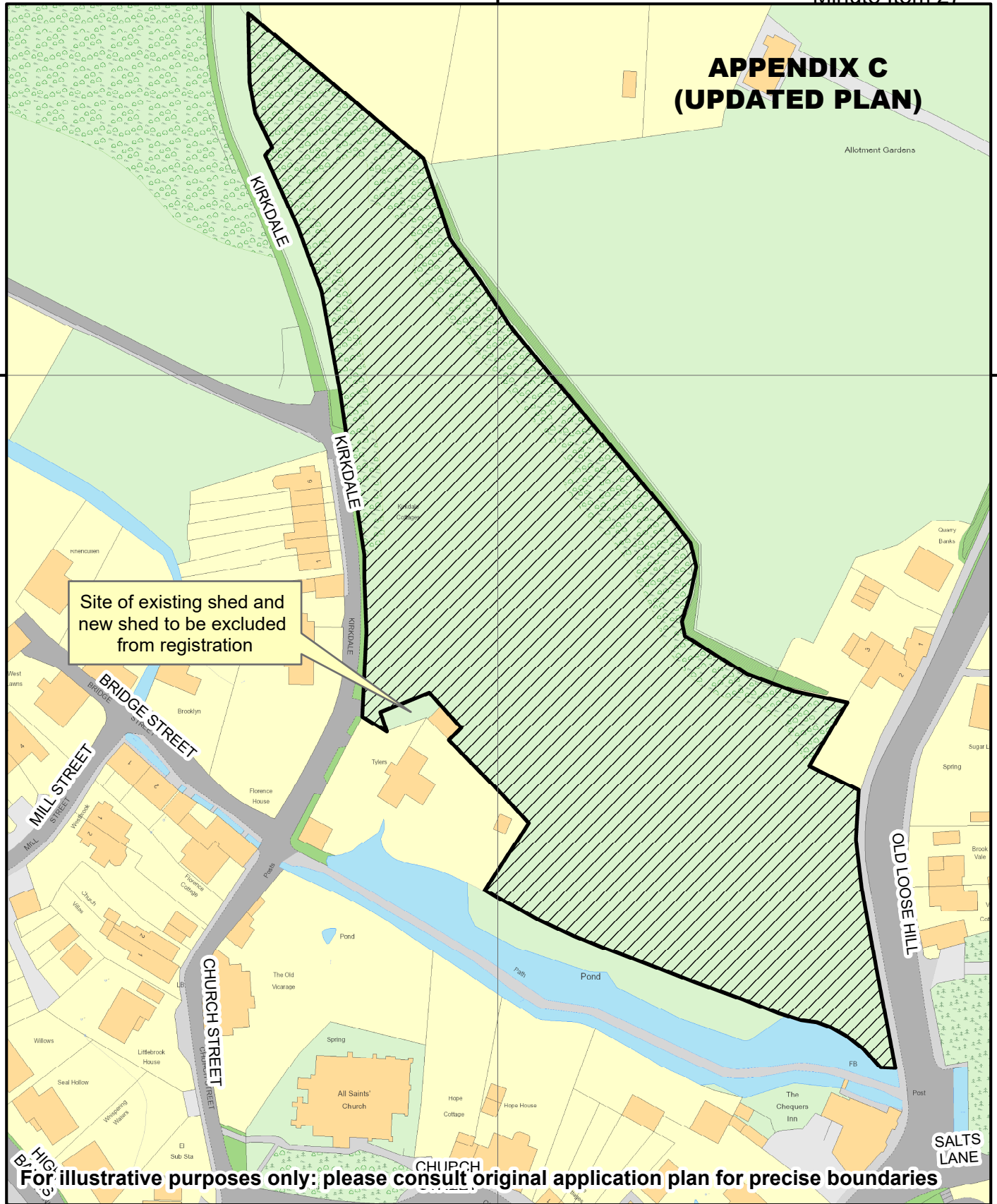
(Item 9)

- (1) The Head of Planning Applications updated Members on the responses received to the Cabinet Member for Economic Development's letter regarding the Environment Agency (EA) permitting issue.
- (2) Members discussed staff resources and retention within the Planning Enforcement Team and the Head of Planning Applications confirmed the challenges that the Council faced in this regard. The Planning Enforcement Team Leader stressed the importance of internal development.
- (3) Members sought information on enforcement resources within the Kent district and borough councils. The Committee agreed that the Head of Planning Applications would seek information from the Kent authorities for a future report to the Committee.
- (4) The Planning Enforcement Team Leader gave an update on unauthorised (or part unauthorised) planning enforcement matters setting out actions taken or contemplated at Raspberry Hill Park Farm, Iwade; Warden Point, Eastchurch; Surf Crescent, Eastchurch; Water Lane, Thurnham; Woodside East, Shadoxhurst; Land off Maypole Lane, Canterbury; Manor Farm, Willow Lane, Paddock Wood; Knowle Farm, Teston; Cobbs Wood Industrial Estate, Ashford; Old Tilmanstone Colliery, Pike Road, Eythorne; Cube Metals, Unit A, Highfield Industrial Estate, Bradley Road, Folkestone; R S Skips, Apex Business Park, Shorne; Mayfield Grammar School, Pelham Road, Gravesend; Trosley Country Park, Vigo Village, Gravesend; Teston Bridge Country Park, Maidstone; East Kent Recycling, Oare Creek, Faversham; Borough Green Sandpits, Platt; Wrotham Quarry (Addington Sandpit), Addington, West Malling; H & H Celcon, Ightham.
- (5) RESOLVED that the enforcement strategies outlined in paragraphs 8 to 137 of the report be noted and endorsed.

APPENDIX C (UPDATED PLAN)

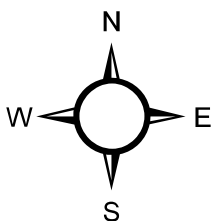
152250

152250



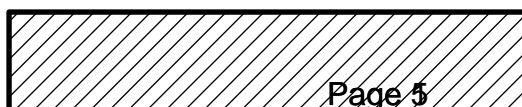
Site of existing shed and new shed to be excluded from registration

For illustrative purposes only; please consult original application plan for precise boundaries



Scale 1:1250
@ A4

Land subject to Village Green application
(known as Brook's Field)
at Loose, nr Maidstone (VGA689)



This page is intentionally left blank

REGULATION COMMITTEE MENTAL HEALTH GUARDIANSHIP SUB-COMMITTEE

MINUTES of a meeting of the Regulation Committee Mental Health Guardianship Sub-Committee held in the Council Chamber, Sessions House, County Hall, Maidstone on Wednesday, 15 March 2023.

PRESENT: Mr S C Manion (Chairman), Mrs P T Cole, Mr S R Campkin, Ms J Meade, Mr J Meade, Mr A M Ridgers, Mr D Ross, Mr T L Shonk, Mr R J Thomas, Mr S Webb and Ms L Wright

IN ATTENDANCE: Ms A Agyepong (Assistant Director (Countywide) Adult Social Care and Health), Ms H Savage (Democratic Services Officer) and Ms C Brodie (Policy and Quality Assurance Officer)

UNRESTRICTED ITEMS

4. Apologies and Substitutes

(Item 1)

Apologies had been received from Mr Collor, Ms Grehan, and Mr Streatfeild.

5. Declarations of Interest by Members for items on the agenda

(Item 2)

Mr Shonk declared an interest that a family member worked for the NHS.

Ms Wright declared an interest that she was an appointee for a family member.

6. Minutes of the meeting held on 31 March 2022

(Item 3)

RESOLVED that the Minutes of the meeting held on 31 March 2022 are correctly recorded and that they be signed by the Chairman.

7. The Local Authority's Guardianship Register

(Item 4)

(1) The Policy & Quality Assurance Officer briefly introduced the report and said that robust scrutiny processes continued through work carried out by the Guardianship Quality and Scrutiny Panel and there were currently two people subject to Guardianship in Kent.

(2) The Assistant Director Countywide Services clarified, in relation to paragraph 1.2 of the report, that the Council's duty to discharge an individual from Guardianship was delegated to a sub-committee of at least three elected Members.

RESOLVED that the content of the report be noted together with the current Guardianship register and the activity between January and December 2022 set out in Appendix 1 to the report.

8. Other items which the Chairman decides are Urgent
(Item 5)

There were no urgent items.

Update on Planning Enforcement Issues

Item 7

Report by Head of Planning Applications Group to the Regulation Committee on 26th April 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 24th January 2023, to date.

2. The planning enforcement service continues to face challenges in the financial, resourcing and case management spheres. Cases are increasingly complex at the strategic end of the work, with alleged waste criminal hubs becoming more apparent. These in turn are intertwined with Group regulatory work is developing and the more regular involvement of government bodies such as the Environment Agency, HM Customs & Excise and Natural England is assisting with this level of work.

3. Collaboration with other local planning authorities is also a welcome feature, helping to extend resources on both sides. The inclusion of the police from a protection and security point of view is a further asset, particularly the circulation of their drone footage for case-conferencing and evidential purposes. In modern planning enforcement, this overall collaborative approach is often the key to success in cases.

Report Format

4. Our reporting to the Regulation Committee on planning enforcement matters comprises of two main parts.

5. 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 particularly important.

6. The second is the 'closed' or 'exempt' report (within Item 9 of these papers) containing restricted details of cases. These emphasise the work that has been achieved, 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 'cross-over' work with partner bodies, and finally alleged compliance issues at permitted sites.

7. That format (Item 9) provides a more in-depth analysis of alleged unauthorised activities. Its confidential nature is to protect the content and strategy of any proposed planning enforcement action that may be taken and any gathered evidence, which may subsequently be relied upon at Public Inquiry or in court as part of any legal proceedings.

8. Data protection and security is paramount. It is important in case management terms but also concerning 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 have their own need for confidentiality). In this context and especially with live cases, great care has to be taken in handling any related and sensitive information. Also, in striking the right balance against operational needs and the outcome being sought in the wider community interest and those operating in compliance with planning procedures.

9. Part of this balancing exercise is to provide a list, under paragraph 10 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. That particularly now includes, with Member's agreement, sites close to completion, allowing a revised balance of attention towards live activities. Forward momentum on the restoration of affected sites will still continue.

10. 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 **Ancient Woodland Adjacent to Knoxfield Caravan Site**, Darenth Wood Road, Dartford

02 **Oaktree Farm**, Halstead, Sevenoaks

03 **Warden Point and Third Avenue**, Eastchurch, Isle of Sheppey

04 **Raspberry Hill Park Farm**, Raspberry Hill Lane, Iwade, Sittingbourne

05 **Water Lane, North of M20**, Thurnham, Maidstone.

06 **Woodside East**, Nickley Wood, Shadoxhurst, Ashford

07 **Land off Maypole Lane**, Hoath, Canterbury

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

08 **Manor Farm, Willow Lane**, Paddock Wood

09 **Knowle Farm**, Malling Road, Teston, Maidstone

11. 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. That is a pre-requisite for any formal action. Among the cases are those that may ultimately be handled by other authorities and agencies or where we contribute within multi-agency settings. The last category is well-represented in this report, under paragraph 10 (01) to (04).

12. A further workload area relates to alleged compliance issues at permitted sites. These mainly relate to alleged breaches of planning conditions.

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 **Mayfield Grammar School**, Pelham Road, Gravesend

06 **Teston Bridge Country Park**, Teston Lane, Maidstone

07 **East Kent Recycling**, Oare Creek, Faversham

08 **Borough Green Sandpits**, Platt, Borough Green

09 **Wrotham Quarry (Addington Sandpit)**, Addington, West Malling

10 **H&H Celcon**, Ightham

Meeting Enforcement Objectives*Resourcing & skills base*

13. Resourcing, maintaining and developing capacity and expertise within the Planning Enforcement Service remains a key challenge and is reflected across the country. The recent findings of a national representative survey of 103 Local Authorities, by the Royal Town Planning Institute (RTPI) entitled: 'Planning Enforcement Resourcing', makes for sombre reading. It confirms that the problems experienced in Kent relating to recruitment, retention and development of new officers are generic within the country.

14. The complexity of cases now often requires cross-agency working and a multi-disciplinary approach. Mention was made in the introduction of the more active inclusion of government bodies, which adds more bespoke powers to the assembled teams. KCC Planning Enforcement has sought to be at the vanguard of these new enforcement trends, learning and embracing allied powers to help supplement and enhance our core controls. Equally, we are bringing to the attention of government any system problems that can be readily corrected to everyone's benefit. A good example is in the next section on Environment Agency Permitting ahead of the planning system.

EA Permitting Issue

15. Members may recall from previous Committees their concern of waste cases coming forward with the benefit of an Environment Agency Waste Management Permit in advance of any planning application and therefore a decision on the suitability of the site and surrounding location in land use planning terms. Planning enforcement action is then required to address the absence of this fundamental requirement. This disconnect between the planning and environmental permitting processes is potentially detrimental to all parties, including any local communities affected by the alleged unauthorised activities and creates an uneven playing field for those operating in accordance with the planning process. It is also an inefficient use of public resources.

16. As a result, the Cabinet Member for Economic Development wrote to various interested parties (Defra, DLUHC and Planning), the Environment Agency, the Local Government Association, County Council Network and Kent MPs) drawing attention to the omission of the planning authority in the environmental permitting process undertaken by the Environment Agency and the consequence this has for planning enforcement. A number of simple solutions were suggested. Following this correspondence, a meeting has been arranged for mid-April with the Environment Agency's Area Director for Kent, South London and East Sussex, the Cabinet Member and officers. The meeting is to take place between the drafting of this report and the committee meeting, I will therefore update the Committee verbally on the outcome of the meeting.

Other considerations

17. An integral function of planning enforcement is to respond to new cases, in a meaningful way, as soon as feasibly possible. That applies from establishing a foothold in cases (and developing enforcement strategies) to dealing with activities outside of the planning system, to monitoring / compliance work at permitted sites.

Monitoring**Monitoring of permitted sites and update on chargeable monitoring**

18. 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

19. 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

20. Planning enforcement work is challenging with a notable national shortage of enforcement staff. KCC Planning Enforcement is attempting to offset this difficult employment situation through optimising its internal systems and collaborating in a smart way with other bodies on the more complex and resource demanding types of cases. Notwithstanding this testing work environment, good progress has been made on a number of cases and some are close to full restoration on our monitoring 'holding' list. In addition, we have used official channels to raise system issues and sought to proactively help to address them. A good example being in relation to the Environment Agency Permit issue, which is covered in the report.

Recommendation

21. I RECOMMEND that MEMBERS NOTE & ENDORSE:

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

Case Officers: KCC Planning Enforcement
413384

03000 413380

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 9

Document is Restricted

This page is intentionally left blank