

WEST OXFORDSHIRE DISTRICT COUNCIL
LOWLANDS AREA PLANNING SUB-COMMITTEE
MONDAY 16 JUNE 2014

PROGRESS ON ENFORCEMENT CASES
REPORT OF THE HEAD OF PLANNING AND STRATEGIC HOUSING

(Contact: Phil Shaw, Tel: (01993) 861687)

(The decisions on this matter will be resolutions)

I. PURPOSE

- 1.1. To Inform the Members of the Area Planning Sub-Committee of the current situation and progress in respect of enforcement investigations (**Sections A-C**)
- 1.2. **Section A** – contains cases where the requirements of a formal notice have not been met within the compliance period or cases where an offence has occurred automatically as a result of a breach of planning control.
Section B – contains cases where formal action has been taken but the compliance period has yet to expire.
Section C – contains cases which are high priority but where the expediency of enforcement action has yet to be considered.
Section D – contains cases where No Further Action is being recommended.

2. RECOMMENDATIONS

- (a) That, the Sub-Committee notes the progress and nature of the outstanding enforcement investigations detailed in Sections A–C; and
- (b) That, no further action is taken in respect of the cases detailed in Section D

3. BACKGROUND

- 3.1. The cases listed in Section A are those where a notice has been served and the requirements have not been met within the compliance period or there has been an unauthorised display of advertisements. This means that an offence is likely to have been committed and that the Council should consider the next steps to secure compliance. In some cases this will entail the initiation of legal proceedings to bring about a prosecution. The unauthorised display of advertisements is an offence which could result in prosecution proceedings being initiated.
- 3.2. The cases listed in Section B are ones where a notice has been served but the compliance date has not yet passed.
- 3.3. Section C outlines progress on other enforcement investigations identified as being high priority.
- 3.4. The cases listed in Section D are ones where no further action is recommended.

SECTION A – PROGRESS ON PROSECUTION CASES

Site Address and Case Number	Notice No:	Compliance Date	Unauthorised Development	Update/Action to be taken
Field adjacent to Tar Road, Stanton Harcourt E08/0120	EN519 EN522	27 Feb 2009	Change of use of land from agricultural to use for the stationing of residential caravans and other vehicles together with ancillary engineering and other building works.	<p>There is an enforcement notice on the site that has been confirmed on appeal. It requires greater action than that covered by the Interim Injunction e.g. removal of paraphernalia from the land, breaking up the access way, restoring the land to its original state.</p> <p>At a Hearing on 26 January 2011 the Judge confirmed that the Interim Injunction granted on 6 July 2010 (requiring the gypsies to cease any residential use of the site) was to remain in place. He also required the contamination experts for each party to meet and confirm areas of technical agreement and disagreement and that was completed in the spring of 2011 as set out by the Judge.</p> <p>A further Court Hearing was to take place when the appeal against the refusal of the revised planning application had been decided. The Section 78 appeal was withdrawn in September 2011. Post withdrawal the Defendants indicated that a further planning application was imminent.</p> <p>In January 2012 three further planning applications were submitted. None of these applications were registered because they were considered invalid. These applications were subsequently returned to the applicant's agent. A further three applications were submitted to the Council in January 2013 under refs 13/0495/0496/0497. These applications were subsequently validated and were refused by the Lowlands Area Planning Sub Committee on 17 June 2013. There has been no appeal.</p> <p>Report taken to Lowlands Area Planning Sub Committee on 15 July 2013 seeking authority to action. Members resolved to under enforce the Enforcement Notice and to take direct action to remove the concrete fence posts within the site and to use them to form a bund at the entrance. Additionally the County Council were to clear the roadside ditch of the rubble tipped, thereby restricting access on to the land. These works were implemented in house by the Street Scene team.</p> <p>A site visit made on 20 September 2013 confirmed that no further changes had taken place since direct action was taken. Discussions ongoing with the Parish Council regarding potential future uses of the land.</p>

Site Address and Case Number	Notice No:	Compliance Date	Unauthorised Development	Update/Action to be taken
New Found Out Farm, Hailey E11/0008	EN527	October 2010	Failure to demolish outbuilding. Non-compliance with condition 2 of W2005/0787	<p>The Enforcement Notice was issued on 24 February 2010 and required demolition of a mono pitched outbuilding by 9 October 2010.</p> <p>Following the issue of the EN a planning application was submitted and subsequently refused which sought to retain the outbuilding. This refusal was dismissed at appeal.</p> <p>A Court Hearing was due to take place on 15 October 2013. This Hearing was adjourned until 11 November 2013. The Hearing was again adjourned until 16 December as the Council's Solicitor was unwell. The Court Hearing was then re-scheduled for 3 February 2014 as the owner was unwell. This was adjourned until 17 February to allow time for owner to sign the memorandum of Agreement and to pay the Council's costs of £500.</p> <p>Memorandum of Agreement between owner and WODC dated 10 February 2014 – within 6 months of the date of the agreement the owner is to remove the three bay mono pitched outbuilding and all the resultant debris and rubble from the site</p> <p>At the time of writing the building remains on site and compliance with the EN has not been achieved.</p> <p>A site visit will be carried out at the end of the 6 month period to ensure compliance with the Enforcement Notice.</p>
36 Edgeworth Drive, Carterton E10/0091	EN541	February 2012	Unauthorised siting of a caravan on amenity land	<p>EN 541 required the removal of a fenced enclosure and the cessation of the use of the land for purposes ancillary to 36 Edgeworth Drive. The notice has been partially complied with. Whilst the fence has been removed a caravan is located on the land in breach of the enforcement notice.</p> <p>A planning application to retain the caravan has recently been refused. The contravener has advised officers that the refused application is to be the subject of an appeal. Subject to the appeal being lodged within a short time frame, prosecution proceedings in respect of the breach of the notice will be held in abeyance pending any appeal decision.</p> <p>A site visit was made on 21 January 2014. The caravan had been removed and the terms of the EN have been complied with.</p> <p>The enforcement case has been closed.</p>

Site Address and Case Number	Notice No:	Compliance Date	Unauthorised Development	Update/Action to be taken
<p>Land off Eynsham Bypass adjacent to Old Sewage Works and allotments, B4449, Eynsham E10/0003</p> <p>E13/0081</p>	<p>EN544</p>	<p>October 2011</p>	<p>Unauthorised change of use of land for the siting of residential caravans</p>	<p>EN 544 was issued on 18 July 2011 and took effect on 31 August 2011. The notice has a two month compliance period and required that the travellers cease residential occupation of the site and remove the caravans and associated paraphernalia by October 31 2011.</p> <p>The terms of the EN were not fully complied with and following an Injunction Hearing on 21 September 2012 the remaining family were ordered by the court to leave the site by the 28 October 2012. The family complied with the Court Order by moving off site on to adjacent land that was not covered by the Court Order. A further Court Hearing took place on 20 February 2013 following which Injunction papers were served on the occupants which required that they vacate the land by 26 April 2013. The family vacated the land in accordance with the Injunction.</p> <p>Post vacation of the site covered by EN544 the land has been occupied by new travellers who were not occupying the land when enforcement action was taken and the subsequent Injunction sought. At the time of writing, further Injunctive procedure in respect of the new occupants is in progress.</p> <p>A further Court Hearing was due to take place 22 October 2013. This was adjourned. Legal representative at Cotswold was on long term sick leave. A further Court Hearing date was set for 10 January 2014. Papers were served on the occupants of the site.</p> <p>The Judge ordered Mr. Siret and all person unknown to vacate the land as soon as reasonably practicable due to the present flooding and ordered further that Mr. Siret give a personal undertaking to the court to vacate as soon as reasonably practicable. Such an undertaking was given and signed by Mr. Siret and he was warned that if he breached either the Order or the undertaking and came before the Judge again he would be committed to prison for contempt of court.</p> <p>On 26 February 2014 the Court Order was served on the occupants of the site advising land to be vacated as soon as practicable. At the end of the compliance period a site visit was made and it was confirmed that there were still occupants on the site.</p> <p>A further Court Hearing date was sought by the Council legal team and took place on 9 May 2014. Further compliance period was granted by Court giving a further 7 days.</p>

Site Address and Case Number	Notice No:	Compliance Date	Unauthorised Development	Update/Action to be taken
Field off Ham Lane, Aston E11/0154	EN548	July 2112	Unauthorised change of use of an agricultural track for the stationing of a residential caravan, ancillary paraphernalia and dog kennels	<p>Enforcement Notice 548 was issued on 23 February 2012 and took effect on 6 April 2012. The notice had a three month compliance period and required the occupiers to leave the site by 6 July 2012.</p> <p>The contraveners continued to occupy the site post the compliance period which resulted in prosecution procedures being instigated. Following a Hearing at Banbury Magistrates they pleaded guilty and were fined £610 and reminded of the terms of the EN which was to vacate the land and clear the site.</p> <p>The contraveners had ceased residential use of the land by the end of January 2013; however the land had not been cleared as required by the EN.</p> <p>Since the issue of the enforcement notice the controlling interest in the land has come to light. This interest has been advised that it is responsible for clearing the land in accordance with the requirements of the EN.</p> <p>Contact was made with the land owner on 4 September 2013. He confirmed that the whole site had been cleared in accordance with the EN</p> <p>Case closed</p>
Hill Top Nursey Ramsden			Unauthorised Advertisements	Retrospective advertisement consent granted for the signs in a much reduced form. However they continue to be displayed as originally erected. Legal advice to be sought with a view to prosecution.

Site Address and Case Number	Notice No:	Compliance Date	Unauthorised Development	Update/Action to be taken
Heath House Nursery, Ramsden E12/0106	EN557	March 2013		<p>Enforcement notice 557 was issued on 4 October 2012 and took effect on 23 November 2012 with a four month compliance period to remove all of the nine chicken sheds.</p> <p>Compliance with this EN was held in abeyance whilst an appeal in respect of the retrospective planning application for the chicken sheds was under consideration. The Planning Inspectorates decision letter dated 4 June 2013 dismissed the appeal. In light of the dismissed appeal Compliance with the enforcement notice was actively pursued.</p> <p>A site visit on 7 August 2013 confirmed that work had commenced on dismantling and removing the chicken sheds from the site. The owner estimated that the works would be completed within a 3 week time frame.</p> <p>A further site visit was made on 3 September 2013. The sheds had been dismantled however the materials remained on site. A 6 week time frame was given for removal of the timber.</p> <p>A further site visit was made in March 2014 The site visit confirmed the sheds were dismantled and the majority of the timber had been removed in accordance with the requirements of the EN</p> <p>Case closed.</p>

SECTION B – PROGRESS ON ENFORCEMENT INVESTIGATIONS WHERE FORMAL ACTION HAS BEEN TAKEN

Site Address and Case Number	Unauthorised Development	Type & Date of Notice & Compliance Date	Notes	Update/Action to be taken
Land adjacent to 1 and 2 Waterworks Cottage, Worsham E09/0064	Unauthorised workshop building	EN 537 June 2012	This notice was held in abeyance pending the outcome of an appeal to the High Court Appeal dismissed so notice came into effect	<p>The contravener has recently been granted planning permission for a smaller building on the site. He has advised that it is his intention to implement this consent as the High Court challenge was unsuccessful.</p> <p>A site visit was made on 27 November 2013 and in May 2014 and it was confirmed by officers that the remodelling of the building that has taken place to date accords with planning permission 12/1322/P/FP.</p> <p>The unauthorised element of the building has been largely demolished and works are ongoing in accordance with the planning permission.</p> <p>The site is to be monitored and case to be reviewed in Autumn 2014 to check works have been completed in accordance with the planning permission 12/1322/P/FP.</p>
Land adjacent to Burycroft Farm, Crawley Road, Witney E13/0166	Change of use of land from storage of building materials and machinery. Erection of flood lights Unauthorised sign	EN564		<p>Enforcement Notice 564 was issued on 14 April 2014 and takes effect on 3 June 2014 with a one month compliance period:</p> <ol style="list-style-type: none"> 1) to cease all sandblasting operations; 2) remove from the land the structure used for sandblasting operations comprising storage containers, scaffolding, plastic sheeting and electric lighting; 3) remove from the land all vehicles, plant, machinery, apparatus, containers and other sandblasting operations; 4) cease all operations consisting of the renovation and maintenance of vehicles on any part of the land <p>A site visit to be undertaken in July 2014 to ensure compliance.</p>

Site Address and Case Number	Unauthorised Development	Type & Date of Notice & Compliance Date	Notes	Update/Action to be taken
<p>Manor Farm, Curbridge E10/0183</p> <p>E10/0203</p>	<p>Unauthorised storage of non agricultural items on land to the rear of the garage block.</p> <p>Unauthorised use of garage block for the storage of non domestic items.</p>	<p>EN560</p> <p>EN559</p>	<p>The notice will not now take effect until the appeal is decided.</p> <p>The notice will not now take effect until the appeal is decided.</p>	<p>Enforcement Notice 560 was issued on 20 November 2012 and took effect on 4 January 2013 with a four month compliance period to remove all of the unauthorised non-agricultural storage. The EN is the subject of an appeal which has not yet been determined.</p> <p>Enforcement Notice 559 was issued on 20 November 2012 and took effect on 4 January 2013 with a four month compliance period to remove all of the items not ancillary to the residential use of the adjoining barns. The EN is the subject of an appeal which has not yet been determined.</p> <p>The Appeal on EN559 was dismissed on 23 August 2013</p> <p>The Appeal on EN560 was allowed on 23 August 2013 on ground (g), and the enforcement notice s varied by the deletion of four months and the substitution therefore of 6 months as the period of compliance. Subject to that variation the enforcement notice is upheld.</p> <p>The site was visited 24 March 2014 in the presence of the owner.</p> <p>Garage building now largely complete and most unauthorised storage now removed.</p> <p>Land to the rear still untidy due to difficulties removing items due to water logged conditions. Further 6 months given for compliance.</p> <p>Further site inspection scheduled for 5 September 2014.</p>
<p>124 Woodstock Road,Witney E11/0188</p>	<p>Change of use of land from parking in association with the repair and servicing of vehicles to vehicle storage</p>	<p>EN563</p>		<p>Enforcement Notice 563 was issued on 9 May 2013 and takes effect on 25 June 2013 with a three month compliance period to cease using the land to store vehicles.</p> <p>The site has recently changed ownership. Negotiations are ongoing with the new owners regarding possible redevelopment.</p>

SECTION C – PROGRESS ON OTHER ENFORCEMENT INVESTIGATIONS IDENTIFIED AS BEING HIGH PRIORITY

Site Address and Ref No.	Breach	Notes	Update/action to be taken
Lawfield Buckland Road, BAMPTON E11/0018	Alleged unauthorised residential occupation of a mobile home		This development was the subject of a CLEUD application which was refused. The CLEUD refusal has been appealed and was heard as an 'Informal Hearing' in July 2013. The Appeal was dismissed. Officers negotiating an alternative site for the caravan.
50 and 52 Saxel Close, Aston E11/0027	Non Compliance with a condition- retention of open spaces and amenity areas	Members were updated on these cases by a separate report presented at the May Sub-Committee meeting.	Following the report to Committee in September a Breach of Condition Notice was served giving 3 months for compliance. The contravener advises compliance has been secured. A site visit is to be undertaken to check compliance and the case to be closed.
10 Corndell Gardens, Witney E11/0172 E13/0025	Unauthorised conversion of a garage to a single dwelling Alleged house in multiple occupation	The unauthorised sub division of the plot was dismissed at appeal following refusal of retrospective planning permission. Following closure of E11/0172 officers received a further complaint alleging that the main dwelling was being used as a house in multiple occupation. The investigation in to the complaint revealed that there were 8 rooms in the house being let to 10 unrelated people which constitutes a breach of planning control.	A retrospective planning application to use the building as a letting office was submitted and subsequently approved. However, allegations that conditions attached to the retrospective application are being breached are currently under investigation. The separate use ceased and the case was closed
5 Orchard Close, Cassington E12/0020	Unauthorised boundary fence	A retrospective planning application for a close boarded fence surrounding the front garden of 5 Orchard Close was refused and subsequently dismissed in September 2012	A further application for modifications to the fence was approve at the June Sub Committee meeting with 6 months to implement the works. Site visit confirms works have been implemented Case closed

Site Address and Ref No.	Breach	Notes	Update/action to be taken
Entrance to New Yatt Business Centre, New Yatt E12/0220	Unauthorised change of use of land from agriculture to builder's yard, unauthorised siting of a metal container, unauthorised wooden enclosure (in excess of 2 metres in part).		In the absence of a planning application in an attempt to regularise the breach, the contravener has been advised, if the unauthorised development is not removed from the land and the builder's yard use ceased then an enforcement report will be prepared and presented to the Sub Committee. Legal advice being sought.
Land adjacent to Middletown, Hailey E13/0004	Unauthorised change of use of land to garden and erection of boundary fence and gates.	A retrospective planning application has recently been refused for the following reason: 'By reason of the height, design, positioning and overall scale of the development, and the enclosure of land/trees, the fence adversely affects and erodes the open character of the streetscene and the visual amenity of the Conservation Area to the detriment of this part of the streetscene. As such the proposal is contrary to Policies BE2 and BE5 of the West Oxfordshire Local Plan 2011.'	The contravener was asked to confirm what course of action he intended to pursue in light of the refusal. The works have been voluntarily removed. Case closed
Church Farmhouse, Northmoor E13/0045	Separate occupation of annexed living accommodation – non compliance with condition 5 of planning permission W2008/1285		The contravener has been advised that given the open countryside location the development is considered unacceptable on its merits. Building now only occupied ancillary to main building therefore breach has now ceased. Case closed

Site Address and Ref No.	Breach	Notes	Update/action to be taken
<p>1-3 West End, Witney EI3/0006</p>	<p>Listed building in poor state of repair Dangerous wall</p>		<p>Attempts were made to arrange a meeting with contravener on site. Issue of the dangerous wall is a matter for the Building Control team.</p> <p>A site visit was made 5 April 2013 by Conservation Officer and Building Control Officer however they were unable to gain access. A letter was sent by Building Control on 16 April 2013 outlining works required to be completed by 29 April 2013. Required works were not carried out within the time frame.</p> <p>A Court Hearing took place on 25 June. An order was granted requiring the work to be carried out within 30 days.</p> <p>Building Control Officer confirmed that required works had not been carried out as at 2 October 2013.</p> <p>Head of Planning and Sustainable Communities made attempts to arrange a meeting with the contravener to discuss. This course of action was not successful therefore the matter was referred to the Strategic Director.</p> <p>The site has recently changed ownership. Negotiations are ongoing with the new owners.</p>
<p>17 Tilsgarsley Road, Eynsham EI2/0175</p>	<p>Unauthorised fence and shelter and storage of timber</p>	<p>Investigations into the report revealed that there was a breach which would not be supported if planning permission was sought</p>	<p>In October 2012 the contravener agreed to remove the fence and shelter.</p> <p>Confirmation was received from the contravener in November the he had started to remove the fencing and had taken down the log store. He requested a few more weeks to finish the work due to ill health.</p> <p>A site visit on 22 January 2013 confirmed that the fence in the main had been removed however the 6 foot fence posts were still in situ – as was the log storage. The contravener believes that all works that were required have been completed.</p> <p>A further site visit was made in May 2014 which confirmed that the fence posts are still in situ and the land is still unsightly</p> <p>Legal advice is being sought.</p>

SECTION D – PROGRESS ON ENFORCEMENT INVESTIGATIONS WHERE NO FURTHER ACTION IS RECOMMENDED

Site Address and Case No	Unauthorised Development	Update/Action to be taken
Land to the rear of Bluebells, Hawthorn Road, Eynsham E13/0082	Unauthorised driveway and associated works	<p>The drive that has been constructed is in breach of planning control</p> <p>The Agents for the owner advised the works carried out have been to upgrade an existing driveway.</p> <p>Hardstanding needs planning permission as not developed in accordance with Permitted Development rights.</p> <p>Officers recommend No Further Action as the driveway provides access to the land at the rear and causes no real harm in planning terms</p>

4. ALTERNATIVES/OPTIONS

- 4.1. There are no alternatives for Sections A to C of the report that are provided for information only.
- 4.2. In respect of Section D the Sub-Committee may choose not to support the recommendation for no further action to be taken.

5. FINANCIAL IMPLICATIONS

There are no financial implications.

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Background Papers:
None