

WEST OXFORDSHIRE DISTRICT COUNCIL
LOWLANDS AREA PLANNING SUB-COMMITTEE
MONDAY 18 JANUARY 2016

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

(Contact: Kim Smith, Tel: (01993) 861676)

(The report is for information)

1. 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.

2. RECOMMENDATIONS

That, the Sub-Committee notes the progress and nature of the outstanding enforcement investigations detailed in Sections A – C.

3. BACKGROUND

Section A – Progress on prosecution cases

- 3.1. The cases listed in the following section 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.

Site Address and Case Number	Unauthorised Development	Notes	Update/Action to be taken
New Found Out Farm, Hailey E11/0008	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>The building and resultant debris has been removed and the EN complied with.</p> <p>CASE CLOSED</p>
Land adjacent to 1 and 2 Waterworks Cottage, Worsham E09/0064 EN 537	Unauthorised workshop building	<p>This notice was held in abeyance pending the outcome of an appeal to the High Court</p> <p>Appeal dismissed so notice came into effect</p>	<p>Post the issue of the enforcement notice planning permission was granted for a smaller building on the site.</p> <p>A series of site visits has confirmed that re modelling of the building has taken place in accordance with the grant of planning permission.</p> <p>A further site visit is to be undertaken in the next few weeks to check if full compliance with the grant of planning permission has been achieved.</p>

Site Address and Case Number	Unauthorised Development	Notes	Update/Action to be taken
Manor Farm, Curbridge EN560	Unauthorised storage of non - agricultural items on land to the rear of the garage block.	The notice took effect on 23 August 2013 following an appeal.	The Appeal on EN559 was dismissed on 23 August 2013
EN559	Unauthorised use of garage block for the storage of non -domestic items.	The notice took effect on 23 August 2013 following a dismissed appeal	<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 was still untidy due to difficulties removing items due to water logged conditions. A further site visit in September 2104 confirmed that substantial works had been undertaken in respect of compliance with EN 599.</p> <p>Whilst some materials have been removed in respect of the requirements of EN560 full compliance with the notice has not been achieved to date. Given that failure to comply with the requirements of the notice is an offence , if the land is not cleared expeditiously in order to achieve compliance ,consideration will be given to the progressing this matter through the Courts.</p>

Section B – Progress on enforcement investigations where formal action has been taken

3.2. The cases listed in Section B are ones where a notice has been served but the compliance date has not yet passed.

Site Address and Case Number	Unauthorised Development	Notes	Update/Action to be taken
Saddlers Arms, New Yatt	Unauthorised change of use of a public house to a dwelling	In October 2015 planning permission was refused for the retrospective change of use of the pub to a dwelling. At that time the Lowlands Area planning Sub Committee resolved to issue an Enforcement Notice in respect of the breach of planning control.	Following the resolution to take formal enforcement action to remedy the breach, a Planning Contravention Notice was issued in order to obtain information about the relevant interests in the land etc.Upon return of the PCN the notice is in the process of being drafted at the time of writing with a view to issue in the near future.

Section C – Progress on other enforcement investigations identified as being high priority

Site Address and Ref No.	Unauthorised Development	Notes	Update/action to be taken
Entrance to New Yatt Business Centre, New Yatt EI 2/0220	Alleged 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).		<p>The means of enclosure does not require planning permission. The metal container is being used to store hay in association with the smallholding and thus is considered to be a chattel associated with an agricultural land use.</p> <p>Within the compound a large amount of wood is presently being stored .This is the subject of planning control and officers are at present in discussions with the landowner regarding the removal of this material from the land which is considered to be inappropriate and unsightly.</p>
1-3 West End, Witney EI 3/0006	Listed building in poor state of repair		<p>The site has recently changed ownership. The building has recently been cleared of stored items and planning and listed building consent applications for alterations and extension to the building to form four self -contained units are presently under consideration.</p> <p>In the interim works are presently being carried out to secure the building following discussions with the Council's architect.</p>
27 Cherry Tree Way EI 3/0049	Unauthorised non-domestic storage		<p>Part of the domestic curtilage associated with the dwelling is being used for the storage of waste products and materials unrelated to the residential use of the property. Despite protracted on - going negotiations between officers and the occupier to seek to resolve the breach of planning control without the need for formal enforcement action , the stored items have not been removed from the site.</p> <p>Officers consider that the storage use that is taking place is not appropriate in a residential context. In light of the lack of progress a Planning Contravention Notice was served on the occupier in late November 2015 with a view to issuing an enforcement notice in due course if the stored items are not removed from site expeditiously.</p>

Site Address and Ref No.	Unauthorised Development	Notes	Update/action to be taken
<p>66 Corn Street, Witney</p> <p>E13/0134</p>	<p>Unauthorised rear extension and extractor unit</p>		<p>Planning permission and listed building consent were refused for these works under 14/0639 and 14/0640.</p> <p>Whilst the external flue has been removed the extension which houses a freezer remains in situ.</p> <p>Officers are presently in discussions with the contravener in respect of the time frame for removal of the unauthorised extension.</p>
<p>Lower Farm, Lew</p> <p>Yew Tree Cottage, Lew</p> <p>15/00002/PENF</p>	<p>Alleged unauthorised change of use of buildings to separate residential units, change of use of agricultural land to hard-standing to provide parking space to serve a dwelling house, creation of a roadway, erection of a building.</p>		<p>Following a site visit in response to the receipt of a complaint alleging a number of planning breaches at Lower Farm and Yew Tree Cottage, Officers confirmed that there are a number of developments at both properties which appear to be breaches of planning control in that no planning permissions have been granted.</p> <p>Since the site visit Officers have been in discussions with the owner of both of the sites under investigation who claims that a number of the breaches that are being alleged are lawful.</p> <p>In light of the number of alleged breaches and the claims by the landowner that the developments are lawful a Planning Contravention Notice was served which has been returned.</p> <p>Offices are to meet in early January with the landowner in order to discuss the PCN response and consider how to progress the alleged breaches that have been identified.</p>

Site Address and Ref No.	Unauthorised Development	Notes	Update/action to be taken
Masons Arms, South Leigh 15/00097/PENF	Alleged unauthorised sub division of premises to create a separate residential unit		<p>In July 2015 the Council received an application for a lawful development certificate seeking to evidence that the single storey range of buildings attached and located to the rear of the 'Masons Arms' was lawful as a separate dwelling not ancillary to the pub use. This application was withdrawn prior to determination.</p> <p>In light of the withdrawal an investigation was undertaken to ascertain whether or not there was an active breach of planning control on the site in respect of a subdivision of the site.</p> <p>Following a site visit it came to light that the property was being physically sub divided from the pub building on the sites frontage and has a separate access and curtilage from the pub.</p> <p>Notwithstanding the above, at the time of writing Officers understand that sub divided unit is not being occupied and therefore in terms of how the planning unit is being used there is presently no breach of planning control.</p> <p>From the initial investigation in to the alleged breach of planning control on the site the owners of both the pub and 'Mason Cottage' have been in discussions with Officers to ascertain the full extent of the alleged breaches and if they can be resolved by agreement rather than formal action. Those discussions are on- going at the time of writing.</p>

4. ALTERNATIVES/OPTIONS

None.

5. FINANCIAL IMPLICATIONS

None.

6. RISKS

None.

7. REASONS

To provide the sub-committee with a regular update on planning enforcement matters.

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Background Papers:

None