

WEST OXFORDSHIRE DISTRICT COUNCIL
LOWLANDS AREA PLANNING SUB-COMMITTEE

MONDAY 10 JULY 2017

PROGRESS ON ENFORCEMENT CASES

REPORT OF THE HEAD OF PLANNING AND STRATEGIC HOUSING

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

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

The cases listed on this update constitute only a small number of the overall enforcement caseload which at the time of writing consists of 179 live cases. Progress on some of the less urgent active cases has been somewhat protracted since the last enforcement update report because staffing levels in the team have been below complement since October 2016. It is anticipated that the team will have a full complement of staff by the end of June this year.

SECTION A – PROGRESS ON POTENTIAL PROSECUTION CASES AND UNAUTHORISED ADVERTS

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
Land adjacent to 1 and 2 Waterworks Cottage, Worsham EN357	Unauthorised workshop	The enforcement notice was held in abeyance pending the outcome of an appeal to the High Court. The High Court appeal was dismissed and the enforcement came into effect.	Post the issue of the enforcement notice planning permission was granted for a smaller building on the land which is now almost completed in accordance with the approved drawings. Planning conditions in respect of how the site is to be enclosed and landscaping of the site are the subject of on - going discussions between your Officers and the landowner. Whilst it is hoped that the conditions will be complied with without the need for formal action the matter has become protracted. A further site visit has been scheduled to take place prior to the date of the Sub Committee meeting in July. A verbal update on progress and the requirement or not for any further action will be given by Officers at the meeting.
Manor Farm, Curbridge EN560 EN559	Unauthorised storage of non agricultural items on land Unauthorised use of a garage block for the storage of non-domestic items	The notice took effect on 23 August 2013 following a dismissed appeal The notice took effect on 23 August 2013 following a dismissed appeal	Final site visit needed to confirm compliance to be carried out over the next couple of weeks. Garage cleared of non- domestic items. Compliance achieved. CASE CLOSED
Saddlers Arms, New Yatt	Unauthorised residential occupation of public house	This notice took effect on 12 April 2016 with a compliance date of 12 October 2016 The EN was not appealed.	In the last enforcement progress update Members were advised that your Officers have been monitoring the site on a regular basis to establish whether or not the residential occupation of the public house has ceased. Those ad hoc site visits appear to confirm compliance with no sign of activity within or without the building. In addition, Officers have not received any reports that the building is being occupied in breach of the notice. In light of the above it appears that compliance with the notice has been achieved. Notwithstanding the above your Officers have recently been in receipt of correspondence from the recipient of the notice who has advised that she intends to market the property and live in the residential part of the pub whilst it is being marketed. She understands having taken legal advice that such an occupation is allowed.

			Your Officers will be taking 'in house' legal advice on this claim and responding in due course once the matter is clarified.
27 Cherry Tree Way, Witney	Unauthorised non domestic storage	An enforcement notice was issued on 22 April 2016 in respect of the breach	Most of the rear garden and parking area serving the house were being used to store waste products and materials related to the occupiers kitchen fitting business. The notice requires that the unauthorised storage be removed from the site. Following a recent site visit officers can confirm that the unauthorised storage has been removed from the property and compliance with the notice achieved. CASE CLOSED
Shaan Restaurant, 12 Corn Street	Unauthorised sign	Not acceptable on its merits It as an offence to display signs without the requisite consent	Presently negotiating alternative sign with the contraveners agent
Cousinz Barbers, 65 High Street, Witney	Unauthorised sign	Not acceptable on its merits It as an offence to display signs without the requisite consent	Officers to advise of the signs unacceptability and seek to secure removal.
70 High Street, Witney Italian Restaurant	Unauthorised shop front and signage	Not considered by Officers acceptable on the merits	Officers to negotiate to seek to secure amendments
26 Market Square, Witney	Unauthorised sign	Retrospective application for advertisement consent refused. It as an offence to display signs without the requisite consent	Despite refusal sign remains in situ .Agent talking with Officers about more acceptable signage
38 Corn Street, Cousinz Barbers	Unauthorised signs	Not acceptable on its merits. It as an offence to display signs without the requisite consent	Initial site visit not yet made at the time of writing.

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

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
No outstanding cases at the time of writing			

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

Site Address and Ref No.	Breach	Notes	Update/action to be taken
66 Corn Street Witney	Unauthorised rear extension and extraction system		<p>Planning permission and listed building consent were refused for unauthorised works to the listed building.</p> <p>Modifications to the external flue have taken place the merits of which are under consideration by your Officers together with consideration of amendments to the existing extension in the interests of the listed building.</p> <p>The occupier and his agent are actively working with your Officers to try to resolve the breaches on the site.</p>
Masons Arms, South Leigh	Unauthorised internal works to the listed building	17/01034/LBC submitted in an attempt to regularise the breach. Application approved	<p>Since last updating Members about an alleged sub division of the site to create a separate residential unit your Officers understand that the site has been sold and as a result the sub division has ceased.</p> <p>It came to light in recent months that internal works to the pub were taking place without the requisite listed building consent.</p> <p>Those works have since been regularised by the granting of listed building consent ref 17/01034/LBC.</p> <p>Applications are presently under consideration for external and internal conversion works to change the existing staff annexe to guest rooms.</p>
Entrance to New Yatt Business Centre, New Yatt	Unauthorised change of use of land from agriculture to builder's yard, unauthorised siting of a metal container		<p>As Members were made aware in the last progress update the storage on this site ebbs and flows.</p> <p>Despite protracted efforts over time to get the material removed voluntarily it remains in situ.</p> <p>Officers consider that it is unsightly and if allowed to remain in situ could become lawful over time.</p> <p>Given the amount of time that this matter has been outstanding the next step is to serve a Planning Contravention Notice on the landowner as a pre requisite to formal enforcement action.</p>
Land to the north of Mead View, Cassington Road, Eynsham	Unauthorised use of land for the storage of an office and materials associated with a stonemasons business	<p>May 2017 a Planning Contravention Notice was served on the occupiers of the site.</p> <p>The site is located within the Green Belt and the floodplain</p>	<p>Post return of the PCN the contravener has asked to meet with your Officers in order to discuss a negotiated solution.</p> <p>Officers have already advised of a potential way forward but the occupier of the land has not actively progressed the matter in accordance with your Officers recommendations.</p>

			<p>Given that this has been outstanding for some time now and the breach has not been remedied it is likely that formal action will be the next step if the site is not returned to its former state expeditiously.</p>
Land to the rear of Abingdon Road, Standlake	Unauthorised change of use of agricultural land to garden	Site visits have confirmed that the land is clearly being used as garden by one of the frontage properties without planning permission.	<p>This extension into the rural fringe of the village is considered by Officers to be harmful.</p> <p>Once ownership of the land and time frames for the use is confirmed, Officers will be in a position to determine if the breach is lawful or not and if not determine what action to take if the breach does not cease voluntarily.</p>
131 Abingdon Road, Standlake	Unauthorised change of use of agricultural land to garden	Retrospective permission was refused and dismissed at appeal under 16/00359/FUL	<p>At the time of writing it is not known if the breach has ceased. A site visit will ascertain the facts. If not ceased, in light of the appeal decision formal action by way of an enforcement notice is likely to be the next step.</p>
Land at Mount Pleasant Farm, Chapel Lane, Northmoor	Unauthorised residential caravan	Planning Contravention Notice served	<p>The contravener claims that the caravan has been used for in excess of 10 years for residential purposes by him and his family at weekends.</p> <p>Notwithstanding the above he intends making a planning application to seek to regularise the use. If the application is refused it is anticipated that an enforcement notice will be issued at the same time as the refusal, both of which can be appealed by the contravener</p>
24 Saxon Way, Witney	Unauthorised two storey extension	The developer secured planning permission for a two storey extension. He then constructed a larger two storey extension which Officers had previously advised was unacceptable.	<p>In an attempt to regularise the breach a retrospective application was submitted which was refused and subsequently dismissed at appeal.</p> <p>At the time of writing your Officers are in discussions with the contravener regarding further design amendments which would satisfy the Inspectors concerns.</p> <p>It is anticipated that a further planning application will be submitted which if approved will then be implemented thus precluding the need to take formal enforcement action.</p>
209 Manor Road, Witney	Unauthorised single storey extension.	A single storey extension has been constructed between the side of the house and the highway on an area of amenity land, albeit it the ownership of the contravener.	<p>The design, siting and materials of the extension are considered wholly inappropriate and adversely affect the visual character and appearance of the street scene.</p> <p>The contravener has told your Officers that he is going to take down the unauthorised extension voluntarily.</p> <p>If not removed in a timely fashion Officers will have no alternative but to proceed to formal action.</p>

Lower Haddon Farm, Bampton	Alleged unauthorised residential use of a caravan	This breach is unlikely to be acceptable on its merits given the unsustainable location of the site.	At the time of writing the site has yet to be visited. If a residential use is evidenced unless it is either lawful or can be justified on exceptional circumstances it is potentially likely to be the subject of formal action.
The Paddocks, The Weald, Bampton	Alleged breach of conditions attached to planning permissions for the gypsy site. Possible change of use on some plots , excessive numbers of caravans		At this time the issues on this site are considered to extend beyond breaches of planning control only. Bearing in mind the above a multi Service/Agency response to the recent changes that have taken place has been organised.
Westfield Farm, Shilton	Unauthorised residential use of a caravan	Residential caravans in the open countryside are unlikely to be acceptable in sustainability terms.	This alleged breach is in the early stages of investigation. It does appear however from initial discussions with the site owner that there is a breach of planning control.
Birchwood and Rosedale, Ham Lane, Aston	Unauthorised fence adjacent to the carriageway and possibly located on the highway.	This is a breach of the planning permission in respect of the redevelopment of Thistle Cottage. The approved drawings show the fence set back into the front gardens of Birchwood and Rosedale.	Officers consider that there are two planning issues with the fences as presently erected. Firstly is the adverse impact on visual amenity and the second relates to highway safety. At the time of writing your Officers are in discussions with the owners of Birchwood to try to resolve the planning breach without the need for formal action.

4. ALTERNATIVES/OPTIONS

There are no alternatives for the elements of the report that are provided for information only.

5. FINANCIAL IMPLICATIONS

There are no financial implications.

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Background Papers:
None