

WEST OXFORDSHIRE DISTRICT COUNCIL
LOWLANDS AREA PLANNING SUB-COMMITTEE

MONDAY 9 JULY 2018

PROGRESS ON ENFORCEMENT CASES

**REPORT OF THE HEAD OF PLANNING AND STRATEGIC
HOUSING/HEAD OF PAID SERVICE**

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

1. PURPOSE

To Inform Members of the current situation and progress in respect of enforcement investigations (**Sections A-C**)

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. RECOMMENDATION

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

3. BACKGROUND

- 3.1 The cases listed on this update constitute only a small number of the overall enforcement caseload which at the time of writing consists of 282 live cases.
- 3.2 Progress on some of the less urgent active cases has been somewhat protracted since the last enforcement update report because permanent staffing levels in the team have been below complement since October 2016. For the last month the team has however been at full complement and a further admin resource has been secured on an agency basis to help to bring the backlog down to more manageable levels whilst training is undertaken and with a view to commencing more wide ranging pro- active monitoring in due course.

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	<p>The enforcement notice was held in abeyance pending the outcome of an appeal to the High Court.</p> <p>The High Court appeal was dismissed and the enforcement came into effect.</p> <p>Planning permission 12/1322 for an alternative workshop building has been approved and part implemented post the issue of EN 357</p>	<p>Post the issue of the enforcement notice planning permission was granted for a smaller workshop building on the land which is now almost completed in accordance with the approved drawings.</p> <p>Planning conditions in respect of how the site is to be enclosed and landscaping of the site have been the subject of on - going discussions between your Officers and the landowner. Whilst it was hoped that the conditions will be complied with without the need for formal action the matter has become protracted and more recently an application to use the building as a house has been received.</p> <p>In light of the above it is anticipated that Breach of Condition Notices will be served in order to seek to address the breaches.</p>
Shaan Restaurant, 12 Corn Street	Unauthorised sign	<p>Not acceptable on its merits.</p> <p>It as an offence to display signs without the requisite consent.</p>	<p>Negotiations with contraveners' agent have become protracted. Promised application not received PCN to be issued</p>
Cousinz Barbers, 65 High Street, Witney	Unauthorised sign	<p>Not acceptable on its merits.</p> <p>It as an offence to display signs without the requisite consent.</p>	<p>Officers have met with the site operators to advise that the signs require express advertisement consent and that any retrospective application is unlikely to be considered acceptable.</p> <p>Alternative signage/removing some of the signs is the subject of on- going discussion with a view to remedying matters without the need for formal action</p> <p>However becoming protracted so PCN may be required shortly</p>
70 High Street, Witney - (Italian Restaurant)	Unauthorised shop front and signage	<p>Not considered by Officers acceptable on the merits</p>	<p>Applicant has agreed to implement alternative shop front but has now inserted further windows at first floor level which is a further breach</p> <p>PCN to be issued</p>

26 Market Square, Witney	Unauthorised sign	Retrospective application for advertisement consent refused. It as an offence to display signs without the requisite consent.	Following the last update to Members Officers negotiated the submission of an amended application. Application 17/03115/ADV for proposed amended signage has been approved. File kept open to monitor the implementation of the new signage. Compliance achieved CASE CLOSED
38 Corn Street, Turkish Barbers	Unauthorised signs	Not acceptable on its merits. It as an offence to display signs without the requisite consent.	The site operators have met with Officers regarding the unauthorised signs and have removed a number of the picture panels from the sign as originally erected. However, Officers consider that further modifications are needed which are the subject on-going discussion. PCN may be required
Birchwood and Rosedale, Ham Lane, Aston	Unauthorised means of enclosure consisting of vertical posts and stone boulders adjacent to the highway	This is a breach of the planning permission in respect of the redevelopment of Thistle Cottage. Officers consider that there are two planning issues with the means of enclosure as presently erected. Firstly is the adverse impact on the visual amenity of the Conservation Area and the second relates to highway safety.	26/10/17 - A Breach of Condition Notice was issued requiring removal of the enclosure within 30 days. The enclosure has not been removed in accordance with the requirements of the Breach of Condition Notice and as such an offence has been committed. In light of the above your Officers invited the contraveners to attend a formal interview under caution prior to preparing a case for prosecution in respect of the breach of the notice. They did not attend Court date set for Sept 2018

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
Land at Mount Pleasant Farm, Chapel Lane, Northmoor	Unauthorised residential caravan	Planning Contravention Notice served. 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.	In July 2017 retrospective application 17/02330/FUL was received to seek to regularise the breach. This application was considered by Members at the October Lowlands Committee meeting and was refused in accordance with the Officers recommendation. Members also had consideration of an Enforcement Report prepared by Officers and resolved to serve an Enforcement Notice.

			<p>25/10/17- EN was served with a compliance date of 30 May 2018.</p> <p>28/11/17 – EN served on 25/10/17 was withdrawn and re-issued for procedural reasons with a new effective date of 5/1/18 and a compliance date of 5 July 2018.</p> <p>Site to be revisited post 5/7/18 to ascertain compliance. Other breaches on site are also under investigation</p>
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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 but are not acceptable on their merits.</p> <p>Live retrospective applications will need to be determined along with consideration of enforcement action to secure the removal of the flues</p>
Entrance to New Yatt Business Centre, New Yatt 12/0220/PENF	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>A recent site visit has confirmed that the storage use remains in situ. In light of the above it is anticipated that enforcement action to secure removal of the unauthorised storage will be expeditiously prepared.</p> <p>PCN has been issued and followed up but no response has been returned</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>A recent site visit has confirmed that the site circumstances remain unchanged.</p>

			Given that this has been outstanding for some time now and the breach has not been remedied it is anticipated that an enforcement report recommending the expediency of serving an Enforcement Notice to remedy the breach will need to be prepared.
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.	This extension into the rural fringe of the village is considered by Officers to be harmful. The ownership of the land and time frames for the use need to be established before considering the expediency of formal enforcement action.
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	At the time of writing it is not known if the breach has ceased. The landowner had advised Officers that the land is not being used as garden and that the items that were stored on the land were only stored for a temporary period. 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.
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. In an attempt to regularise the breach a retrospective application was submitted which was refused and subsequently dismissed at appeal.	Since the last enforcement update report to Members Officers negotiated the submission of an amended application which addressed both Officers and the Inspectors concerns. Application 17/02217/HHD for proposed amendments has been approved. The file is being kept open to monitor the implementation of the approved changes. Works appear not to be moving forward very expeditiously and as such more formal action will be required shortly Enf report has been prepared preparatory to formal action
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 in the ownership of the contravener.	The design, siting and materials of the extension are considered wholly inappropriate and adversely affect the visual character and appearance of the street scene. The contravener told your Officers that he is going to take down the unauthorised extension voluntarily. However no action has occurred and as such an enforcement report has been prepared preparatory to formal action
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 been 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. Alleged contravener claims it is lawful and has been asked to submit a CLEUD

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	Investigation into the alleged breaches of planning control on this site were put on hold as issues on the site were considered to extend beyond breaches of planning control only and a multi Service/Agency response to the changes on the site was organised.	In mid-December Officers were advised by the lead external agency that its investigations had been suspended and that the Council Services that were involved, mainly Planning and Environment (Site Licencing) should pursue any breaches on the site under the relevant legislation. In light of the above the relevant Council Officers met in mid -January to agree an investigation strategy. The initial site visits to consider any site licence contraventions were carried out by Licencing early in the New Year and revealed that the scale of the breach has increased substantially in the period that we were unable to take action because of the Police request Given the complexity and time required to progress this case a specialist lawyer is being contracted to progress matters on this site and a similar site in Uplands.
58 Newland Mill, Witney	Unauthorised change of use of dwelling to guest house	There were complaints from neighbouring residents about the change of use of this property. It is a busy residential area and the property shares driveway access. The main issues are parking and neighbours' amenity.	Following a site visit which confirmed the unauthorised material change of use, Officers asked for a retrospective application so that it could be assessed on its planning merits. This was refused by Members and an Enforcement Notice has been served Compliance to be monitored
18 Larkspur Grove, Witney	Unauthorised residential use of approved ancillary accommodation	A site visit confirmed that the conversion of a garage to living accommodation was not in accordance with the approved plans. In addition Officers were of the view that it was being used as a separate dwelling in breach of a condition.	Officers have written to the contravener who has now applied for retrospective consent for the development carried out but removing the elements of the conversion – namely some of the kitchen fittings - which enable it to be used as a separate dwelling. Information has also been requested regarding the inter-relationship between the occupier of the annexed accommodation and the main dwelling house. Await determination of application
Manor Dairy Farm Shilton	Potential unauthorised house	A barn has been extensively remodelled/rebuilt and has all the features of a dwelling	Contravener claims the building is to be used as a club house for a model plane club. Monitoring to take place
Land South of New Mill Road Witney	Dog grooming business and caravans sited on land	The site lies in the open countryside in a prominent valley bottom location adjoining a right of way	Owners have agreed to undertake works to remove the caravans but have not complied. Enforcement report has been prepared with a view to service of an enforcement notice
Land opposite Crawley Arms PH Crawley	Siting of caravans and untaxed vehicles	Unauthorised residential use and very unsightly visual impact upon the streetscene	PCN to be served

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