

WEST OXFORDSHIRE DISTRICT COUNCIL
LOWLANDS AREA PLANNING SUB-COMMITTEE:
MONDAY 14 JANUARY 2019

PROGRESS ON ENFORCEMENT CASES

REPORT OF THE HEAD OF PLANNING AND STRATEGIC HOUSING

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

1. PURPOSE

To inform the Sub-Committee of the current situation and progress in respect of enforcement investigations, as set out in Appendices A-C.

2. RECOMMENDATION

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

3. BACKGROUND

3.1. [Appendix 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; [Appendix B](#) contains cases where formal action has been taken but the compliance period has yet to expire; and [Appendix C](#) contains cases which are high priority but where the expediency of enforcement action has yet to be considered.

3.2. The cases listed in this update constitute only a small number of the overall enforcement caseload which at the time of writing consists of 206 live cases.

3.3. The team has been fully staffed since June 2018 and since that time the caseload has been reduced from 283 cases to 206 live cases. As the relatively newly appointed team members expand their knowledge base and experience it is hoped that the backlog of low priority cases can be further reduced allowing the priority cases to be progressed more expeditiously and pro-active monitoring to be actively commenced in due course.

4. ALTERNATIVES/OPTIONS

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

5. FINANCIAL IMPLICATIONS

This report has no financial implications.

Giles Hughes

Head of Planning and Strategic Housing

(Author: Kim Smith, Tel: (01993) 861676; EMail: kim.smith@westoxon.gov.uk)

Date: 03 January 2019

Background Papers:

None

Progress on potential prosecution cases and unauthorised adverts

The cases listed in this Appendix 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 & Case No.	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. Planning permission 12/1322 for an alternative workshop building has been approved and part implemented post the issue of EN 357	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. 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. Since the last enforcement progress update the landowner has implemented works on the land in compliance with conditions that have been discharged in respect of hardstanding and means of enclosure. Officers anticipate that this will be followed by implementation of the approved landscaping details and thus avoid the need for formal enforcement action to secure compliance.
Shaan Restaurant, 12 Corn Street	Unauthorised sign	Not acceptable on its merits. It as an offence to display signs without the requisite consent.	Since the last update report advertisement consent for alternative signage has been approved under 18/02573/ADV. Subject to the alternative signs being implemented expeditiously the case can be CLOSED.

Site Address & Case No.	Unauthorised Development	Notes	Update/Action to be taken
Cousinz Barbers, 65 High Street, Witney	Unauthorised sign	Not acceptable on its merits. It as an offence to display signs without the requisite consent.	Through negotiation with Officers a number of elements of the unauthorised signage have been removed (hanging sign and a significant number of photographs displayed in the windows). In light of the above Officers consider that the resultant signage is now acceptable on its planning merits and that there is no need for formal action. CLOSE case
70 High Street, Witney - (Italian Restaurant)	Unauthorised shop front and replacement widows	Not considered by Officers acceptable on the merits	Alternative acceptable shop front has been implemented (decorative pillars have been removed). Officers are still in discussions with the owners regarding the replacement windows at first floor level. However, if the replacements are like for like in terms of both design and materials then the replacement windows will not come under control.
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 of on-going discussion.
Birchwood and Rosedale, Ham Lane, Aston	Unauthorised means of enclosure consisting of vertical posts and stone boulders adjacent to the highway	This was a breach of the planning permission in respect of the redevelopment of Thistle Cottage. Officers considered that there were two planning issues with the means of enclosure as erected. Firstly was the adverse impact on the visual amenity of the Conservation Area and secondly related to highway safety concerns.	26/10/17 - A Breach of Condition Notice was issued requiring removal of the enclosure within 30 days. The last enforcement update advised that the enclosure had not been removed in accordance with the requirements of the Breach of Condition Notice and as such an offence had been committed. A Court date was subsequently set for Sept 2018. In the interim period the contraveners removed the unauthorised means of enclosure. Given that the unauthorised means of enclosure had been removed and the planning harms addressed it was not considered in the public interest to continue with Court action. CLOSE.

Progress on enforcement investigations where formal action has been taken

Site Address & Case No.	Unauthorised Development	Notes	Update/Action to be taken
Land at Mount Pleasant Farm, Chapel Lane, Northmoor	Unauthorised residential caravan. Unauthorised use of the land for storage	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. He further claims that the land is lawful for the storage of non -domestic items	Two enforcement notices were issued on 18 October requiring the following: 1. Cessation of the use of the land for the storage of non - agricultural items within 6 months of the notice taking effect; 2. Cessation of the use of the land for residential purposes and removal of the residential caravan within 6 months of the notice taking effect. Both notices are the subject of appeal to the Planning Inspectorate.
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.	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. In light of the fact that commencement of the works approved under 17/02217/HHD did not take place an Enforcement Notice was issued on the 31 August which has a compliance date of 1 April 2019. The notice requires that either the unauthorised extension is removed or alternatively that it is modified to accord with 17/02217/HHD.

Site Address & Case No.	Unauthorised Development	Notes	Update/Action to be taken
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.	<p>The design, siting and materials of the extension were considered wholly inappropriate and to adversely affect the visual character and appearance of the street scene.</p> <p>The contravener told your Officers that he was going to take down the unauthorised extension voluntarily. However, the extension was not removed voluntarily and an Enforcement Notice was served on 13 July 2018 requiring removal of the extension by 15 October.</p> <p>The extension has been removed and the EN complied with. Officers are currently considering an application to retain a portion of the amenity land which they consider to be acceptable in principle provided further landscaping works are carried out to enhance visual amenity. Provided these works are carried out the case can be closed. CLOSE.</p>

Progress on other enforcement investigations identified as being high priority

Site Address & 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 unauthorised external flue the subject of the refusal have taken place but are not considered acceptable on their merits in terms of design.</p> <p>This matter originally came to light following a complaint about smell nuisance. Since the original complaint Officers have had no follow up complaints in respect of smell.</p> <p>In light of the above and in order to undertake an up to date evaluation of both the listed building and environmental impacts of the modified flue a site visit is to take place in the New Year with a view to securing further modifications if it is considered expedient to do so.</p>
Entrance to New Yatt Business Centre, New Yatt	Unauthorised change of use of land from agriculture to builder's yard.		<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.</p> <p>As a prerequisite to formal enforcement a Planning Contravention Notice has been issued but no response has been returned.</p> <p>It is quite clear that the landowner will not engage with your Officers and in light of the above concerns the next step is to proceed towards formal enforcement action by way of the issue of an Enforcement Notice.</p>

Site Address & Ref No.	Breach	Notes	Update/action to be taken
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. Prior to the Christmas break your Officers have tried contacting the landowner in order to attempt to move the case forward without the need for formal action but have had no response.</p> <p>In light of the above and despite a potential way forward without the need for formal action the next step is to proceed to formal enforcement action by way of the issue of an Enforcement Notice.</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>In order to obtain information about the ownership of the land and time frames for the use a Planning Contravention Notice was issued on 5 November 2018. A response has now been received and the next step in light of the appeal decision in respect of 131 Abingdon Road will be to take formal enforcement action by way of the issue of an Enforcement Notice.</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	A recent site visit has confirmed that the domestic paraphernalia has been removed from the land and that there is no ongoing breach. The landowner has been advised that to use the land as garden will be a breach of planning control which we would seek to enforce given the appeal history. He has also been advised that the site will be the subject of ongoing monitoring. CLOSE.
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.	The alleged contravener claims that the residential caravan is lawful and as such has been asked to submit a certificate of lawfulness to seek to evidence that there is no breach of planning control. To date no such application has been received. Given the open countryside location if no such application is received the next step is to proceed towards formal enforcement action by way of the service of an Enforcement Notice.

Site Address & Ref No.	Breach	Notes	Update/action to be taken
The Paddocks, The Weald, Bampton	<p>Alleged breach of conditions attached to planning permissions for the gypsy site.</p> <p>Possible change of use on some plots , excessive numbers of caravans</p>	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.	<p>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.</p> <p>In light of the above the relevant Council Officers met in mid -January to agree an investigation strategy.</p> <p>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 lead external agency request.</p> <p>Given the complexity and time required to progress this case a specialist lawyer has been instructed to guide your Officers on this site and a similar site in Uplands.</p> <p>Since the last update your Officers have personally served Planning Contravention Notices on all of the caravans on all of the plots. This is with a view to ascertaining who is occupying the caravans together with information about their personal circumstances in order to gain an understanding of any human rights issues which will inform the next steps in addressing the breaches of planning control on the site.</p> <p>At the time of writing the responses are still to be evaluated but as a result of the action your Officers have been contacted by a number of agents/parties acting for a number of the different plot owners with a view to progressing matters.</p>
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 to use as commercial leisure accommodation. It is a busy residential area and the property shares driveway access. The main issues are	Following Members' refusal of a retrospective application for the use of this residential property as a guest house last year, Officers took formal enforcement action. The property was then used for short-term holiday lettings which in practice often involved a swift turnover of large groups and regular holding of parties, which was not considered to be consistent with normal residential use. A further enforcement notice was issued and an application for an injunction was made at the High Court District Registry in Birmingham. The injunction was granted on 17 December and prevents use of the property for weekend or short-term lets or for

Site Address & Ref No.	Breach	Notes	Update/action to be taken
		parking and neighbours' amenity.	any other material change of use of the property without the grant of planning permission. Officers understand the property is now in lawful residential use and the complaints have ceased. 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.	A retrospective planning application was approved under 18/01491/HHD for ancillary accommodation with a condition requiring removal of the sink within 2 months of the date of the permission. This was imposed to ensure that the outbuilding could not be occupied separately from the main house. A site visit has confirmed that the sink has been removed. CLOSE.
Manor Dairy Farm Shilton	Potential unauthorised house	A barn has been extensively remodelled/rebuilt and has all the features of a dwelling	Contravener has advised that he is going to make a retrospective planning application. Officers have advised that given the open countryside location any retrospective planning application is unlikely to be considered acceptable on its planning merits.
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	A retrospective planning application 18/02530/FUL has been submitted for the use of the land and existing buildings for a dog walking and grooming business. This is still under consideration at the time of writing. The caravans that have been sited on the land have been broken up and are slowly being removed from the site.
Land opposite Crawley Arms PH Crawley	Siting of caravans and untaxed vehicles	Unauthorised residential use and very unsightly visual impact upon the street scene	Contact has been made with the site owner and a Planning Contravention Notice is to be served as a prerequisite to formal action.
10 Corndell Gardens, Witney	Alleged unauthorised change of use from dwelling to party house.	The complaints in respect of this property relate to its use by large groups of unrelated people mainly at the weekends.	The character of the use of the property is very similar to that of the unauthorised use at 58 Newland Mill where the Council has recently been successful in taking injunctive action.