

WEST OXFORDSHIRE DISTRICT COUNCIL
UPLANDS AREA PLANNING SUB-COMMITTEE
MONDAY 9 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 | Notes | Update/Action to be taken |
|---|--------------------------------------|----------------------|---|--|---|
| <p>Unicorn Public House, Great Rollright E11/0049</p> <p>E14/0047</p> | <p>Section 215 Notice</p> | <p>7 August 2011</p> | <p>Untidy state of listed building within the Conservation Area</p> | <p>The pub has been closed for many years and the subject of ongoing complaint regarding its appearance/state of repair. A number of applications seeking change of use have been refused/dismissed at appeal. In 2011 following attendance at Banbury Magistrates Court a 215 Notice served by the Council was modified and the works required to improve amenity were agreed by all parties.</p> <p>Following an agreed schedule of works the recipient of the 215 Notice withdrew his appeal.</p> | <p>The 215 notice required that a schedule of works is carried out by the 7 August 2011.</p> <p>In accordance with the notice all of the boarding to all of the windows on the front elevation of the building has been removed. The windows on the front façade have been repaired, painted and re glazed in accordance with the notice.</p> <p>These works have in themselves significantly improved the contribution that the building makes to the visual amenity of the historic street scene.</p> <p>However, at the time of writing, a couple of the requirements of the notice remain outstanding. These include the following:</p> <p>The security boarding on the inside of the windows to be painted matt black;</p> <p>The gate to the side access to be repaired and redecorated;</p> <p>Non-compliance with the outstanding items on the 215 Notice has not been pursued in the Courts because your officers and the owners' son were in discussions in respect of the future of the building and the options available to both him and the Council. In this regard a meeting took place in October 2013 and it was hoped that the discussions would lead to a positive outcome</p> <p>However the discussion have broken down without any further material progress and as such Officers are seeking legal advice with a view to bringing an "options" report to a future meeting to seek to finally bring this matter to a conclusion</p> |

| Site Address and Case Number | Notice No: | Compliance Date | Unauthorised Development | Notes | Update/Action to be taken |
|--|----------------------------------|--|---|---|--|
| Pebble Brook Farm, Chastleton E11/0064 | EN554 | 22/6/13 | Use of first floor of barn as a dwelling | Following an appeal, planning permission for the use of part of the first floor as a dwelling was granted subject to the two mobile homes, the subject of EN555 and EN556, being removed from the land within six months of the date of the consent. | Compliance with the enforcement notices not achieved at the time of writing. The contravener's Agent has advised that the property has been sold and new occupants are due to take ownership early July 2014. The new owners are preparing to submit an application for the change of use of the buildings to offices thereby extinguishing the unauthorised residential uses. Site to be monitored to ensure submission of the requisite application to enable voluntary compliance |
| | EN555 EN556 | 28/3/13 28/3/13 | Use of two mobile homes as residential accommodation. | | |
| Land adjacent to Chapel House, Heythrop E09/0200 | EN549 EN550 EN552 EN553 | 1/12/2012 1/12/2012 9/12/2012 9/12/2012 | Alleged unauthorised residential uses/development | The notices were the subject of appeals which were subsequently withdrawn. In light of the fact that the appeals were withdrawn the dates for compliance with the notices are as follows: EN549, EN550- 2 December 2012; EN552, EN553- 10 December 2012. | EN 550 and 552 complied with. A temporary three year consent for residential use of an existing mobile home in association with an equestrian/farriery enterprise was granted under 13/0629. This permission relates to the mobile home the subject of EN's 549 and 553. In light of the temporary consent to use the mobile home, securing compliance with the EN's will be held in abeyance. If in three years time, when the permission lapses, the residential presence on the land cannot be justified, compliance with EN 549 and EN 553 could be pursued if it were considered expedient to do so. This case will be held on the monitoring data base to ensure that it is reviewed once the temporary permission expires. |

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 |
|---|--|---|--|---|
| 33-35 Sheep Street, Burford E10/0272 | Unauthorised Upvc windows | | At the Uplands Area Planning Sub-Committee meeting of 6 September 2010 members resolved to serve an Enforcement Notice to secure removal of the plastic windows and replacement with windows of a more appropriate design and materials. The Enforcement Notice has not yet been issued because the contraveners have obtained listed building consent for replacement wooden windows which are being implemented in a phased way. | <p>Officers have been advised that due to funding issues the date for implementation of the final phase of window replacements will be by the end of June 2014.</p> <p>In light of the progress made to date without the need for formal enforcement action, your officers consider that the phased replacement of windows to be completed by the end of June 2014 is an appropriate way to progress this breach of planning control.</p> <p>If by the end of June 2014 this matter remains outstanding, then the requirement for formal enforcement action will need to be reviewed.</p> |
| Pomfret Castle Barns, Banbury Road, Swerford E12/0027 | Non-compliance with condition 14 of W2007/1085 | | <p>Condition 14 of W2007/1085 states the following:</p> <p>‘The occupation of the accommodation provided shall be limited to holiday tenancies and those tenancies not to exceed 8 weeks (in each case).</p> <p>Following receipt of a complaint it has come to light that the holiday let condition is being breached.</p> | <p>In an attempt to regularise the breach, a planning application for non-compliance with the condition was submitted which was subsequently refused on the grounds that it had not been demonstrated that the buildings are not reasonably capable of holiday let uses or alternative uses such that unrestricted residential use is the only option for securing retention of the buildings.</p> <p>Following refusal of the application a report was prepared for the Sub Committee to consider the expediency of taking formal enforcement action to secure compliance with the condition. Members resolved to serve an enforcement notice with a long compliance period of 10 months. The long compliance period was to allow for marketing of the barns to take place in order to give the contraveners an opportunity to demonstrate that there is no demand for holiday lets or alternative non-residential uses.</p> <p>A new application has been received 14/0628/P/S73 – Non-compliance with condition 14 of planning permission 07/1085/P/FP to allow three converted barns & one unconverted barn approved for holiday accommodation to be used for unrestricted residential accommodation. (Retrospective). A decision is due by 24 June 2014.</p> |

| Site Address and Case Number | Unauthorised Development | Type & Date of Notice & Compliance Date | Notes | Update/Action to be taken |
|---|------------------------------|---|---|--|
| The Cotswold Arms, 46 High Street, Burford E13/0001 | Unauthorised fence enclosure | | <p>Following a complaint it has come to light that a fenced enclosure has been constructed along part of the frontage of The Cotswold Arms as it abuts Priory Lane, Burford. The lap larch fence needs planning permission and no such permission has been sought.</p> <p>On its merits it is considered to adversely affect the character and appearance of the Conservation Area and the setting of the listed pub.</p> | <p>An enforcement report was considered by the Sub Committee in September in respect of the fence, following which Members resolved to issue an enforcement notice to secure its removal.</p> <p>However the fence was subsequently removed using Highways powers.</p> <p>Case closed</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 |
|--|---|--|--|
| The Shooting Ground, Enstone Airfield E11/0051 | Non-compliance with condition 4 of W2004/2237 | <p>Condition 4 of W2004/2237 states as follows:</p> <p>‘The use shall not take place on more than two days from Monday to Friday inclusive during any week nor on any Bank Holiday, Good Friday or Christmas Day’.</p> <p>A complaint was received in May 2011 alleging that this condition was being breached. Investigation in to the complaint confirmed the allegations.</p> | <p>In an attempt to regularise the matter a planning application for non-compliance with conditions 3 and 4 of W2004/2237 has been submitted to vary the days and hours of operation.</p> <p>In light of the nature of the use, in particular in terms of noise generation, there has been a need to carefully scrutinise and assess the application which at the time of writing still remains undetermined.</p> <p>Whilst progressing this matter has been somewhat protracted, a noise methodology has recently been agreed by acoustic engineers acting on behalf of the applicants, the agents and the complainants. Testing in association with the methodology is presently underway.</p> <p>Upon completion of the testing it is anticipated that application 12/0340/P/S73 is likely to be withdrawn and a further application submitted which will extend the application site area to include an area of land currently used under the GPDO for moto cross.</p> |

| Site Address and Ref No. | Breach | Notes | Update/action to be taken |
|---|--|--|---|
| Butlers Barn, Great Tew Estate E11/0133 | Unauthorised rebuild works to a barn in the open countryside | Investigations in to a complaint revealed that a stone barn in a poor state of repair in the open countryside was in the process of being significantly refurbished, including the provision of a new roof structure, rebuilt walls and additional openings. | In an attempt to regularise the breach of control a retrospective planning application has been submitted for the refurbishment works and the future use of the building as a holiday let and Estate shooting lodge. Application approved. Case closed |
| Briars Close Nursery, London Road, Moreton In Marsh E12/0227 | Unauthorised change of use of land from agricultural to residential by the siting of a caravan | This breach of planning control is taking place on a piece of land that straddles the border between West Oxfordshire District Council and Stratford on Avon District Council. In an attempt to regularise the breach of planning control planning applications were submitted to both Councils. Both applications were refused in July 2013. To date the applications have not been appealed. The time limit for appealing is six months from the date of the decision. | Given the unusual circumstances of this beach, any enforcement action will need to be taken by both Local Planning Authorities at the same time. At the time of writing, Stratford have advised your officers that they do not intend taking any action to remedy the breach until the time period for appealing the refusal of planning permission has expired. We are conducting the appeal case on behalf of both Councils. The Appeal commenced in April however it has been adjourned until 22 September 2014. |
| 5 Portland Place, Chipping Norton E12/0141 | Unauthorised fence | A retrospective planning application to retain the fence was refused and subsequently dismissed at appeal. | In the light of the dismissed appeal the contraveners made modifications to the fence that were acceptable. Case closed |
| Land adjacent to Meadow End, Fulbrook E12/0120 | Unauthorised gypsy/traveller site | Application 13/0911/P/FP for Change of use of land to Romani Gypsy caravan site, conversion of existing buildings to create utility block & dayroom with associated works. (Part retrospective) was refused in October 2013. The application has been appealed | Appeal Hearing is scheduled to take place 2 July 2014 |
| Leafield Technical Centre, Langley E12/0166 | Unauthorised construction works | Application 14/0266/P/FP for Installation of three machine extraction plant (Retrospective) has been withdrawn | The application was withdrawn because it contained insufficient information in respect of mitigating the noise. These mitigation methods are now being developed to address the concerns of the acoustic report and are to be submitted with a future application. |

| Site Address and Ref No. | Breach | Notes | Update/action to be taken |
|---|---|--|---|
| Cuckoo Wood Farm, Eynsham Road, Freeland E13/0059 | Unauthorised operation of coaches from the site. Unauthorised siting of 5 portacabins Unauthorised static caravan | Application I3/0794/P/FP (change of use from agricultural to coach park (Retrospective) was refused 8 January 2014 | The appeal has been dismissed. Enforcement action is to be considered at the end of the current school year. |

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

| Site Address and Case No | Unauthorised Development | Update/Action to be taken |
|--|--|--|
| 42A Ticknell Piece Road, Charlbury E12/0254 | Non-compliance with condition 7 of planning permission 09/1513/P/FP – car parking area | Whilst the minor breach remains it is still possible to park the requisite number of cars on site and as such it is not considered expedient to take any further action. |
| 34 Holliers Crescent, Middle Barton E13/0165 | Unauthorised pre-fabricated garage | NFA report was prepared & sent to Local Member on 29 January 2014 In the light of no response having been received officers request that the Sub-Committee consider whether no further action is acceptable. |
| Combe Church of England Primary School, Church Walk, Combe E10/0197 | Unauthorised wooden structure | Application 12/0182/P/FP for erection of a gazebo for a temporary period of 12 months (Retrospective) was granted on 13 March 2012. A further application 13/1074/P/FP was granted 18 September 2013 for the repositioning of the gazebo but this was not implemented. A further site visit was made in May 2014 which confirmed that the structure was still in situ but that it is well weathered and screened from public view by a new boundary hedge In light of the above your officers recommend no further action is taken as it is not considered expedient or necessary |

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