

**WEST OXFORDSHIRE DISTRICT COUNCIL**  
**UPLANDS AREA PLANNING SUB-COMMITTEE**  
**MONDAY 1 DECEMBER 2014**

**PROGRESS ON ENFORCEMENT CASES**

**REPORT OF THE HEAD OF PLANNING AND STRATEGIC HOUSING**

**(Contact: Phil Shaw, Tel: (01993) 861687)**

(The Sub-Committee 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) Takes no further action in respect of those items referred to in Section D

**3. BACKGROUND**

**SECTION A – PROGRESS ON PROSECUTION CASES**

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.

## UPLANDS

Site Address and Case No.	Notice No:	Compliance Date	Unauthorised Development	Notes	Update/Action to be taken
Unicorn Public House, Great Rollright E11/0049 E14/0047	<b>Section 215 Notice</b>	7 August 2011	Untidy state of listed building within the Conservation Area	<p>The pub has been closed for many years and the subject of ongoing complaint regarding its appearance/state of repair.</p> <p>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. 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, 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 broke down without any further material progress and as such Officers sought legal advice with a view to bringing an "options" report to a future meeting to seek to finally bring this matter to a conclusion. Before that report could be finalised further information to seek to quantify the extent of works required and potential financial exposure of the Council had to be obtained. The sub-committee therefore authorised the expenditure of up to £10K to undertake this work.</p>

<p>Unicorn Public House, Great Rollright (cont) E11/0049 E14/0047</p>					<p>Following publicity in the press regarding that resolution, officers were contacted by an agent acting on behalf of the owner advising that she had secured the agreement of the owner to progress matters and that the building would be made wind and weather proof whilst negotiations were undertaken. However a scheduled meeting was cancelled at the 11<sup>th</sup> hour and no on site progress was made such that Officers have re instigated the route of commissioning a structural engineers Report. A suitably qualified SE has been instructed and will be undertaking the work shortly.</p> <p>Separately two potential purchasers who wish to run the pub approached officers and their contact details were passed on to the owners. It is understood that the offers made- presumably reflecting the very run down condition of the building; do not reflect the owners aspirations. A further potential purchaser who does not wish to run the pub is also understood to be in the process of making an offer.</p> <p>This interest in the building is to be welcomed - but past events would suggest that the owner may not sell even if a fair and reasonable offer is made. It is therefore likely that the Council will need to continue its approach of more formal routes to securing the future of the building in parallel with any commercial offers by third parties that may or may not also be in progress</p>
<p>Pebbly Brook Farm, Chastleton E11/0064</p>	<p>EN554  EN555 EN556</p>	<p>22/6/13  28/3/13 28/3/13</p>	<p>Use of first floor of barn as a dwelling  Use of two mobile homes as residential accommodation.</p>	<p>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.</p>	<p>The contravener's Agent advised that the property had been sold to new occupants in July 2014. The new owners made an application for the change of use of the buildings to offices thereby extinguishing the unauthorised residential uses Permissions obtained for the units to be used as office accommodation, and staff rest rooms, in association with the business use of the property. All unauthorised residential use has ceased. Case to be transferred to the monitoring data base to ensure compliance</p> <p><b><u>Case to be closed. Breach ceased</u></b></p>

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
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 were advised that due to funding issues the date for implementation of the final phase of window replacements would 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 was an appropriate way to progress this breach of planning control.</p> <p>However a small part of this matter remains outstanding such that the requirement for formal enforcement action will need to be reviewed unless the matter is resolved shortly</p>

Site Address and Case Number	Unauthorised Development	Notes	Update/Action to be taken
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.</p> <p>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 was received 14/0628/P/S73 - Non compliance with condition 14 of planning permission 07/1085/P/FP to allow three converted barns &amp; one unconverted barn approved for holiday accommodation to be used for unrestricted residential accommodation.(Retrospective)</p> <p>A decision on this application was deferred in June 2014 as further supporting evidence in respect of marketing was being prepared and the application details were being revised to keep some of the holiday let use. These details have now been received and the application will be brought back before members to be determined shortly</p>

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

Site Address and Ref.	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. 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 been agreed by acoustic engineers acting on behalf of the applicants, the agents and the complainants. Testing in association with the methodology was undertaken. A further application now submitted which will extend the application site area to include an area of land currently used under the GPDO for motocross.</p> <p>It was anticipated that an application would be included on this agenda for consideration. However there are a number of issues yet to be resolved and further meetings are scheduled to discuss these matters. It is expected that a report will be presented to the January 2015 meeting.</p>
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	<p>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.</p> <p>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.</p>	<p>Given the unusual circumstances of this breach, any enforcement action will need to be taken by both Local Planning Authorities at the same time. Stratford advised your officers that they did not intend taking any action to remedy the breach until the period for appealing the refusal of planning permission had expired.</p> <p>WODC conducted the appeal case on behalf of both Councils. The Appeal commenced in April and was adjourned until 22 September 2014.</p> <p>This appeal has now been dismissed. The owner has failed to enter negotiations to comply with the refusal and cease using the land. Enforcement Notices are being prepared to ensure full compliance. These will be served as soon as possible.</p>

Site Address and Ref No.	Breach	Notes	Update/action to be taken
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 took place 2 July 2014.  Appeal allowed with conditions.  File to remain open to monitor implementation of conditions which should be completed by January 2015
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. New mitigation methods were developed to address the concerns of the acoustic report and submitted with a planning application.  This site has now closed and all works ceased. The impact of the breach has therefore ceased whilst the site is being administered through the receivers. An undertaking has been received that any future purchasers of the site would be made aware of the potential breach if the machinery is operated without the required mitigating works put in place. File to remain open to monitor future use of the site.
Cuckoo Wood Farm, Eynsham Road, Freeland E13/0059	Unauthorised operation of coaches from the site. Unauthorised siting of 5 portacabins Unauthorised static caravan	Application 13/0794/P/FP (change of use from agricultural to coach park (Retrospective) was refused 8 January 2014	The appeal has been dismissed.  Enforcement action was delayed to be considered at the end of the last school year.  Following the refusal and subsequent dismissed appeal, contact was made with the agent to secure compliance. The agent stated that he advised his client to operate in breach until Enforcement Notices were issued which would afford a compliance period.  Notices are at this time being drafted and will be served as soon as possible

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

**UPLANDS**

Site Address and Case No	Unauthorised Development	Update/Action to be taken
9 Chapmans Piece. Witney Street Burford 14/0082	Unauthorised change of use to garden	Unauthorised works to an existing small patio area, adjacent to the Windrush river, which sits outside the domestic curtilage of the garden. This is regarded as largely repair and maintenance of an existing structure by the owner. Whilst a very minor breach that would technically require consent, your officers consider it is not expedient to take formal enforcement action.
Cobblers Cottage, Sarsden, Chipping Norton 12/0119	Unauthorised side gate and driveway gates	Following initial investigation, retrospective applications were received to regularise the unauthorised gates. Permission was obtained for the driveway gates but refused for the pedestrian access. Action was considered for noncompliance with the refusal for the pedestrian gate. Following the passage of time and the growth of the beach hedging to the front of the property the reason for refusal diminished and your officers consider it is not now expedient to take formal action as the gates in their present form would have received permission on the original application.
I The Green Great Rollright 14/0051	Unauthorised brick built lean-to to Fuel Store	A very small 1.5m x 1.5m lean-to log store has been constructed to the rear of this listed building. Investigations show it is very small and has no impact on neighbouring properties. It is temporary in its construction with a felt roof. Whilst this is a technical breach in that it is a structure within the curtilage of a listed building it is considered very minor and not expedient to take formal enforcement 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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Date: 18 November 2014

Background Papers:  
None