

WEST OXFORDSHIRE DISTRICT COUNCIL
UPLANDS AREA PLANNING SUB-COMMITTEE
MONDAY 4 JULY 2016

PROGRESS ON ENFORCEMENT CASES
REPORT OF THE HEAD OF PLANNING AND STRATEGIC HOUSING

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

(The report is for information)

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 - At present there 60 live re-active enforcement investigations on sites within Uplands and this section contains cases which are considered to be of high priority or where there is considerable public interest 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

Section A – Progress on Prosecution Cases

- 3.1. 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
<p>Unicorn Public House, Great Rollright</p> <p>E14/0047</p>	<p>Section 54 Notice</p>	<p>The pub has been closed for many years and the subject of on-going complaint regarding its appearance/state of repair.</p>	<p>A Section 54 Notice was served on 8/12/2015 requiring a schedule of urgent works to be carried out on the building. The Notice states that unless by the 16 December 2015 the Council are satisfied that the works are being carried out that the Council may itself enter the land on which the building stands and carry them out. If the Council carry out the works, any interests in the site will be sent a further notice indicating the expenses incurred by the Council and requiring the owner to reimburse it.</p> <p>The owner did not carry out the schedule of works and so the Council undertook those works in default. The works involved building a scaffolding tower within the building to carry the weight of the roof structure, removal of tiles to reduce the weight on the roof and provision of a temporary roof covering to seek to limit the further ingress of water. These works have essentially stabilised the building in the short term but clearly will not offer a long term solution to safeguarding the building. Building Control Officers have been using separate powers to seek to ensure that the building is made safe from entry by minors/vagrants etc. and the public are kept safe.</p> <p>The current position is:</p> <p>Negotiations have failed in seeking to resolve matters Refused applications and dismissed appeals have not acted to deter the owner from his 'deliberate neglect' Enforcement action has not resolved matters. The owner does not appear to be motivated by normal market forces in terms of repairing and keeping his asset in good order.</p>

			<p>There is on-going public, Member and Parish Council interest in pressing WODC to resolve matters. The building is temporarily stabilised but this is not a long term solution.</p> <p>Most critically the position of the building in relation to the road and footpath means that there are public safety issues regarding entry, collapse or falling masonry and the building itself is in a parlous condition that detracts from its listed status and the character and appearance of the Conservation Area.</p> <p>In light of the above and in respect of the recommended next steps in the interests of the listed building, a report is being prepared at the time of writing for Full Council to consider the remaining options for tackling this matter.</p>
<p>Orchard Cottage, Churchill 14/00217/PENF</p> <p>EN358</p> <p>EN359</p>	<p>Alleged non-compliance with Enforcement Notices issued in 1997.</p> <p>These notices required cessation of the residential use of the caravan on the land and its removal within 3 years of the notices taking effect that being 15 February 1997</p> <p>In 2009 following cessation of the use of the caravan for residential purposes Members resolved not to pursue the removal of the caravan and ancillary structures from the site</p>	<p>This matter is presently under investigation and has been the subject of a number of site visits in order to assess whether or not the enforcement notice which requires cessation of the residential use of the caravan and removal of the caravan from the land is being breached.</p> <p>Given that the site visits are undertaken on week days officers have as yet been unable to determine whether or not there is a 'material' breach of planning control. However, whilst not evidenced by Officers on site, the owner has been in touch with your officers and confirmed that she is living on the land in breach of the Enforcement Notice.</p>	<p>A Planning Contravention Notice has been served which requires the owner /occupier of the site to provide definitive information about the use and ownership interests of the land and caravan.</p> <p>In light of the amount of time that has expired since the service of the enforcement notices and the resolution not to pursue the requirements of one of the notices, your Officers are taking legal advice in respect of any prosecution action based on the existing extant notices.</p> <p>Given the legal complexity of the matter and that there is a human rights element that will need to be considered if it is deemed expedient to pursue prosecution for non-compliance with the notices, a separate enforcement report is to be prepared for August Sub Committee.</p>

Section B – Progress on Enforcement Investigations where Formal Action has been taken

3.2. 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
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. The refusals were subsequently dismissed at appeal.</p>	<p>Given the unusual circumstances of this breach, any enforcement action needs to be taken by both Local Planning Authorities at the same time.</p> <p>Following the dismissed Section 78 appeal at the meeting of 14 December 2014 Members noted officer's next steps to prepare an enforcement notice in respect of the breach.</p> <p>An enforcement notice was issued and served on 8 June 2015. This notice was the subject of an appeal which will be by way of a Public Inquiry to be held on 4 May 2016.</p> <p>The appeal has just been received at the time of writing and not yet fully analysed.</p> <p>A verbal update will therefore be given at the meeting.</p>

Section C – Progress on Other Enforcement Investigations Identified as Being High Priority

3.3. The table on the next page provides an update in respect of other enforcement investigations that have been identified as high priority.

Site Address and Ref No.	Unauthorised Development	Notes	Update/action to be taken
Leaffield Technical Centre, Langley E12/0166	Unauthorised construction works	14/0897/P/FP- Planning permission granted for the external plant with conditions relating to noise emissions, hours of operation and the construction of acoustic barriers	This site has now closed and all works ceased in association with the former use. The complaints in respect of both hours of operation and noise of have therefore ceased as the building is vacant. An undertaking was received by the administrators of the site that any future purchasers would be made aware of the potential breach if the machinery is operated without the required mitigating works approved under 14/0897/P/FP having been put in place. At the time of writing your Officers understand that the site has new owners and there are allegations about existing and potential future uses. The site is therefore being monitored.
1 and 2 Bagnall Rise, Clevely E13/0079	Unauthorised use of gardens for the repair and storage of motor vehicles	This breach of planning control has been the subject of various agreements to reduce the amount of storage to an acceptable level. Whilst the storage has been reduced at times it quickly escalates again to an unacceptable level. This complaint has been the subject of investigation from Highways, Environmental Services, the Police and the Planning Service.	Environmental Services has now taken the lead on seeking to get the site cleared as the vehicle storage is on the highway and private land not owned by the contravener. There are still breaches of planning control due to the level of unauthorised storage within the curtilage of the property. A full joint site visit is being organised between all Services to identify the best approach for a resolution to all matters.
Land at former Churchill House, Chipping Norton	A part retrospective application for a number of affordable units was submitted in an attempt to regularise the development that has taken place on site which was at variance with the scheme approved under 12/0559.	Planning permission for the variances was approved having been considered by the Sub Committee.	The development is now near completion and accords with the amended grant of planning permission.

Site Address and Ref No.	Unauthorised Development	Notes	Update/action to be taken
The Heyes, Churchill E13/0163	Unauthorised residential use of caravan parked in wooden barn	<p>During investigation into this site various breaches in planning control were identified as follows: Change of use of the land; Unauthorised residential use; Unauthorised building.</p> <p>Without the need for formal enforcement action the residential use has ceased and the caravan removed from the land. The land is being cleared of unauthorised storage,</p>	<p>Further work is being undertaken to establish what may be an acceptable use for the land prior to the submission of any planning application.</p> <p>Further site visits will be carried out once the land has been fully cleared and returned to agricultural use to advise the contravener on the merits a wood storage and processing business and associated structures that he would like to continue to operate from the site.</p>
21 Horsefair, Chipping Norton E15/00040	<p>Alleged planning breaches presently under investigation include: Unauthorised signage; Unauthorised extraction system; Unauthorised hours of operation; Unauthorised use of the first floor for residential purposes.</p>	<p>13/0705/P/FP- Planning permission granted for a change of use to a hot food take away.</p> <p>15/02296/ADV- Advertisement consent for fascia and hanging signs refused.</p>	<p>At the time of writing progress has been made on a number of the alleged breaches, in particular alternative signs for the premises which it is anticipated will be the subject of an application for advertisement consent within the next 28days.</p> <p>Officers have investigated the alleged breaches in respect of the extraction system and whilst the external works are at variance with the permission granted under 13/0705/P/FP(chimney and grill in alternative locations), Environmental Health has been to look at the extraction system that has been installed and advised your Officers that it is acceptable. However, Officers are still receiving complaints about odour from the system and have therefore a joint visit with Environmental Protection has been arranged in order to re assess the matter.</p> <p>The issue of the breach in the hours of operation is still under investigation.</p> <p>The use of the first floor for residential occupation by staff is also still under consideration as it is not clear, if the planning unit remains as one unit, with the first floor accommodating staff employed on the premises whether or not planning permission is needed.</p>
1 Southcombe Cottages, Oxford Road, Southcombe E15/00092	Unauthorised use of a flat roofed extension as a balcony.	Retrospective planning permission 16/00276/S73 refused.	An appeal has been received in respect of the refusal of planning permission. The expediency of taking enforcement action to remedy the breach will be held in abeyance until the outcome of the appeal is known.

Site Address and Ref No.	Unauthorised Development	Notes	Update/action to be taken
New Manor Farmhouse, High Street, Great Rollright E15/00323	Unauthorised gateway onto the highway. Unauthorised earth movement to create earth bunds for wildlife preservation	Breach has been established. The entrance onto the highway and earthworks requires permission.	Contravener has agreed to attempt to regularise the breach by the submission of a retrospective planning application which will be considered on its merits in due course. At the time of writing an application being prepared.
Hoggs Barn, Little Compton E15/00433	Unauthorised wooden wash block to serve camping facility.	The contravener has sought officer advice in respect of retention of the building to serve a seasonal touring caravan use on the land. Officers have advised the contravener that his pre -application proposals are not considered acceptable because of the impact on the sensitive landscape character of the site.	In the absence of a planning application in an attempt to regularise the building and given your Officers opinion on its planning merits, if the building is not voluntarily removed from the land expeditiously then it is anticipated that formal enforcement action will be pursued in order to remedy the breach.
Soho Farmhouse, Great Tew 16/00032	Various minor breaches of planning control	During the implementation of a number of planning permissions at Soho House it has come to light that there have been some minor variations with the schemes as built out. The types of breaches that have been regularised to date include : Minor alterations to a roof profile; A small wooden enclosure for plant; Addition of a dormer window; Siting of a booking office within an existing building; Variation to approved landscaping scheme.	The agent acting for Soho house has sought to regularise the Minor breaches through the submission of a number of retrospective planning applications.
The Dragon Inn, Burford 16/00047	Unauthorised works to curtilage listed outbuilding	Following the grant of planning permission and listed building consent for the conversion of the 'The Dragon Inn' to four holiday lets, the site owners have commenced works for the alteration of a curtilage listed outbuilding at the rear of the site without obtaining either planning permission or listed building consent.	Retrospective applications have been submitted for alterations of the outbuilding and a change of use to a holiday let which are to be considered by the Sub Committee on the July Agenda.

Site Address and Ref No.	Unauthorised Development	Notes	Update/action to be taken
10 Sandford Park, Charlbury E16/00061	Alleged unauthorised residential use of outbuilding	<p>Planning permission was granted under 15/01749/HHD for an outbuilding described as a garage with a studio and store at first floor level.</p> <p>What has been constructed on site is at variance with the approved drawings and has the potential to be occupied as a separate residential unit although this is clearly not the intention of the owner.</p>	<p>In an attempt to regularise the matter it is anticipated that a retrospective planning application will be submitted for the physical changes and ancillary occupation.</p>
Chipping Norton Baptist Church, Chipping Norton E16/00070	<p>There are a number of alleged breaches presently under investigation in respect of the implementation of planning permissions 14/0694/P/FP (Renovations and alterations to Baptist Church to retain the Church use at ground floor in the main building together with new mezzanine level. Alterations and conversion of the remainder to create eight two bedroom apartments) and 16/00419/S73 (Non-compliance with condition 15 of 14/0694/P/FP to allow alterations to the approved fenestration).</p>	<p>At the point of application submission and validation your Officers were advised that the proposed works to the listed building benefitted from ecclesiastical exemption and as such only planning permission was required for the development proposals.</p> <p>A recent site visit by Officers has confirmed the following:</p> <p>A number of obscure glazed windows have been replaced with clear glazed metal framed units which were not approved under either of the planning permissions granted. These are considered to be materially different to the windows that they replace and thus require planning permission;</p> <p>The fenestration detailing is not in accordance with the approved drawing (door in a different position and different design);</p> <p>Obscure glazing condition has not been complied with at the time of writing;</p> <p>Alleged unauthorised satellite dish and aerial installation.</p>	<p>At the time of writing the issue of whether or not the works that have been undertaken benefit from ecclesiastical exemption is still under consideration by your Officers.</p> <p>Whether or not the exemption from the requirement to apply to the LPA for listed building consent for the works is valid, the works that are noted as breaches are the subject of a requirement for Planning Permission.</p> <p>At the time of writing your Officers are in discussions with the owner's agent in respect of the breaches and what steps will be required to seek to address them.</p>

4. ALTERNATIVES/OPTIONS

None applicable. The report is provided for information only.

5. FINANCIAL IMPLICATIONS

None

6. RISKS

None.

7. REASONS

To provide the sub-committee with a regular update on planning enforcement matters.

Giles Hughes

Head of Planning and Strategic Housing

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

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Background Papers:

None