

WEST OXFORDSHIRE DISTRICT COUNCIL

UPLANDS AREA PLANNING SUB-COMMITTEE

MONDAY 5 DECEMBER 2016

PROGRESS ON ENFORCEMENT CASES

REPORT OF THE HEAD OF PLANNING AND SUSTAINABLE COMMUNITIES

(Contact: Kim Smith 01993 861676)

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 At present there are contains cases which are high priority 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

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
Unicorn Public House, Great Rollright	Listed Building allowed to fall into disrepair	The pub has been closed for many years and the subject of on-going complaint regarding its	Members will be aware of the long planning history on this site.This culminated in a report to Full Council on 29 June 2016 where Members

E14/0047		appearance/state of repair.	resolved inter alia that subject to obtaining a further valuation report and the appropriate Strategic Director in consultation with the relevant Cabinet Members being satisfied as to the level of financial risk to the Council, that Officers be authorised to serve a Repairs Notice on the owner and if the requirements of the notice have not been complied with, to commence the process of compulsory purchase of the Unicorn. The notice remains not complied with and consultants have been instructed to aid Officers with the relevant business/financial risks.
Orchard Cottage, Churchill 14/00217/PENF	Alleged non-compliance with Enforcement Notice issued in 1997.	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 is being breached.	As part of the 'Progress on Enforcement Cases' update in July 2016 Members were advised that it was anticipated that a separate report in respect of this case would be prepared for the August Sub Committee. Following discussions with the Councils lawyer in respect of the human rights element of this particular case, the owner has been notified by letter that the Council does not intend to let this matter persist indefinitely with a deadline of the 4 December for a formal response. Dependent on the outcome/nature of the response a separate report may need to be put before Members early in the New Year.

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
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 took 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	An enforcement notice was issued and served on 8 June 2015. This notice was the subject of an appeal by way of a Public Inquiry which was held on May 2016. The appeal decision letter was issued on the 16 th June 2016. The Enforcement Notice was corrected

		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.	and varied by the Inspector but upheld. The notice requires the cessation of non- agricultural storage uses on the land, the removal of two buildings and cessation of the residential use together with removal of the caravan by 16 February 2017
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SECTION C – PROGRESS ON OTHER ENFORCEMENT INVESTIGATIONS IDENTIFIED AS BEING HIGH PRIORITY.

Site Address and Ref No.	Unauthorised Development	Notes	Update/action to be taken
Leaffield Technical Centre, Langley E12/0166	Unauthorised construction works	I4/0897/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 I4/0897/P/FP having been put in place. At the time of writing your Officers are continuing to monitor the site.
Land 2 Bagnall Rise, Clevely E13/0079	Alleged unauthorised use of gardens for the repair and storage of motor vehicles	This alleged 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.	This matter has been investigated by various Services of the Council and other agencies over time. Given the amount of time that the storage use on private land has been taking place it could be that it is lawful and thus not a matter for planning enforcement. The lawfulness or otherwise in Planning law of the storage use will be progressed by Officers over the next few months.
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	Planning permission for the variances was approved having been considered by the Sub Committee.	The development as constructed accords with the amended planning permission and thus the breach on site has ceased. CLOSED

	approved under 12/0559.		
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>A recent site visit has been carried out and confirmed that the land has been cleared of the storage of builders materials and residential uses and is solely being used for the storage and processing of logs.</p> <p>It would appear from discussions with the land owner that part of the land may have a lawful use for the storage and processing of wood. In light of this it is anticipated that a CLEUD application will be submitted in due course which will establish the lawful position in respect of the use of the land.</p>
21 Horsefair, Chipping Norton E15/00040/PENF	<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>	Advertisement consent has recently been given for alternative signage	<p>At the time of writing progress has been made on a number of the alleged breaches, in particular alternative signs for the premises.</p> <p>Since the last update report in July 2016, both your Officers and Environmental Health have visited the complainant's properties on a number of occasions in order to assess alleged odour nuisance from the extraction system. This resulted in a warning letter from Environmental Health to the operator of the take away.</p> <p>As a result the operator has arranged for the extraction system to be overhauled/upgraded by an engineer and to accord with the specification approved under the grant of planning permission for the change of use of the premises to a take away. Since the system has been overhauled Officers have received no further complaints about odour nuisance.</p> <p>The issue of the alleged breach in the hours of operation has been brought to the operator's attention and he has advised that he is operating under the terms of the planning permission. Officers have received no recent complaints alleging that the hours are being breached.</p> <p>The use of the first floor for</p>

			residential occupation by staff is still under consideration.
E15/00090/PENF 45 High Street, Ascott under Wychwood	Unauthorised pergola and first floor balcony	<p>Planning permission for the retrospective works under ref 16/03058/HHD was recently refused for the following reasons:</p> <p>The proposed rear balcony, due to its position and relationship with the neighbouring properties, creates an unacceptable level of overlooking and loss of privacy to the neighbouring property at no. 43 High Street. As such, the proposal is considered to be contrary to policies BE2 and H2 of the adopted West Oxfordshire Local Plan 2011, OS2 and H6 of the emerging West Oxfordshire Local Plan 2031 and relevant paragraphs of the NPPF.</p> <p>2 The combined pergola and balcony, due to their design and form obscures and detracts from the simple linear form of the former vernacular agricultural barn to the detriment of the property and the wider Cotswolds Area of Outstanding Natural Beauty. As such, the proposal is considered to be contrary to Policies BE2 and NE4 of the adopted West Oxfordshire Local Plan 2011, OS2, OS4 and EH1 of the emerging West Oxfordshire Local Plan 2031 and relevant paragraphs of the NPPF.</p>	In light of the refusal of planning permission and in the absence of an appeal your officers anticipate that that if the unauthorised development is not removed voluntarily that it will be expedient to issue a Planning Enforcement Notice in respect of the breach.
15/00092/PENF Southcombe Cottages, Chipping Norton	Unauthorised use of flat roofed area as a balcony, non - compliance with condition 5 of W99/0915	Planning permission was refused and subsequently dismissed at appeal on the grounds that the development adversely overlooked the	In light of the refusal of planning permission and dismissed appeal your officers anticipate that that if the unauthorised development is not removed voluntarily in an expeditious manner, that it will be

		neighbouring dwellings.	expedient to issue a Planning Enforcement Notice in respect of the breach.
15/00299/PENF The Beeches, Old London Road, Chipping Norton	Unauthorised two storey building	Following investigation it has come to light that on one of the plots on The Beeches a two storey building has been constructed, the proposed use of which has not yet been established.	Your officers intend visiting the site with colleagues from licencing in order to establish whether or not the building is covered under any site licence granted under the Caravan Sites and Control of Development Act.
E15/00323/PENF New Manor Farmhouse, High Street, Great Rollright	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. A number of applications in an attempt to seek to regularise the breach have been submitted but returned for validation reasons. At the time of writing Officers understand that a further application is being prepared.
E15/00433 Land adjacent to Hoggs Barn, New Town, Little Compton.	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.	Notwithstanding Officers views on the planning merits of a camping facility on the site, the contravener has engaged an agent to submit a part retrospective planning application in an attempt to regularise the matter.
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 were submitted and approved by the Sub Committee on the July Agenda. CLOSED
10 Sandford Park, Charlbury E16/00061	Alleged unauthorised residential use of outbuilding	Planning permission was granted under 15/01749/HHD for an outbuilding described as a garage with a studio and store at first floor level. What has been constructed on site is at variance with	Retrospective planning permission has been granted in the interim period by the Sub Committee. CLOSED

		the approved drawings and has the potential to be occupied as a separate residential unit although this in clearly not the intention of the owner.	
Chipping Norton Baptist Church, Chipping Norton E16/00070/PENF	There were a number of alleged breaches 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).	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. A site visit by Officers confirmed the following: A number of obscure glazed windows had been replaced with clear glazed metal framed units which were not approved under either of the planning permissions granted. These were considered to be materially different to the windows that they replaced and thus required planning permission; The fenestration detailing were not in accordance with the approved drawing(door in a different position and different design); Alleged unauthorised satellite dish and aerial installation.	Retrospective permissions have been granted for all of the breaches. CLOSED
16/00074/PENF 26 High Street, Ascott under Wychwood	Unauthorised change of use of land from agricultural to garden.	Planning application 16/03240/FUL was submitted in an attempt to regularise the breach. It was refused on the grounds that the extension of the garden curtilage adversely intrudes into and urbanises the open countryside thus failing to conserve and enhance the Cotswolds AONB.	In light of the refusal of planning permission and in the absence of an appeal your officers anticipate that that if the unauthorised change of use is not resolved voluntarily that it will be expedient to issue a Planning Enforcement Notice in respect of the breach.
16/00084/PENF The Bull Inn, Sheep Street, Charlbury	Unauthorised flue	Planning and Listed Building consent applications for the unauthorised extraction flue were submitted under refs 16/01140/FUL and	At the time of writing the agent acting for the contravener has submitted various alternative schemes for a modified extraction flue arrangement for consideration

		16/01141/LBC and were subsequently withdrawn.	<p>by your officers. None of the alternative proposals that have been put forward are acceptable alternatives in your officer's opinion.</p> <p>In light of the above and the fact that the existing system that is in situ is considered to adversely impact on both the architectural character and appearance of the listed building and the Conservation Area, if the flue remains in situ your Officers consider that it will be expedient to take formal Planning enforcement action to seek to remedy the breach.</p>
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ALTERNATIVES/OPTIONS

There are no alternatives for the report which is provided for information only.

4. FINANCIAL IMPLICATIONS

There are no financial implications.

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Background Papers:

None