

WEST OXFORDSHIRE DISTRICT COUNCIL

UPLANDS AREA PLANNING SUB-COMMITTEE

MONDAY 3 JULY 2017

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

(a) That, the Sub-Committee notes the progress and nature of the outstanding enforcement investigations detailed in Sections A – C

3. BACKGROUND

The cases listed on this update constitute only a small number of the overall enforcement caseload which at the time of writing consists of 179 live cases.

Progress on some of the less urgent active cases has been somewhat protracted since the last enforcement update report because staffing levels in the team have been below complement since October 2016. It is anticipated that the team will have a full complement of staff by the end of June this year.

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
<p>Unicorn Public House, Great Rollright E14/0047</p>	<p>Listed Building allowed to fall into a state of disrepair</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>The latest formal action taken by the Council was the service of a Section 54 Notice which was served on 8/12/2015 requiring a schedule of urgent works to be carried out on the building. The requirements of the notice to stabilise the building and keep it watertight were carried out by the Council as the owner failed to respond to the notice. The financial cost to the Council of carrying out the works is presently being pursued by the Council's legal team.</p> <p>Members will be aware of the long planning history on this site which culminated in a report to Full Council on 29 June 2016 where Members 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.</p> <p>Since last reporting the matter to Members, Officers have been working to progress the resolution and it anticipated that a Listed Building Repairs Notice will be issued imminently.</p>
<p>Orchard Cottage, Churchill 14/00217/PENF</p>	<p>Alleged non-compliance with Enforcement Notice issued in 1997.</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 is being breached.</p>	<p>Following the return of a Planning Contravention Notice Officers can confirm that the Enforcement Notice is being breached. In respect of the breach Officers have taken 'in house' legal advice about the options available as regards securing the cessation of the breach.</p> <p>At the time of writing a full and detailed update report and Officer recommendation in respect of the breach has been prepared in draft and it was anticipated that it would form part of the July agenda. However, given that the breach of the Enforcement Notice is an offence and that there are human rights issues to consider, your Officers have concluded that the draft report needs to be overseen by the Council's lawyer</p>

			before being presented to Members .The report will therefore appear as an Agenda item on the Uplands Area Planning Sub Committee Agenda on the 8 August 2017.
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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	<p>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.</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>An enforcement notice was issued and served on 8 June 2015.This notice was appealed and was subsequently varied by the Inspector but upheld.</p> <p>The notice required 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.</p> <p>A recent site visit by Officers has confirmed compliance.</p> <p>CASE CLOSED</p>

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
10/0272 33-35 Sheep Street, Burford	Unauthorised Upvc windows in a listed building	33-35 Sheep Street is a listed building and as such the plastic replacement windows that were inserted some years ago required listed building consent. No consent was given for the installation and such unauthorised works are an offence which could be the subject enforcement action if it were considered expedient to do so.	<p>Upon reviewing the case it has come to light that a site visit to confirm that all of the windows have been replaced in accordance with the listed building consent for replacement wooden windows has not been carried out to date.</p> <p>In light of the above Officers will arrange to visit the site in order to establish whether or not the breach is ongoing.</p>

		Listed Building consent was subsequently granted for replacement wooden windows a number of which have been replaced to date.	
Leaffield Technical Centre, Langley E12/0166	Untidy land, Unsecured site		<p>Any active use of this site for commercial purposes has ceased and the land and buildings are vacant.</p> <p>Officers have been actively monitoring the state of the buildings and the land in the interests of safety and tidiness.</p> <p>Following the most recent visit Officers have arranged to visit the site with a Community Protection Officer in order to assess the site in a holistic manner and not to only consider the planning issues.</p>
1 and 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 on the land to an acceptable level and it has been the subject of investigation by multiple agencies.	<p>Given the amount of time that the storage use on private land has been taking place it could be that it is lawful and not a matter for planning enforcement.</p> <p>Given the ebb and flow of the storage use both within the garden and on the highway and the potential for it to be both unsightly and nuisance some, a further site visit is to be carried out in order to determine if the alleged breach is actionable.</p>
E13/0163	Unauthorised Storage and processing of logs The Heyes, Churchill		<p>As reported to Members in the last update report the landowner is claiming that the use under investigation has been going on for in excess of 10 years and is therefore lawful. Officers have advised that in order to evidence this claim a CLEUD application needs to be submitted for consideration. No such application has been received to date.</p> <p>In order to progress the matter Officers recently visited the land but were unable to gain access as the gates were locked. In addition the site now has a name plate and a letter box at the main access point.</p> <p>The letter box and naming of the property have alerted your Officers to the fact that the site is potentially being used as an operational base for a business and/or possibly for</p>

			<p>residential purposes without the benefit of planning permission.</p> <p>A site visit is to be arranged with the owner in order to clarify matters.</p>
<p>21A Horsefair, Chipping Norton E15/00040/PENF</p>	<p>Various breaches including: Unauthorised signage; Unauthorised extraction system; Unauthorised hours of operation; Unauthorised residential use of the first floor.</p>	<p>Advertisement consent recently granted for alternative signs which has been implemented.</p> <p>Extraction system has recently been upgraded and overhauled since which we have received no further complaints.</p> <p>Hours of operation- No recent complaints received. The owner has advised that he is working within the consented hours.</p> <p>No further complaints have been received in the last 6 months in respect of the use of the first floor as residential occupation by staff.</p>	<p>This site has historically been the subject of on- going complaints in respect of the alleged unauthorised developments listed.</p> <p>In the last 6 months Officers have not received any complaints.</p> <p>In light of the above your Officers will visit the site prior to sign off and closure.</p>
<p>45 High Street, Ascott under Wychwood E15/00090/PENF</p>	<p>Unauthorised pergola and first floor balcony</p>	<p>Planning permission for the retrospective works under ref 16/03058/HHD was recently refused and dismissed at appeal Whilst the Inspector concluded that the balcony was un neighbourly he concluded that the pergola was acceptable.</p> <p>In light of the above the agent acting for the contravener is going to submit a part retrospective planning application for retention of the pergola only.</p>	<p>At the time of writing Officers are awaiting an amended application for a pergola only.</p>
<p>15/00092/PENF Southcombe Cottages, Chipping Norton</p>	<p>Unauthorised use of flat roofed area as a balcony, non - compliance with condition 5 of W99/0915</p>	<p>Planning permission was refused and subsequently dismissed at appeal on the grounds that the development adversely overlooked the neighbouring dwellings.</p>	<p>Unauthorised balcony has been removed. Breach ceased.</p> <p>CASE CLOSED</p>
<p>15/00299/PENF The Beeches, Old London Road, Chipping Norton</p>	<p>Unauthorised two storey building and additional caravans.</p>	<p>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. In addition</p>	<p>As there are likely to be a number of issues relating to the alleged breaches of planning control on the land that are not planning matters, Officers are seeking to liaise with other relevant Services within the Council and possibly other agencies</p>

		Officers have noted that a number of plots on the periphery of the site have additional caravans on them.	in order to discuss the best way to approach the investigation.
15/00323/PENF New Manor Farmhouse, Great Rollright	Unauthorised gateway onto the highway. Unauthorised earth movements to create earth bunds for wildlife preservation.	The entrance onto the highway and the earthworks that have taken place need planning permission.	Since the last update report no retrospective application to seek to regularise the breach has been submitted. Officers consider that the earth bunds do not result in unacceptable levels of harm. It is not considered expedient to enforce removal. In respect of the access your Officers intend consulting OCC Highways for a view on the planning merits. If OCC raise no objections it is anticipated that that a 'No Further Action' report will be prepared in respect of the case.
15/00433 Land adjacent to Hoggs Barn, New Town, Little Compton	Unauthorised wooden wash block	Officers have advised that the development is not considered acceptable because of the impact on the sensitive landscape character of the site.	Since the last update report the wooden wash block has been removed from the land. Breach ceased. CASE 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. It has been difficult to date to confirm whether or not the contravener has ceased using the land as garden because of the ability to move goal posts, trampolines etc very easily on to and off of the land. In addition we are getting periodic complaints that the land is still being used as garden. In light of the above, Officers intend programming a series of ad hoc visits to the site in order to determine whether or not there is a 'material' breach of planning control.
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	In light of the recent refusals 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

		<p>16/01141/LBC and were subsequently withdrawn.</p> <p>Recently applications have been refused for the same extraction flue at a different location on the building.</p>	<p>listed building and the Conservation Area, your Officers consider that it is now expedient to take formal Planning enforcement action to seek to remedy the breach.</p> <p>An enforcement report in respect of this matter is to be prepared for consideration by Members at the meeting of 8 August 2017.</p>
<p>16/00145/PENF</p> <p>Fardon House, Frog Lane, Milton under Wychwood</p>	<p>Unauthorised outbuilding</p>	<p>17/01304/HHD- Planning permission refused for the outbuilding</p>	<p>In light of the refusal for the retrospective building consideration needs to be given to the expediency of taking formal enforcement action to secure its removal. It is anticipated that a report will be prepared for consideration by Members at the meeting of 8 August 2017.</p>
<p>16/00186/PENF</p> <p>62 Over Norton Road, Chipping Norton</p>	<p>Unauthorised fence- Fence is greater than a metre high adjacent to the highway and part of it encroaches on highway land.</p>	<p>17/01651/FUL- Planning application submitted for a reduction in height of the fence and a re-alignment to avoid encroachment in the highway.</p>	<p>At the time of writing this report the merits of the application are still under consideration.</p>
<p>17/00002/PENF</p> <p>71 Main Road, Long Hanborough</p>	<p>Unauthorised decked area and wall</p>	<p>Officers received a complaint regarding a decked area and wall at 71 Main Road, Long Hanborough .Following investigation it came to light that the development was a breach of planning control.</p> <p>A retrospective planning application under ref 17/01660/HHD has been submitted in an attempt to regularise the breach.</p>	<p>At the time of writing this report the merits of the application are still under consideration.</p>
<p>17/00007</p> <p>33 Taynton</p>	<p>Extension to listed building not built in accordance with the approved drawings.</p>	<p>The development as constructed is considered by Officers to be harmful to the architectural character and appearance of the listed building.</p> <p>The owner has been contacted by letter, email and a PCN has been issued. None of the correspondence has been responded to.</p>	<p>In light of your officers opinion regarding the planning merits of the breach consideration needs to be given to the expediency of taking formal enforcement action to secure removal of those elements of the extension that are considered harmful. It is anticipated that a report will be prepared for consideration by Members at the meeting of August 8 2017.</p>
<p>17/00025/PENF</p> <p>I Swan Cottage, Asthall Leigh</p>	<p>Unauthorised outbuilding being used as a residential annexe</p>	<p>In December 2016 the contravener was granted a lawful development certificate for the siting of a mobile home in the garden to be used for ancillary residential use.</p> <p>Officers received a complaint</p>	<p>At the time of writing the retrospective planning application is still under consideration.</p>

		<p>in February 2017 alleging that a building was being constructed on the land.</p> <p>Following investigation Officers concluded that the works that were being undertaken on the land constituted a building operation the siting and dimensions of which constituted a breach of planning control.</p> <p>Planning application ref 17/01277/HHD has been submitted in an attempt to regularise the development.</p>	
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4. ALTERNATIVES/OPTIONS

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

5. FINANCIAL IMPLICATIONS

There are no financial implications.

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Background Papers:

None