

WEST OXFORDSHIRE DISTRICT COUNCIL

UPLANDS AREA PLANNING SUB-COMMITTEE

MONDAY 5 FEBRUARY 2018

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

3.1 The cases listed on this update constitute only a small number of the overall enforcement caseload which at the time of writing consists of 205 live cases.

3.2 Members will recall from the last update report that staffing levels in the team were below complement. However, the team is now fully staffed and Officers are working systematically through the backlog of cases in priority order.

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 E14/0047	Listed Building allowed to fall into a state of disrepair	The pub has been closed for many years and the subject of on-going complaint regarding its appearance/state of repair.	<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, a Listed Building Repairs Notice has been issued which the owners are starting to comply with and the Council's costs are starting to be recovered as a charging order has been secured against the property.</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
16/00054/PENF The Bull Inn, Sheep Street, Charlbury	Unauthorised flue and extraction system.	<p>Planning and Listed Building consent applications for the unauthorised extraction flue were submitted under references 16/01140/FUL and 16/01141/LBC and were subsequently withdrawn.</p> <p>Applications were refused for the</p>	<p>On 7th August 2017 Members of the Uplands Planning Sub-Committee 07/08/2017 resolved that Officers be authorised to issue an enforcement notice to secure removal of the extraction unit with flue within 3 months of the notice coming into effect.</p>

		<p>same extraction flue at a different location on the building (Ref nos. 17/00790/FUL and 17/00791/LBC).</p> <p>In light of the refused applications 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, your Officers prepared an enforcement report with a recommendation to take formal enforcement action.</p>	<p>On 22nd September 2017 Enforcement Notices were served which would take effect on 30th October 2017.</p> <p>On 30th October 2017 an appeal was lodged against the notice.</p> <p>The Planning Inspectorate is yet to advise the Council of a start date of the appeal.</p> <p>Await the outcome of the appeal before taking any further action.</p>
<p>17/00007/PENF 33 Taynton</p>	<p>Extension to listed building not built in accordance with the approved drawings.</p>	<p>In light of the fact that the unauthorised extension is considered to be harmful to the architectural character and appearance of the listed building your Officers prepared an enforcement report with a recommendation to take formal enforcement action.</p> <p>On 7th August 2017 Members of the Uplands Planning Sub-Committee 07/08/2017 resolved that Officers be authorised to issue an enforcement notice to secure remedial works to ensure that the development is built in accordance with the approved drawings within 6 months of the notice coming into effect. Further, if compliance with the notice is not secured to institute further actions to secure compliance.</p> <p>On 22nd September 2017 Enforcement Notices were served which took effect on 30th October 2017.</p>	<p>On 24th October 2017 Officers were contacted by the contravener's agent advising that they were preparing an appeal against the notice.</p> <p>On 27th October 2017 your Officers met with the contravener to discuss possible amendments to address officers concerns. Officers negotiated an amended scheme and advised that a new part-retrospective application should be submitted to seek consent for the proposed changes. The contravener confirmed that the appeal would be withdrawn from the Planning Inspectorate.</p> <p>An amended application was received on 7th November 2017 and approved by Officers on 8th January 2018.</p> <p>Keep file open to monitor the implementation of the approved amendments.</p>
<p>16/00186/PENF 66 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>On 7th August 2017 Members of the Uplands Planning sub-committee refused application 17/01651/FUL and had consideration of the Enforcement Report prepared by Officers.</p>	<p>On 22nd September 2017 Enforcement Notices were served which took effect on 30th October 2017.</p> <p>An appeal against the Enforcement Notice was lodged on 6th October 2017.</p> <p>Await the outcome of the appeal before taking any further action.</p>

		Members resolved that Officers be authorised to issue an enforcement notice to secure removal of the fence within 2 months of the notice coming into effect. Further, if compliance with the notice is not secured to institute further actions to secure compliance.	
17/00142/PENF Goose Eye Farm, Eynsham	Alleged unauthorised 39 metre long structure	<p>Application 17/00091/FUL was submitted to WODC for consideration on 12th Jan 2017 for a replacement dwelling.</p> <p>During a site visit conducted by Officers in relation to application 17/00091/FUL it came to light that the applicant has constructed a 39 metre long structure which is attached to the front elevation of the existing dwelling.</p> <p>The applicants claim that the structure is an extension to the dwelling and is permissible under the provisions of Part 1 Class A of the 1995 General Permitted Development Order.</p> <p>The applicants had submitted a CLOPUD application for the erection of a two storey front extension. The certificate was issued on the basis that the extension proposed fell within Part 1 Class A of the GPDO 1995.</p> <p>The extension proposed is materially different to that constructed on site.</p> <p>Counsel's opinion was sought in respect of the lawfulness of the development. It was concluded that the development is unlawful.</p>	<p>On 2nd October 2017 Members of the Uplands Planning sub-committee refused application 17/00091/FUL and had consideration of the enforcement report prepared by Officers.</p> <p>Members resolved that Officers be authorised to issue an enforcement notice to secure removal of the structure within 4 months of the notice coming into effect. Further, if compliance with the notice is not secured to institute further actions to secure compliance.</p> <p>On 24th November 2017 Enforcement Notices were served which took effect on 5th January 2018.</p> <p>An appeal against the Enforcement Notice was submitted on 4th January 2018.</p> <p>Await the outcome of the appeal before taking any further action.</p>
Orchard Cottage, Churchill 14/00217/PENF	Alleged non-compliance with Enforcement Notice issued in 1997.	This matter was recently the subject of an enforcement report to the Sub Committee when it came to light that the owner of the land had moved back to live on the site in breach of the 1997 Enforcement Notice.	Given the wording of the 1997 EN and the Human rights issues pertaining to the occupier Members resolved to serve a further EN (Material Change of Use) which requires the following -permanently cease residential use of the site known as Orchard Cottage once Mrs Jane Lambert (the occupier) ceases to occupy the land. This EN

			<p>is the subject of an appeal.</p> <p>Following the receipt of the appeal, a further two notices have been served EN (Breach of Condition) which also require permanent cessation of the use of the land for residential purposes and removal of the caravan once Mrs Lambert ceases to occupy the site. These EN's are both the subject of appeals.</p>
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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	Untidy land, Unsecured site	Any active use of this site for commercial purposes has ceased and the land and buildings are vacant. Officers have been actively monitoring the state of the buildings and the land in the interests of safety and tidiness.	In terms of planning breaches this case is no longer high priority but Officers are keeping the file open for monitoring purposes.
1 and 2 Bagnall Rise, Cleveley 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.	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. 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 was carried out in August 2017 in order to determine if the alleged breach is actionable. Officers confirmed that there had been no apparent clearance of the site. As it is possible that some of the storage is lawful, and therefore immune from formal enforcement action, Officers are in the process of liaising with Environmental Health Officers who have advised they could possibly action this under anti-social behaviour legislation instead.
E13/0163	Unauthorised Storage and processing of logs	As reported to Members in the last update report the landowner is claiming that the	Since the last report to Members in respect of this issue the contravener has advised that he has no intention of

	The Heyes, Churchill	<p>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 residential purposes without the benefit of planning permission.</p> <p>A further site visit was undertaken by your Officers who were unable to gain access into the site. A neighbour advised Officers that the contravener only visits the site 2-3 times a week.</p>	<p>submitting a CLEUD application to seek to evidence a lawful use.</p> <p>Therefore, your officer's next steps are to consider all of the issues in the round and the expediency of taking formal enforcement action.</p>
21A Horsefair, Chipping Norton E15/00040/PENF	Various breaches including: Unauthorised signage; Unauthorised extraction system; Unauthorised hours of operation; Unauthorised residential use of the first floor.	<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 12 months Officers have not received any complaints in relation to these matters.</p> <p>In light of the above your Officers are preparing the file for closure.</p> <p>Officers have recently received a complaint relating to an alleged unauthorised single storey rear extension on the property. This is the subject of a separate enforcement investigation which Officers are progressing.</p>
45 High Street, Ascott under Wychwood E15/00090/PENF	Unauthorised pergola and first floor balcony	Planning permission for the retrospective works under ref 16/03058/HHD was recently refused and dismissed at appeal.	Since the last report to Members in respect of this issue your Officers have met with the contravener and given pre-application advice on two alternative

		<p>Whilst the Inspector concluded that the balcony was un-neighbourly he concluded that the pergola alone 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>amended schemes to address both Officers and the Inspectors concerns.</p> <p>Officers have given a timeframe until the end of January 2018 for the submission of an amended application. If an application is not received within this timeframe, in light of the appeal decision, Officers anticipate that an enforcement report will be prepared to consider taking formal enforcement action in respect of the balcony.</p>
<p>15/00299/PENF</p> <p>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 Officers have noted that a number of plots on the periphery of the site have additional caravans on them.</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 in order to discuss the best way to approach the investigation.</p>
<p>15/00323/PENF</p> <p>New Manor Farmhouse, Great Rollright</p>	<p>Unauthorised gateway onto the highway. Unauthorised earth movements to create earth bunds for wildlife preservation.</p>	<p>The entrance onto the highway and the earthworks that have taken place need planning permission.</p> <p>Officers consider that the earth bunds and new access do not result in unacceptable levels of harm. Therefore, it is not considered expedient to enforce removal.</p>	<p>On 4th September 2017 Members of the Uplands Planning sub-committee had consideration of the Enforcement Report prepared by Officers. Members resolved that Officers be authorised to take no further action in respect of the breaches of planning control.</p> <p>In light of the above the file is being prepared for closure.</p>
<p>16/00074/PENF</p> <p>26 High Street, Ascott under Wychwood</p>	<p>Unauthorised change of use of land from agricultural to garden.</p>	<p>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.</p> <p>File open to monitor the use of the site. 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.</p>	<p>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.</p> <p>In light of the above, Officers have undertaken a series of ad hoc visits to the site in order to determine whether or not there is a 'material' breach of planning control.</p> <p>It would appear over the last 9 months that, as a matter of fact and degree, this land has continued to be used for domestic purposes. There are football goals, a trampoline, and what appears to be cricket nets all situated on the land, as well as chicken coops which Officers assume are kept by the family. Further, it</p>

			<p>has come to light recently that the boundary fence which separated this land from the lawful domestic curtilage has been removed so the land now physically appears to be an extension to the garden land and is being used by the contraveners for domestic purposes.</p> <p>A letter was sent to the owners of the property outlining Officers concerns. The contraveners have requested a site visit to discuss the issues and so Officers can clearly define what constitutes domestic/residential use of land.</p> <p>The Officers next step is to arrange this site visit to discuss the above matters.</p>
16/00145/PENF Fardon House, Frog Lane, Milton under Wychwood	Unauthorised outbuilding	17/01304/HHD- Retrospective planning permission refused for the outbuilding.	<p>On 27th July 2017 an appeal was lodged against the planning refusal.</p> <p>29th November 2017 the appeal was allowed by the Planning Inspectorate.</p> <p>The breach has been regularised so the case has been closed.</p>
17/00002/PENF 71 Main Road, Long Hanborough	Unauthorised decked area and wall	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>A retrospective planning application (ref. 17/01660/HHD) was submitted in an attempt to regularise the breach. Officers negotiated an amended scheme to incorporate screening planting to address overlooking. The amended application was approved.</p> <p>Site visit required to monitor the implementation of the approved landscaping.</p> <p>Keep case open until implementation of approved planting has been confirmed.</p>
17/00025/PENF I Swan Cottage, Asthall Leigh	Unauthorised outbuilding being used as a residential annexe	Planning application ref 17/01277/HHD was submitted in an attempt to regularise the development.	<p>Following the last update Officers negotiated amendments to the retrospective application to modify the roof from a pitched roof to a flat roof to reduce its impact.</p> <p>The amended application was approved and the conditions have been discharged.</p> <p>Following the approval of details the contraveners have now submitted a S73 application for non-compliance with the approved plans to keep the pitched roof design (Ref: 17/04109/S73).</p> <p>This application is still under consideration at the time of writing this report.</p>

<p>17/00071/PENF</p> <p>Burford House Hotel, 99 High Street, Burford</p>	<p>Alleged unauthorised works to a listed building - alterations to the front door (new frame and glass door fitted in the original archway) and removal of internal wall</p>	<p>There are two elements to this case.</p> <ol style="list-style-type: none"> 1. Without consent a new timber frame and glass door has been fitted in the original archway leading into the hotel from the High Street. 2. Without consent an internal ground floor wall has been removed. <p>The property is a Grade II listed building and sits within the Burford Conservation Area.</p>	<p>Following two site visits and a meeting with the Conservation Officer, your Officers have concerns over the new timber frame and glass door as the structure forms a somewhat awkward relationship with the existing doorway. It's anticipated that Officers will be attempting to negotiate its removal and will give the contraveners advice on what could be supported in its place. Any replacement structure will also require consent.</p> <p>In terms of the removal of the internal wall, following discussions with the Conservation Officer, your Officers will be inviting the submission of a retrospective application to seek to regularise the breach.</p>
<p>17/00060/PENF</p> <p>20, Taynton</p>	<p>Listed building at risk</p>	<p>The dwelling and barn on the site are both Grade II listed buildings.</p>	<p>Following a site visit by your Officers it has been confirmed that both buildings need some remedial work in the interests of their preservation.</p> <p>Officers have recently met with the owners and have requested that they provide Officers with a schedule of works to be implemented by the end of April/May 2018.</p> <p>Failure to provide the requisite schedule and carry out the agreed schedule of works in a timely manner will result in more formal action by your Officers in the interests of the listed buildings.</p>
<p>17/00165/PENF</p> <p>The Golden Pheasant Hotel, 91 High Street, Burford</p>	<p>Alleged unauthorised installation of a services unit (ATM machine)</p>	<p>An ATM machine has been installed adjacent to the front elevation of the Golden Pheasant Hotel in Burford without the benefit of planning permission. The property is Grade II listed and sits within the Conservation area.</p> <p>Following the initial site visit Officers wrote to the Managing Director of the hotel advising that consent is required for the ATM but that it's unlikely that Officers could be supportive of such an application due to its prominent position on the front of the Grade II listed building and its impact on the setting of the heritage asset.</p>	<p>On 20th November 2017 the Managing Director wrote to Officers advising that a retrospective application was being prepared by Cardtronics (the company who installed the unit).</p> <p>In light of the fact no application has been received by the LPA seeking to regularise the breach on 16th January 2018 a Planning Contravention Notice was served on the owners of the property.</p> <p>Following the return of the PCN it's anticipated that an enforcement report will be prepared to consider the expediency of taking formal enforcement action.</p>
<p>18/00001/PENF</p>	<p>Alleged non-</p>	<p>Following the approval of</p>	<p>The variations with the approved plans</p>

Willowbrook, Radford, Chipping Norton	compliance with planning consent 16/00342/RES	planning consent 16/0342/RES it has come to light that the dwelling has not been constructed in accordance with the approved drawings.	are material but fairly minor in nature including amendments to the window design and position and proportions of the building. Officers have invited the submission of a retrospective S73 application for non-compliance with the approved drawings to consider the merits of the as built development.
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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