

**WEST OXFORDSHIRE DISTRICT COUNCIL**

**UPLANDS AREA PLANNING SUB-COMMITTEE**

**MONDAY 2 JULY 2018**

**PROGRESS ON ENFORCEMENT CASES**

**REPORT OF THE HEAD OF PLANNING AND STRATEGIC HOUSING/HEAD OF PAID SERVICE**

(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 282 live cases.

3.2 Progress on some of the less urgent active cases has been somewhat protracted since the last enforcement update report because permanent staffing levels in the team have been below complement since October 2016. For the last month the team has however been at full complement and a further admin resource has been secured on an agency basis to help to bring the backlog down to more manageable levels whilst training is undertaken and with a view to commencing more wide ranging pro- active monitoring in due course.

**SECTION A – PROGRESS ON PROSECUTION CASES**

3.3 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>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>Action was taken by the Council with 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.</p> <p>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 a Listed Building Repairs Notice has been served. Some works of site clearance have been undertaken and the Council's costs have started to be re-paid. The building is being advertised for sale as a public house. Works have not however been undertaken in accordance with the agreed timescales and officers are increasingly worried that this is a further partial implementation of the necessary repair works. As such, and in accordance with the last report to Council regarding this matter, it is intended that a full update report be provided to full Council this autumn.</p>

**SECTION B – PROGRESS ON ENFORCEMENT INVESTIGATIONS WHERE FORMAL ACTION HAS BEEN TAKEN.**

3.4 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
<p>16/00054/PENF</p> <p>The Bull Inn, Sheep Street, Charlbury</p>	<p>Unauthorised flue and extraction system.</p>	<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 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 7<sup>th</sup> 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>On 22<sup>nd</sup> September 2017 Enforcement Notices were served which would take effect on 30<sup>th</sup> October 2017.</p> <p>On 30<sup>th</sup> October 2017 an appeal was lodged against the notice.</p> <p>Await the outcome of the appeal before taking any further action.</p>
<p>17/00007/PENF</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 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 24<sup>th</sup> October 2017 Officers were contacted by the contravener's agent advising that they were preparing an appeal against the notice.</p> <p>On 27<sup>th</sup> 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 7<sup>th</sup> November 2017 and approved by Officers on 8<sup>th</sup> January 2018.</p>

			Monitoring of the implementation of the approved amendments is being undertaken but progress is very slow/protracted and as such consideration is being given to seeking to expedite matters via enforcement of the extant enforcement notices
16/00186/PENF 66 Over Norton Road, Chipping Norton	Unauthorised fence- Fence is greater than a metre high adjacent to the highway and part of it encroaches on highway land.	17/01651/FUL- Planning application submitted for a reduction in height of the fence and a re-alignment to avoid encroachment in the highway.	Application submitted and refused, enforcement notice was upheld at appeal requiring fence to be removed in its entirety  Site visit has confirmed that unauthorised fence has been removed in accordance with the terms of the notice CASE CLOSED  NB A smaller fence has subsequently been erected under 'permitted development' rights
17/00142/PENF Goose Eye Farm, Eynsham	Alleged unauthorised 39 metre long structure	Planning application ref 17/00091/FUL for replacement dwelling refused  Enforcement action taken which took effect on 5/1/18	Outcome of appeal against enforcement notice is awaited
Orchard Cottage Churchill 14/00217/PENF	Alleged non compliance with enforcement notice	Owner moved back onto site in contravention of extant enforcement notice	Given Human Rights issues a further enf notice was issued that required cessation of the site once the current occupier ceased to occupy the land. This is to be subject to an appeal by way of a public Inquiry in the autumn

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

<b>Site Address and Ref No.</b>	<b>Unauthorised Development</b>	<b>Notes</b>	<b>Update/action to be taken</b>
Leaffield Technical Centre, Langley  E12/0166	Untidy land, Unsecured site	Monitoring but no longer high priority	Site up for sale at present and prospective users investigating re-use
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 and because it is possible that some of the storage is lawful, and therefore immune from formal Enforcement action, Officers

			liaised with Environmental Regulatory Service Officers who have advised they were not able to action this under anti-social behaviour laws. Alternative enforcement routes being investigated
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 residential purposes without the benefit of planning permission.</p> <p>A further site visit was undertaken by your Officers</p>	<p>Since the last report to Members in respect of this issue the contravener has made it quite clear that he has no intention of submitting a CLEUD application to seek to evidence a lawful use.</p> <p>Officers have had further correspondence seeking to persuade him to apply for a CLUED or to make a planning application as some of the use may be acceptable in planning terms.</p>
45 High Street, Ascott under Wychwood E15/00090/PENF	Unauthorised pergola and first floor balcony	<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 alone was acceptable.</p> <p>In light of the above the agent acting for the contravener submitted a part retrospective planning application for retention of the pergola only.</p>	Part retrospective application approved and when fully implemented case to be closed

<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. An external specialist is in the process of being engaged to progress action on this site and a similar site in Lowlands</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>In light of the refusal of planning permission and in the absence of an appeal your officers anticipated that that if the unauthorised change of use was not resolved voluntarily that it would be expedient to issue a Planning Enforcement Notice in respect of the breach.</p> <p>It has however 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. Periodic complaints that the land is still being used as garden are still being received.</p> <p>PCN was served and returned in April arguing that land was not being used as garden. Subject to evidence officers intend to issue an enforcement notice to bring matters to a conclusion</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 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</p>	<p>At the time of writing the retrospective planning application is the subject of an appeal.</p>

		planning control.  Planning application ref 17/01277/HHD was approved detailing a flat rather than pitched roof and was approved. A further application to retain the pitched roof was refused.	
Burford House 99 High Street	Alterations to listed building	Unauthorised works have been undertaken to a Grade II listed building	Retrospective application for works that could be supported has been invited. No such application received and as such consideration of formal action now under review
20 Taynton	Listed building at risk	Dwelling and barn both Grade II listed	Owner given until May 2018 to provide a schedule of works to restore the building. No schedule received. Officers to re-visit and consider expediency of LBRN action
Golden Pheasant Hotel Burford	Unauthorised ATM	Application submitted in an attempt to regularise the development which was refused.	Refusal of permission now the subject of an appeal.
New Chalford Farm Chipping Norton	Unauthorised works to barn to create separate residential use	Planning application submitted	See separate schedule item with recommendation for refusal
Priory Mill, Hook Norton Road Chipping Norton	Unauthorised works to barn to create separate residential use	Planning application submitted	See separate schedule item with recommendation for refusal
Track at Tracey Lane Great Tew	Unauthorised track created	Planning permission refused retrospectively	Amended application seeking to address archaeological and landscape issues anticipated imminently
Willowbrook Radford	Variations from approved schemes	Retrospective permission has been granted for the variations	Site to be monitored and closed when development complete
Westbury Farm Enstone	Unauthorised access	Retrospective application submitted	See separate schedule item with recommendation for approval

#### 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