

**WEST OXFORDSHIRE DISTRICT COUNCIL**

**UPLANDS AREA PLANNING SUB-COMMITTEE**

**MONDAY 7 JANUARY 2019**

**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**

(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 206 live cases.

The team has been fully manned since June 2018 and since that time the caseload has been reduced from 283 to 206 live cases. As the relatively newly appointed team members expand their knowledge base and experience it is hoped that the backlog of low priority cases can be further reduced allowing the priority cases to be progressed more expeditiously and pro-active monitoring to be actively commenced in due course.

**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>Since the last report in July 2018 to the Uplands Area Planning Sub Committee an update report <b>to note</b> in respect of the proposed compulsory purchase of the Unicorn was presented to Cabinet in November 2018.</p> <p>The report outlined the background to the service of the listed buildings repair notice on August 2017 and included reference to the resolution of Council in 2016 to serve a (LBRN) and to commence the process of compulsory purchase of the Unicorn if the requirements of the repairs notice had not been complied with. It further advised that despite a number of legitimate reasons for not implementing the requirements of the notice by way of bat surveys, asbestos surveys, structural surveys that progress has essentially stalled on site and that no further material progress will be made without formally moving to compulsory purchase of the building.</p> <p>In the report Officers recommended that if the building is to be secured it will be necessary to enact the resolution to compulsorily purchase it. In order that there is budgetary provision for such action a full report is to be put to Council on 23 January 2019.</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 same extraction flue at a</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>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 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>The appeal was dismissed on 30 October 2018 and the enforcement notice upheld. The notice requires that the extraction flue be removed from the building by 30<sup>th</sup> January 2019.</p> <p>At the time of writing your officers are in discussions with the pub owner regarding an alternative flue design that will be more in keeping with the listed building .Planning permission and listed building consent will be required for the alternative.</p>
<p>17/00007/PENF 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> <p>A recent site visit has confirmed that the extension has been modified in accordance with the latest approved scheme. <b>CASE CLOSED</b></p>
<p>17/00142/PENF Goose Eye Farm, Eynsham</p>	<p>Alleged unauthorised 39 metre long structure</p>	<p>Planning application ref 17/00091/FUL for replacement dwelling refused</p> <p>An Enforcement Notice was served requiring removal of the structure within six months of the notice taking effect. This was the subject of</p>	<p>On the 19 November 2018 the appeal was dismissed and the enforcement notice upheld.</p> <p>The Inspector concluded that for a number of reasons the extension was not 'permitted development', was not convinced that retention of part of it would remedy the breach</p>

		<p>an appeal .It was appealed on the grounds that the development was 'permitted development', that the steps required to comply with the notice was excessive, and the time to comply was too short</p>	<p>and further considered that a six month time frame to demolish the extension was adequate.</p> <p>Compliance with the upheld enforcement notice is 18 May 2019.</p>
<p>Orchard Cottage Churchill I4/00217/PENF</p>	<p>Alleged non - compliance with enforcement notice</p>	<p>Owner moved back onto site in contravention of extant enforcement notice</p>	<p>Given Human Rights issues a further enforcement notice was issued that required cessation of the site once the current occupier ceased to occupy the land. This was the subject an appeal by way of a public Inquiry in the autumn.</p> <p>At appeal the enforcement notices were found to be nullities.</p> <p>Post the appeal decision a planning application has been submitted by the land owner which proposes a personal consent to occupy the land for residential purposes.</p> <p>In light of this at the Uplands Area Planning Sub Committee of 3 December Members resolved as follows:</p> <ul style="list-style-type: none"> <li>(a) That new Enforcement Notices be prepared to address both the unauthorised residential occupation of the site and to require the removal of the structures including the mobile home, all outbuildings and chattels, from the land;</li> <li>(b) That in the event that the current planning application was refused the Enforcement Notices would then be issued; and</li> <li>(c) That the Head of Planning and Strategic Housing be authorised to issue the Enforcement Notices, and to specify the compliance period(s) prior to issue.</li> </ul>

Unit A, Farm Buildings, Farley Lane, Stonesfield	Breach of condition 1 of planning permission 07/1871/P/S73 which restricted the use of the building for the purposes of a welding business for one year only	Given that consent was only granted for one year the business has been operating from the site for nearly 10 years without consent and conditions controlling the use (hours of operation, noise etc). In addition to the above, in the interim period a small housing estate has been constructed in close proximity to the building.	Once the breach came to light and given the very tight timeframe in respect of the unfettered use becoming lawful, your Officers issued an enforcement notice requiring the use to cease within 6 months of the date of the notice. This action has secured the Council's position in terms of taking formal action if needs be in the interests of the residential amenity of the nearby residents.  It is anticipated however that the occupier of the building will make a retrospective application to continue operating from the building which subject to conditions which will protect residential amenity may be acceptable on its planning merits.
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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	Monitoring but no longer high priority	Site up for sale at present and prospective users investigating re-use.  <b>CLOSED</b>
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.  In light of the fact that the storage use on private land is potentially lawful and immune from any action it is not considered expedient to pursue this matter any longer and the case is to be closed.

			<p>The issue of the parking of unlicensed vehicles parked along the length of the road is not a planning matter but rather one for OCC Highways or the police.</p>
E13/0163	<p>Unauthorised Storage and processing of logs The Heyes, Churchill</p>	<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>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> <p>Despite protracted attempts by Officers to get the unauthorised use regularised by way of a planning application with appropriate conditions, the landowner has taken no action and the matter remains unresolved.</p> <p>In light of the fact that the use is considered unacceptable without controls over levels and siting of storage on the land, hours of operation, noise level conditions etc the landowner has been advised that it is considered expedient to issue and enforcement notice requiring cessation of the use. This action will be initiated in the New Year. Through the enforcement appeal process the contravener will be able to test his claim of a lawful use of the land.</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 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>	<p>Owner advised works in accordance with 18/00350/HHD would be completed by mid December 2018. Site visit to be carried out early in the new year to confirm compliance or otherwise.</p> <p>If ameliorative works have not been implemented by the date of the visit, in light of the harm identified by the appeal Inspector it is considered expedient to proceed to formal enforcement action.</p>

		Planning permission granted for alterations to the unauthorised extension under ref 18/00350/HHD	
15/00299/PENF The Beeches, Old London Road, Chipping Norton	Unauthorised two storey building, additional caravans and extension of the site into adjoining farmland.	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. A further complaint relates to the extension of the site onto adjoining farmland.	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.
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 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.  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.  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.  In order to try to 'bottom out' whether or not the land is in fact being used as an extension to the garden serving 26 High Street, the site is to be visited on a monthly basis over the next 6 months in order to monitor how it is being used.
17/00025/PENF I Swan Cottage,	Unauthorised outbuilding being used	In December 2016 the contravener was granted a	At the time of writing the retrospective planning application is

Asthall Leigh	as a residential annexe	<p>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 planning control.</p> <p>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.</p>	<p>the subject of an appeal.</p> <p>At the time of writing the outcome of the appeal to retain the pitched roofed building constructed on the site is still not known.</p>
Burford House 99 High Street	Alterations to listed building	Unauthorised works have been undertaken to a Grade II listed building	Since last reporting this matter the owner of the property has been liaising with Officers regarding an alternative design for the front door. It is anticipated that an application is to be submitted in the new year for the alternative door detail together with plans to seek to regularise the internal works that have taken place without consent.
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 was received. Officers to re-visit the site in January 2019 to re-assess the physical state of the barn and consider whether or not the state of the building justifies the issue of a Listed Building Repairs Notice.
Golden Pheasant Hotel Burford	Unauthorised ATM	<p>Works undertaken without permission were considered unduly harmful and not capable of regularisation by way of an application.</p> <p>Application submitted to seek to regularise the works which was refused in April 2018.</p>	Refused application is now the subject of an appeal the outcome of which is not known at the time of writing.
New Chalford Farm Chipping Norton	Unauthorised works to barn to create separate residential use	Planning application submitted for an unfettered dwelling which was subsequently	Subsequently a planning application to use the building as a holiday let has been submitted under ref



		withdrawn.	18/02166/FUL. This application has not been determined at the time of writing.
Priory Mill, Hook Norton Road Chipping Norton	Unauthorised works to barn to create separate residential use	Planning permission was refused for a separate residential use	Subsequently under ref 18/02128 planning permission was granted for the building to be used for storage purposes associated with the main dwelling on the land.  The proposal also included removing a series of unauthorised dormers from the roof of the converted building.  A site visit is to be carried out in the new year to ensure that the works and use approved under 18/02128 have been carried out.
Track at Tracey Lane Great Tew	Unauthorised track created	Planning permission refused retrospectively	Amended application seeking to address archaeological and landscape issues has been submitted and still under consideration at the time of writing.
Willowbrook Radford	Variations from approved schemes	Retrospective permission has been granted for the variations	Site to be monitored and closed when development complete. Final site yet to be carried out.
Westbury Farm Enstone	Unauthorised access	Retrospective application submitted.	Retrospective planning permission granted. <b>CASE CLOSED</b>
19 Tilsley Road, Chipping Norton	Unauthorised erection of enclosure greater than one metre high and change of use of land from highway verge to garden	No action taken by contravener in an attempt to regularise the breach.	Development is considered unacceptable on its merits and in light of inaction by the contravener will be the subject of formal enforcement action in the new year.
Bowerham, Shipton- Under - Wychwood	Unauthorised insertion of 7 roof lights.	Application to retain the 7 roof lights was refused in November 2018.	An application for a reduced number of roof lights and retrospective window alterations to be submitted prior to the Xmas break.
The Sidings, Station Road, Kingham	Unauthorised use of a recently erected replacement agricultural building for non- agricultural purposes. The building was approved in 2016 has been erected on site and within a very short time frame is redundant for agricultural purposes by the landowners.	An application has been submitted by the owner of the building who wants a personal consent to use the building for hobby purposes.	The application has yet to be determined and will be referred to the Sub Committee for determination given that the case being made is based on personal circumstances.
I Lords Piece Road, Chipping Norton	Unauthorised erection of an enclosure greater than one metre high and change of use of land to garden.	This is a recent investigation.	The development is considered unacceptable on its planning merits. If the matter cannot be resolved through discussion with the contravener then it may be considered expedient to progress by way of formal enforcement action.

## **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