

Committee	<b>Regulatory Planning Committee</b>
Date	<b>25 July 2018</b>
Report by	<b>Director of Communities, Economy and Transport</b>
Subject	<b>Development Management Quarterly Update</b>
Purpose	<b>To inform Members about development management matters relating to enforcement and site monitoring, undertaken under delegated powers for the three month period between 1 April and 30 June 2018.</b>
Contact Officer:	<b>Sarah Iles – 01273 481631</b>
Local Members:	<b>All</b>

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## **SUMMARY OF RECOMMENDATIONS**

**The Committee is recommended to note the report.**

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## **CONSIDERATION BY DIRECTOR OF COMMUNITIES, ECONOMY AND TRANSPORT**

### **1. Enforcement**

1.1 In the period between 1 April and 30 June 2018, there were seventeen new alleged breaches of planning control. Of the new cases, ten were resolved within the reporting period and two older cases were also resolved. Accordingly, the number of sites being investigated or subject to formal action at the end of June 2018 was eleven. This represents an increase of five in the number of cases that were outstanding at the end of the previously reported quarter. Whilst the last quarter has seen an increase in the number of outstanding cases, this still remains very low compared to previous periods.

1.2 One of the key aspects that assists with the investigation and resolution of enforcement cases is working closely with colleagues in other organisations, agencies and also within the Department. This includes other local authorities, the Environment Agency, Police and Trading Standards. This provides a most useful information sharing and intelligence gathering opportunity, particularly as often the same persons are of interest to the various parties. In addition, multi-agency working has the benefit of being able to make better use of resources and often it is the case that the level of scrutiny of a site by numerous regulatory bodies has prompted unauthorised activities to cease. To support this joint working and cooperation, officers also attend various inter-agency regional and national groups as well as locally arranged liaison groups.

1.3 Appendix 1 of this Report provides details of cases resolved and received within the period 1 April and 30 June 2018, together with details of the status of all current cases. Additional details and information on these cases can be obtained from the relevant officers listed at the end of this Report.

### **2. Site Monitoring**

2.1 Site monitoring of all minerals and waste sites has continued, but has to be accommodated within limited resources and alongside the enforcement service. During the last quarter forty six non-chargeable site monitoring visits were carried out. For the majority of sites visited, no substantive breaches of planning control were found to be occurring. However, four sites were identified as having breaches which warranted them being categorised as enforcement cases and further investigations/action into these sites is being progressed. Details of these sites and the issues are contained within the tables at Appendix 1 to this report.

### **3. Appeals**

3.1 There is currently one appeal being dealt with. As previously reported, this appeal relates to an Enforcement Notice that was served regarding the unauthorised importation, deposit and processing of waste materials (UPVC window frames) at Upper Lodge Farm, The Broyle, Ringmer. The Notice required the cessation of the activity and the clearance of the site. The appellant appealed on "Ground (a)": that planning permission should be granted for the activity. The Planning Inspectorate has now formally "started" the appeal and confirmed that it will be dealt with at a Hearing. The Hearing has been set for 9 October 2018. Interested parties have been notified of the appeal and how they can make representations. The Council has submitted its questionnaire and supporting documentation already and must then submit its Statement of Case by 3 August 2018. Members will be advised of the outcome of the appeal in future reports.

### **4. Contact Officers**

4.1 Members with any queries about site monitoring or enforcement matters should contact either Sarah Iles (01273 481631) or Robert Shapter (01273 335218). Members with queries relating to County Matter and Regulation 3 applications should contact either Jeremy Patterson (01273 481626) or David Vickers (01273 481629).

RUPERT CLUBB  
Director of Communities, Economy and Transport  
16 July 2018

Local Members: All

### **BACKGROUND DOCUMENTS**

Current Enforcement, Monitoring, Planning Application and Appeal Files.  
MasterGov Database.

**TABLE 1 - BREACHES OF PLANNING CONTROL PREVIOUSLY INVESTIGATED AND RESOLVED SINCE APRIL 2018**

DATE LPA BECAME AWARE OF BREACH	SITE ADDRESS	NATURE OF CASE	CURRENT POSITION
December 2017	Land adjacent to The Downs View, Hailsham Road, Stone Cross	Importation and deposit of waste (wood and green waste)	<p>Whilst in the area dealing with another matter, officers noticed a significant quantity of waste in the field adjacent to this residential property. Contact was made with the landowners who stated that the waste, comprising wood and green waste, had originated from their adjoining property. A timescale for the removal of the waste was agreed and although progress of getting the site cleared was hampered by poor weather and very wet ground conditions earlier in the year, contact was maintained with the landowner.</p> <p>A further site visit has now been carried out, which confirmed that the site has been cleared of all waste materials. Breach of planning control resolved and no further action is required.</p>
March 2018	Sacred Heart R.C. Primary School, Old London Road, Hastings	Unauthorised development - Timber outdoor classroom	<p>A complaint was received that unauthorised development on County Council land had taken place at this site. A site visit was undertaken which confirmed that a timber building had been erected on the site. Enquiries were undertaken, which ascertained that due to its size and location, the development was considered to benefit from permitted development rights by virtue of Class A(a) to Part 12 of the Town and Country Planning (General Permitted Development) (England) Order 2015, and does not require specific planning permission.</p> <p>No breach of planning control and no further action is required.</p>

**TABLE 2 - NEW BREACHES OF PLANNING CONTROL INVESTIGATED SINCE APRIL 2018 AND RESOLVED**

DATE LPA BECAME AWARE OF BREACH	SITE ADDRESS	NATURE OF CASE	CURRENT POSITION
April 2018	Laurel Tree Fruit Farm, Boars Head, Crowborough	Breach of Conditions (Hours of operation, noise and vehicle movements)	<p>A complaint was received that operations at the site, which has planning permission for the infilling of a disused quarry, were not being carried out in accordance with the conditions attached to the relevant planning permission (WD/692/CM). The issues raised related to noise, operating outside of the permitted hours and exceeding the permitted number of vehicle movements.</p> <p>A site visit was carried out and discussions held with the relevant parties. Documentation for the total number of loads imported to the site were provided and examined by officers. It was noted that a couple of minor breaches of the permitted hours had occurred, and there were two instances where the permitted number of loads delivered to the site were exceeded (by one on each occasion). In respect of the noise issues raised by the complainant, these were found to be caused by the operational activities on the fruit farm and not the infilling of the quarry. All parties associated with the development were reminded of the restrictions regarding hours and vehicle movements.</p>

			<p>Targeted monitoring of the site was carried out and no further breaches of planning control were identified. No further enforcement action is required and the site will continue to be monitored in accordance with the Council's Site Monitoring Policy.</p>
April 2018	Overshaw, Batemans Road, Burwash	Importation, deposit and burning of waste.	<p>A complaint was received that waste was being imported into the site, deposited and then burnt.</p> <p>A site visit was undertaken which did not clarify the situation and a site meeting was therefore arranged with the landowners, where the matter was fully discussed. The landowners stated that no waste had been imported into the site and deposited or burnt. During the initial site visit and the subsequent site meeting no evidence was seen which appeared to contradict the landowner's contention that no waste had been imported. They did, however, admit to having bonfires on the site, on more than one occasion, in order to burn green waste generated from within the site itself. The landowners were advised to contact the Environment Agency regarding the burning and also that excessive burning at the site could be considered to constitute a statutory nuisance, which would be a matter for Environmental Health at Rother District Council.</p> <p>No breach of planning control identified and no further action required by this Authority in its capacity as the Waste Planning Authority.</p>
April 2018	Lansdowne Secure Children's Home, Hawks Road, Hailsham	Breach of Condition (Tree protection)	<p>A complaint was received that a tree at the site, which was supposed to be protected during the development (under planning permission WD/3387/CC), was in the process of being felled. Contact was immediately established with the developer and a site visit carried out. Further works to the tree were stopped and it transpired that a workman had failed to read the approved plans correctly.</p> <p>The tree concerned was examined by an arboriculturist and it was considered that the tree should regenerate and therefore should not be felled. The situation will be monitored by officers and the developer, and should the tree not recover then compensatory planting at the site will be undertaken.</p> <p>No further action required at this stage and the site/tree will continue to be monitored.</p>
April 2018	Greenacre Recycling, New Road, Newhaven	Breach of Conditions (Dust)	<p>The site is an authorised waste transfer station and a complaint was received that dust was being allowed to escape from the site.</p> <p>A site visit was undertaken and no evidence of dust escaping from the site was observed. Notwithstanding this, there are no conditions attached to the planning permission for the site (LW/767/CM) relating to dust and, therefore, there is no breach of planning control insofar as the Council is concerned. However, the site also operates under an Environmental Permit issued by the Environment Agency and the permit has requirements for dust management. Consequently, details of the complaint have been passed to the Environment Agency for their information/action as they deem appropriate.</p> <p>No breach of planning control and no further enforcement action required. The site will continue to be monitored in accordance with the Council's Site Monitoring Policy.</p>
April 2018	Cues Meadow, Military Road, Playden, Rye	Importation and deposit of waste (hardcore)	<p>A complaint was received that waste materials, comprising hardcore, were being imported into the site and deposited on the access track.</p> <p>A site visit was undertaken, which confirmed the substance of the complaint. However, the material consisted of</p>

			<p>clean hardcore, with no contaminants mixed in with it, and was clearly being used to maintain/repair the existing access track. Whilst on site, officers spoke to a mooring tenant who confirmed the nature of the works.</p> <p>The works undertaken are considered to be permitted development under the Town and Country Planning (General Permitted Development) (England) Order 2015 and do not require specific planning permission. No breach of planning control and no further action required.</p>
May 2018	Burnt Oak Farm, Burnt Oak, Crowborough	Importation and deposit of waste materials (soils)	<p>A complaint was received that waste materials were being imported into the site and deposited, and other waste was being deposited on the highway.</p> <p>A site visit was undertaken, during the course of which a meeting was held with the landowners who explained that they were in the process of partially demolishing a barn on the property prior to rebuilding it. Some of the waste materials that had been generated from the demolition were to be used in the maintenance and repair of field gateways on the property, which was where the waste had been deposited.</p> <p>With regard to the demolition of the farm building, investigations revealed that it is not a listed building and the landowners have been advised to check with Wealden District Council as to whether planning permission or prior approval is required for the rebuilding of the barn.</p> <p>In respect of the farm gateway repairs, this is considered to be permitted development and there is no breach of planning control. No further action is required.</p>
June 2018	Allied Waste Management, Squires Farm Industrial Estate, Easons Green, Uckfield	Breach of Condition (Noise and permitted hours of operation)	<p>A complaint was received that operations at the site were creating excessive noise and work was being undertaken outside the permitted hours.</p> <p>A site visit was undertaken and discussions held with the operator, who denied that the site was being operated outside the hours permitted by the planning permission for the site (WD/737/CM). There are no noise controls attached to the planning permission and activities at other units on the Industrial Estate were observed to be generating far more noise than this particular site. The site has been monitored regularly, including before this complaint was received, and no breaches of the permitted hours of operation, or other controls have been noted.</p> <p>No breach of planning control and no further enforcement action required. The site will continue to be monitored in accordance with the Council's Site Monitoring Policy.</p>
June 2018	Pipers Farm, East Hoathly	Importation and deposit of waste (soils)	<p>A complaint was received that waste materials, comprising soils, were being imported into and deposited at this site.</p> <p>A joint site visit was undertaken with an officer from the Environment Agency, where it was found that a small quantity of clean top soil had been imported into the site. Following discussions with the landowner, it was established that the soils were intended to be used to repair an existing moto-cross track on the farm. The track has the benefit of a lawful development certificate from Wealden District Council.</p> <p>No breach of planning control identified and no further enforcement action required.</p>
June 2018	52 Railway Road, Newhaven (Former Parker Pen factory)	Importation, deposit and processing of waste (soils and hardcore)	<p>A complaint was received that waste materials were being imported into, deposited and processed at this site. A site visit was undertaken and it was confirmed that the site is part of the Eastside development and the materials were being used in that development. No other evidence was found of any importation, deposit and processing of waste.</p>

			In the absence of any other information, no further action is required by this Authority.
June 2018	Witherenden Farm, Stonegate	Importation and deposit of waste (soils)	<p>A complaint was received that waste materials, comprising soils, were being imported into and deposited at this site.</p> <p>A site visit was carried out and a meeting held with the landowner, who explained that the soils were imported into the site in order to improve a stony bank which posed a risk to the health of the farm animals. This was supported by the fact that a calf had recently injured itself when running down over the bank. Once complete, the bank will be seeded with a wild flower seed mix to improve the area visually.</p> <p>The works are considered to be permitted development and no further enforcement action is required.</p>

**TABLE 3 - NEW BREACHES OF PLANNING CONTROL INVESTIGATED SINCE APRIL 2018 AND AS YET UNRESOLVED.**

<b>DATE LPA BECAME AWARE OF BREACH</b>	<b>SITE ADDRESS</b>	<b>NATURE OF CASE</b>	<b>CURRENT POSITION</b>
April 2018	Skip It Containers, North Quay Road, Newhaven	Breach of Conditions (height of stockpiles)	<p>A site monitoring visit was undertaken, during which it was noticed that the height of the waste stockpiled on the site exceeded the structures that were containing it and, where there were no retaining structures, the height of stockpiled waste exceeded 4 metres. Conditions attached to the planning permission for the site (LW/539/CM) limit the height of stockpiled waste and the levels of waste noted on the site were found to be in breach of these conditions.</p> <p>Despite meetings with the site manager and operator the situation has not improved and it is likely that formal enforcement proceedings will be instigated. In addition, the Environment Agency is involved with the site in connection with this issue and officers will be working with the Environment Agency in this regard.</p>
May 2018	Skilton Skips, AS Farm, Crowborough	Unauthorised Waste Transfer Station	<p>A site monitoring visit was undertaken on an adjacent site and it was noticed that the operator was depositing waste on this site and processing it by sorting. Discussions were held with the operator, who admitted that he knew planning permission was required but due to the small nature of the operation was unsure whether it would be commercially viable to seek authorisation in planning and Environmental Permitting terms. The operator was given a short period of time to consider his options and has recently contacted officers to indicate that he will pursue a planning application seeking to regularise this unauthorised use.</p> <p>The operator has been given until 2 August 2018 to submit an application and the site will continue to be monitored by officers in the meantime.</p>
May 2018	Sussex Skips, North Quay Road, Newhaven	Breach of Conditions (outside storage and processing of waste)	<p>Officers undertaking a monitoring visit to the site noted that baled waste was being stored in the yard to the north of the waste transfer building, and that hardcore was being processed in the south east corner of the site, both of which are in breach of conditions attached to the planning permission for the site (LW/680/CM).</p> <p>Discussions have been held with the site operator and the stored waste in the yard to the north of the building has now been cleared. The operator has been allowed a short time period in which to consider whether an application to regularise the hardcore crushing operation will be pursued.</p>

			In the meantime, the site will continue to be monitored by officers.
June 2018	AM Skips, London Road, Maresfield	Breach of Condition (boundary treatment)	<p>A complaint was received that a fence on the northern side of the site had collapsed and had not been replaced/repared, which was a breach of a condition attached to the planning permission for the site (WD/327/CM).</p> <p>A site visit was carried out which confirmed the substance of the complaint. A meeting was also held with the operator who stated that the Environment Agency had recently carried out a monitoring visit and identified the same issue and had given him until 15 July 2018 in which to carry out the required repairs.</p> <p>The information supplied by the operator was confirmed by the Environment Agency and it was considered that their agreed timescale would also be adequate in planning terms. The site will be monitored to ensure that the repairs are carried out.</p>
June 2018	R.T. Salvage, Horselunges Industrial Estate, Hailsham	Unauthorised importation and processing of End of Life Vehicles	<p>A complaint was received that end of life vehicles were being imported into the site, and the engines removed with the bodies of the vehicles then being scrapped.</p> <p>A joint site visit was undertaken with the Environment Agency, which confirmed the substance of the complaint. A meeting was subsequently held with the operator and the planning and environmental permitting regulations explained. A timescale until 31 July 2018 has been agreed with the operator for a pre-application advice application to be submitted in order to assess whether a full planning application to seek to regularise the unauthorised operation has merit and can be supported.</p> <p>Officers will continue to monitor the site and maintain contact with the operator.</p>
June 2018	D.R.S. Pattenden, Little Exceat Farm, South Chailey	Breach of Condition (buffer zone)	<p>A site monitoring visit was undertaken, during the course of which it was noted that the scheme to maintain a buffer zone on the western and northern boundaries of the site had not been maintained and had failed. A meeting was held with the operator and a timescale for re-establishing these buffer zones was agreed.</p> <p>A further site visit will be undertaken after the agreed time period to ensure that the buffer zone has been re-established and the site brought back into compliance with the planning permission (LW/492/CM).</p>
June 2018	Bexhill to Hastings Link Road (Combe Valley Way)	Breach of Conditions (fencing/animal protection)	<p>During a site monitoring visit, it was noticed that several sections of the badger fencing alongside the carriageway have been knocked down and not replaced. This has previously been raised informally, but given the inaction to remedy the matter is now being recorded as a formal enforcement case.</p> <p>Contact was made with the applicant and a date set for the repairs to the fencing. The site will be monitored to ensure that the works are completed, alongside general site monitoring of the overall scheme.</p>

**TABLE 4 - OUTSTANDING CASES SUBJECT TO ONGOING ACTION**

DATE LPA BECAME AWARE OF BREACH	SITE ADDRESS	NATURE OF CASE	CURRENT POSITION
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July 2015	Holleys Yard, Squires Farm Industrial Estate, Easons Green	Importation, deposit and storage of waste wood	<p>This matter originally came to the Council's attention in 2012 when an operator imported a significant quantity of waste wood into this site and then vacated the site without clearing the waste wood. The Environment Agency undertook a prosecution against a director of the company, and the County Council supported this prosecution and gave evidence in court. One of the Directors of the company was convicted of the offence and was sentenced to a Community Service Order of 200 Hours of unpaid work. There was no requirement for the Director to pay for the costs of clearing the land. Consequently, the waste wood remained on the site.</p> <p>In order to protect the County Council's position, it was considered appropriate to serve an Enforcement Notice on the landowners, and interested parties, requiring the removal of the waste wood. An Enforcement Notice was therefore served on 2 February 2016. No appeal was made against the Enforcement Notice and it took effect on 4 March 2016. Following the service of the Enforcement Notice, the Environment Agency made further progress in their case against the company that was responsible for importing the waste wood into this site. The outstanding company Director was arrested on a warrant and appeared at Lewes Crown Court on 22 August 2016 for sentence, after he had entered a guilty plea at an earlier hearing. He was sentenced to one year's imprisonment.</p> <p>The site has been regularly monitored and the landowners have been in contact with officers concerning a proposal for an operation at the site which would provide the finance to help with the disposal of the waste wood. They engaged in seeking pre-application advice and a formal response was provided, which was that their proposal was considered to have some merit.</p> <p>A further site meeting has recently been held with the landowners and it was noted that some of the chipped waste had been removed from the site. The landowners have now appointed a planning consultant and a planning application regarding their proposals is due to be submitted in the near future.</p>
May 2016	Land to the North of Leeds Lane, Five Ashes	Importation and deposit of waste materials	<p>A complaint was received that waste materials were being imported into and deposited at the site. A site visit was undertaken which confirmed the substance of the complaint. Contact was made with the occupier who stated that the purpose of the importation was to improve the track through the wood for his animals in order to be able to move them across the land and not across roads, which would incur expensive veterinary costs for tuberculosis testing.</p> <p>The position regarding the requirement for planning permission was explained to the tenant farmer, and he was requested to cease any further activity until a joint site meeting with all the regulatory authorities concerned had been arranged. A further joint site meeting took place, and it was noted that the tenant farmer had completed the works to the track. The imported waste did not have any stability and was noted to have started to slip. It was considered that the works to the track were excessive and unnecessary, and amounted to a waste disposal operation. The tenant farmer was therefore requested to remove the imported waste from the site.</p> <p>Some materials were removed and officers continued to liaise with all the regulatory authorities in order to provide the landowner with a cohesive view of what is required in order to resolve this matter. A phased programme of works was agreed and a further site meeting held with the landowner's agent and the tenant. It was hoped that the agreed programme of works would be completed before the onset of poorer weather, but ground conditions made it difficult for machinery to access the site.</p> <p>Some of the agreed remedial works were carried out, but ground conditions then deteriorated to such an extent that machinery was completely unable to access the site. An extension of time was agreed for the works to be completed by the end of May 2018. This was not achieved and a further meeting was held with the operator.</p>



			<p>After a long delay owing to the extremely poor weather over the spring, the agreed works have now recommenced. Officers are maintaining regular liaison with the landowner's agent to ensure that the works are completed as agreed.</p>
June 2016	Penfold Driveways, The Warren, Crowborough	Unauthorised development	<p>A complaint was received by the Environment Agency that waste was being imported into and deposited at the site. A joint site meeting was arranged with all the various regulatory authorities and the operators to discuss the various issues at the site. It was clear during the course of the site meeting that the importation, deposit and processing of waste was taking place at the site.</p> <p>A pre-application site meeting with the operators took place and the operator's agent contacted officers to confirm that a planning application would be submitted. However, no application was forthcoming and the operator appointed a new agent, who contacted officers with a view to expediting the submission of the planning application. Officers continued discussions with the operator's new agent, who stated that they were proposing works on the site that had not previously been discussed, and which could possibly be unsupportable.</p> <p>The Environment Agency subsequently served warning letters on all the operators of the site and required them to remove the imported waste materials by 29 December 2017. Officers monitored the site and noted that a significant quantity of the imported waste materials had been removed.</p> <p>A further meeting with the landowner/operator and Environment Agency has now taken place. The landowner stated that the delay had been caused by a dispute over the land ownership, which has resulted in the need to alter the proposals at the site. To accommodate this, a new pre-application advice application has been submitted and is being processed.</p>
February 2017	Freedom Powerchairs Ltd, Upper Lodge Farm, The Broyle, Ringmer	Importation and deposit of waste	<p>A complaint was received that old UPVC window frames were being imported into this site and processed. A site visit was undertaken which confirmed the details contained within the complaint. A meeting was held with the landowner where the requirement for planning permission for this type of operation was explained. A further site meeting was also held with the operator and discussions were undertaken concerning the planning requirements for activities at the site. The operator was given a timescale in which to either submit a planning application to regularise the unauthorised development, or to cease the use of the site for waste processing and clear the site of the imported waste.</p> <p>The operator failed to submit a planning application within the agreed timescale, or clear the site of the imported waste. Formal enforcement proceedings were therefore instigated against the landowner and operator and an Enforcement Notice was served on 10 July 2017. An appeal was made against the Enforcement Notice. However, it was then noted that there was a technical error in the explanatory note which accompanied the Enforcement Notice. Whilst this did not materially affect the Notice itself, it was decided by the Council that the Enforcement Notice should be withdrawn and then immediately re-issued with an amended explanatory note. The first Enforcement Notice was withdrawn on 22 August 2017 and the second Enforcement Notice was served on 29 August 2017.</p> <p>An appeal against the Enforcement Notice was made to the Planning Inspectorate, which put the Notice in abeyance. Confirmation that the appeal can proceed was received from the Planning Inspectorate, who originally indicated that the appeal will be dealt with at a Public Inquiry. However, further correspondence has been received notifying the Council of the "start" date for the appeal and that it will be dealt with by way of a Hearing. The initial questionnaire and documents have been sent to the Planning Inspectorate and the Council's Statement</p>

			<p>of Case must be submitted by 3 August 2018. The hearing itself is scheduled to take place on 9 October 2018.</p> <p>Members will be updated of progress in future reports.</p>
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