

Committee	<b>Regulatory Planning Committee</b>
Date	<b>14 October 2020</b>
Report by	<b>Director of Communities, Economy and Transport</b>
Subject	<b>Development Management Update</b>
Purpose	<b>To inform Members about matters relating to: (i) enforcement and site monitoring, undertaken under delegated powers for the nine months period between 1 January and 30 September 2020; (ii) appeals; and (iii) development management performance for the period 1 April 2019 to 31 March 2020, and 1 April 2020 to 30 September 2020.</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**

Note: Due to the Covid-19 Pandemic and previously cancelled meetings, this report covers the three quarters from 1 January to 30 September 2020, inclusive.

### **1. Enforcement**

1.1 In the period between 1 January and 30 September 2020, inclusive, there were fifty three new complaints about alleged breaches of planning control. Of the new cases, forty were resolved within the reporting period and eight older cases were also resolved. Accordingly, the number of sites being investigated or subject to formal action at the end of September 2020 was eighteen. This represents an increase of five in the number of cases that were outstanding at the end of the previously reported period (October 2019 – December 2019).

1.2 Whilst there has been a moderately small increase in the number of outstanding enforcement cases, this is considered to be remarkably low given the unprecedented situation regarding the Covid-19 Coronavirus Pandemic. The Pandemic has impacted on how cases are dealt with and has, undoubtedly, resulted in delays to cases being progressed and investigated. Nevertheless, cases have been investigated and progressed where possible. All site visits are subject to a risk assessment and officers are required to maintain social distancing and utilise personal protective equipment as necessary.

1.3 Despite the ongoing Pandemic, it has still been necessary to continue to use formal enforcement powers. Following a complaint regarding ongoing unauthorised waste wood processing at Holley's Woodshaving, Palehouse Common, a Temporary Stop Notice was served in order to stop the activity. Due to circumstances, it was decided to use a High Court Enforcement Agency to assist with the service of the Notices and this was successfully executed. Whilst the decision to serve a Temporary Stop Notice is not taken lightly, it was considered necessary to do so and was successful in this instance. Following the service of the Notice the site has been monitored and no further formal action has been required.

1.4 Appendix 1 of this Report provides details of cases resolved and received within the period 1 January and 30 September 2020, 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 General site monitoring of minerals and waste sites, both chargeable and non-chargeable, has on the whole been suspended due to the Pandemic. Some development sites have required monitoring, such as the Newhaven Port Access Road, and this has been undertaken where possible. It is not yet clear when a full site monitoring regime will resume.

## **3. Appeals**

3.1 Three new appeals have been received since January 2020. The first two relate to Appletree Cottage, Staplecross and the Council's decision in December 2019 to (i) refuse planning permission for the retention of waste materials in an area of woodland, within the High Weald Area of Outstanding Natural Beauty, and (ii) against the service of an Enforcement Notice requiring the removal of the waste materials and the restoration of the site. In terms of the enforcement appeal, the grounds of appeal were (a) that planning permission should be granted and (f) that the steps required by the notice were excessive. The appeals were linked and dealt with through the written representations procedure. Both appeals were dismissed, although the Inspector varied the time for compliance with the Enforcement Notice from November 2020 to November 2021, which was to allow the works to be carried out during periods which would avoid potential harm to protected species taking into account restrictions due to the Pandemic. Copies of the Inspector's Decisions can be found at Appendix 2 of this report.

3.2 The third appeal is in relation to the refusal of planning permission for a waste wood recycling operation at Holley's Woodshaving, Squires Farm Industrial Estate, Palehouse Common. This application was refused by the Planning Committee in February 2020. The appeal is being dealt with through the written representation procedure and the initial questionnaire has been submitted and third parties notified of the appeal. Members will be updated on progress in future reports.

## **4. Development Management**

4.1 The Growth and Infrastructure Act 2013 introduced new measures and consequences in terms of the planning performance of planning authorities. Where authorities are not adequately performing their planning function of determining relevant planning applications within prescribed timescales, they can be designated as being in "special measures". Under this provision, the power for determining planning applications can be taken away from local authorities, and applicants can choose to have their application determined by the Planning Inspectorate. We are required to submit quarterly statistical returns and there are penalties for failing to submit two or more quarters of data and, once applied, the penalties will be reflected in the performance statistics published. Additionally, if an application is not determined within 26 weeks and extensions of time have not been agreed with the applicant, planning authorities have to return the planning application fee to the applicant.

4.2 The Government publishes criteria for determining whether or not to place local planning authorities in "special measures". One measure is the average percentage figure for the timely determination of major development applications over two years. The threshold for designation is currently at 60% of applications being determined within a 13 week period, or within a timeframe agreed with the applicant. The Government also introduced monitoring performance on non-major planning applications, the threshold for which is 70%. However, the monitoring of performance on non-major applications relates to District/Borough/Unitary authorities and not County Councils. Therefore, the performance on the determination of the non-major County Council developments (Regulation 3) will not be included in the performance figures measured by the Government, although we continue to monitor and report on our own performance.

4.3 In terms of performance, for the period April 2019 to March 2020 (inclusive) of the relevant applications, 100% of County Matter applications were determined within 13 weeks or within an agreed extension of time, and 100% of County Council applications were also determined within 8 weeks or within an agreed extension of time, both of which clearly exceed the targets set by Government and locally. With respect to the Government measures regarding performance for major applications (in this instance County Matters), the outturn figure for the 24 months ending June 2020 was 96.6% of major applications determined within the relevant timescale, which is well above the current 60% threshold.

4.4 Despite impacts due to the Pandemic, work levels have remained relatively constant by comparison. The table below sets out the number and types of applications/queries dealt with for the financial year 2019/20 and the first six months of 2020/21.

<b>Type</b>	<b>2019/2020 (12 months)</b>	<b>2020/2021 (6 months)</b>
County Council applications determined	18	8
County Matter applications determined	13	3
Applications withdrawn	6	2
Non-material amendment applications determined	7	4
Lawful Development certificates	1	0
Prior Notification	1	0
Formal Pre-Application Advice	10	9
“Do I need planning permission” requests	27	11
Minerals/Waste Safeguarding and other consultations	19	14

## **5. Contact Officers**

5.1 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 Sarah Iles.

RUPERT CLUBB  
 Director of Communities, Economy and Transport  
 06 October 2020

Local Members: All

## **BACKGROUND DOCUMENTS**

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