

APPENDIX A

WAVERLEY BOROUGH COUNCIL AREA PLANNING COMMITTEE WESTERN 4th AUGUST 2010

Title:

**PLANNING ENFORCEMENT UPDATE REPORT FOR WESTERN AREA
PLANNING COMMITTEE**

[Wards Affected: Farnham Bourne; Farnham Castle; Farnham Firgrove; Farnham Hale & Heath End; Farnham Moor Park; Farnham Shortheath & Boundstone; Farnham Upper Hale; Farnham Weybourne & Badshot Lea; Farnham Wrecclesham & Rowledge; Frensham, Dockenfield & Tilford]

Summary and purpose:

The purpose of this report is to provide Members of the Western Area Committee with a report on progress of the Planning Enforcement Service for the quarter of April to June 2010.

How this report relates to the Council's Corporate Priorities:

There are no direct implications for the Council's corporate priorities in this report but many of the cases dealt with by the Planning Enforcement Service do have implications for natural resource use, pollution prevention and control, biodiversity and nature, heritage, the appearance of an area, jobs, services and facilities; rural proofing and the rural economy.

Equality and Diversity Implications:

There are no equality and diversity implications arising from the report itself.

Resource/Value for Money implications:

There are no direct resource / value for money implications arising from the report itself.

Legal Implications:

There are no direct legal implications arising from the report itself but legal resources will be required to progress individual cases reported.

1. Introduction.

This report is intended to bring Members up to date with enforcement performance for the period April to June 2010. The report will also refer to current issues impacting on the Enforcement Service. It will also inform Members to the work already in hand with regard to bringing some long running cases to a head. Please

note that when this report refers to a breach of planning control a breach is one individual site irrespective of the number of complaints received about the site.

Sections 1 – 7 of this report refer to Borough-wide development.

2. Staffing Issues

Emma Schofield has been appointed as the new Enforcement Team Leader. A planning technician (compliance) for the team has also been appointed and they are due to start on 18 August.

3. New Cases

Between April and June the Council received 103 breach of planning control allegations.

4. Notices served

In this quarter, 1 “section 215” notice has been issued relating to Land south of South Lodge, Ellens Green. Enforcement Notices have been served relating to Land west of Sheaves Farmhouse, Loxwood and The Old Dairy, Somersbury Lane, Ewhurst.

5. Performance Stats to June 2010

The performance statistics are set out in the table below. A case is considered resolved when it has been closed; or the Council has issued a formal notice requiring that works be carried out to cease the breach or a retrospective planning application has been received for the development.

Totals for Whole Borough Enforcement Statistics from April to June 2010

60% of cases that reached their eight-week age during this quarter were resolved within eight weeks. The row entitled “% resolved within eight weeks (overall)” in the table below, takes account of all cases resolved in the quarter rather than just new cases that reached their deadline (i.e. received in last quarter).

	Jan-Mar 09	May-Jun 09	Jul-Sep 09	Oct-Dec 09	Jan-Mar 10	Apr-Jun 10
Cases Received	129	110	126	107	115	103
Cases closed	206	134	168	127	209	44
Investigations completed	118	110	118	147	124	52
% Investigated within 8 weeks (overall)	99%	92%	76%	73%	81%	80%
% Investigated within 8 weeks (received in last quarter)					95%	66%
% Resolved within 8 weeks (overall)	-	-	-	43%	53%	44%
% Resolved within 8 weeks (received in last quarter)					60%	37%
Cases on hand	677	653	611	591	497	556
Enforcement notices	3	1	6	7	4	3

served						
PCNs served	8	8	9	3	1	0
Stop Notices served	0	0	1	1	0	0
Prosecutions	0	0	0	0	0	1
Direct Action	0	1	0	0	0	2

Sector and priority split for April - June 2010

Sector Priority	Central			Eastern			Southern			Western			Totals
	1	2	3	1	2	3	1	2	3	1	2	3	

Cases Received	3	19	1	4	22	1	5	15	1	8	24	0	103
Investigations completed	1	6	0	1	8	0	3	8	2	4	19	2	54
% investigated within 8 weeks	0	83	-	100	50	-	100	63	100	100	88	100	80

Closed – NFA	0	0	0	1	2	0	0	1	0	0	0	0	4
Closed - No Breach	0	5	0	0	2	0	0	3	1	2	6	1	20
Closed – Breach Resolved	1	6	0	0	1	0	1	3	0	1	5	2	20

Enforcement notices served					3								3
PCNs served													
Stop Notices served													
Prosecutions being prepared													
Prosecutions completed					1								1
Direct actions in process													
Direct actions completed					2								2

Comment on performance

Performance has fallen since the last quarter following the vacancy of the Principal Enforcement Officer post from April 2010 and the reduction in working hours of another member of staff. In addition, resources have been diverted to a high profile prosecution and two direct action cases. However, the new Team Leader post has been filled from June and the appointment of a technician to the team should mean that performance will improve during the next quarter.

5. Appeal Performance

No enforcement appeal decisions have been received this quarter apart from one decision relating to a high hedge detailed below.

6. Direct Action Work

The Council has carried out direct action at Tanyard Farm in Shamley Green and Downside in Ewhurst.

The owner of Tanyard farm sought to prevent the Council carrying out the work both by blocking access to the land and obtaining an interim injunction to prevent the Council completing the work. The interim injunction was obtained without the Council present at the court. The injunction was lifted a week later when the case was heard. The owner has since employed his own contractors to continue the required works.

With regard to Downside, a balcony the subject of an enforcement notice has been removed. Before the Council took direct action the occupier sought but failed to obtain an injunction to prevent the Council taking the action.

7. High Hedges.

There was one formal complaint about a High Hedge this quarter.

An appeal was allowed against the Council's decision not to issue a remedial notice relating to a hedge at Culmer Lane, Wormley. The inspector issued a notice requiring that the hedge be reduced to a height of 12.25 metres.

A Remedial notice issued with respect to a high hedge at Hazel Grove, Hindhead has been complied with.

8. Current Update on Previous Enforcement Cases

The following are cases where formal notices have been issued but compliance with the notices have not been met. In most cases the owners of the respective land/property are now co-operating with the Enforcement Team in addressing their individual breaches thus making them responsible for their actions and avoiding lengthy and costly court procedures. Updates since the previous report are shown in bold type.

Members are requested that if they require further information on these cases or have questions to please contact the Enforcement Team.

Bourne Mill, Farnham

In relation to land at front, action being pursued to secure the cessation the use of land for use as a garden centre and for the sale, display and storage of sheds, garden structures, etc., plus the demolition of all sheds, structures, etc. and removal of all resultant materials; action to remove unauthorised signs.

In relation to land at rear, enforcement action taken to secure the cessation of the use of land for retail display purposes and to secure the removal of unauthorised ground works and unauthorised buildings. Enforcement Notices confirmed on appeal. A further planning application refused in 2002. Letter sent to owner/occupier indicating that if compliance with notice has not been achieved by 13.03.03, then prosecution proceedings will commence. **Following a site visit with the owner a Planning Contravention Notice will be issued shortly. A report will follow to the Committee advising of the expediency of taking further action.**

Enforcement Officer: Victoria Choularton; Planning Officer: Hilary Hobbs

Century Farm, Green Lane, Badshot Lea, Farnham

Enforcement Notices served to secure the cessation of the unauthorised business and storage uses. Planning application refused in 1996. Enforcement Notices served, appeal dismissed, subject to twelve months compliance period. Appeal to High Court, remitted back to the Planning Inspectorate and a further Inquiry took place in February 1999. Appeal dismissed. Inspector concluded in favour of the Council in that there is no lawful commercial use on the site. Notice took effect on 14th December 2000. New planning applications submitted (Ref. WA01/1507 and WA02/0486 - 0497). Further visit in 30th May 2002 to view units. Application WA01/1507 withdrawn, applications WA02/0486–0497 refused. Appeals relating to individual units at Century Farm were dismissed on 28.11.03. Officers have written to owner and tenants indicating that the unauthorised uses should cease by 12th May 2004. The unauthorised use did not cease and the case was passed to the Enforcement Team in September 2005. Following discussion with the Enforcement Officer, the owner of the site and Surrey County Council another retrospective planning application has been submitted seeking permission to retain the operation of the unauthorised business and storage purposes. **A report will follow to the Committee regarding the expediency of further action.**

Enforcement Officer: David Cowan

Northside, West End Lane, Frensham

Visit by Officers on 22nd January 2004, following complaint about current activities. Officers consider that owner is again in breach of the Enforcement Notice to remove non-agricultural items from the land and have written to the owner drawing attention to the specific breaches and giving a timescale to cease the unauthorised activities and remove items that are in breach of the Notice. Owner of the site prosecuted twice by the Council for non-compliance with the Enforcement Notice. Agricultural assessment undertaken. Enforcement Officers conducted another site visit in December 2006 and have been monitoring the site throughout 2007. Enforcement Notice not complied with. Site is regularly monitored. Legal opinion has now been received and a case conference is scheduled on the best way forward to deal with this site. **Prosecution and direct action are under consideration.**

Enforcement Officer: David Cowan

Land at Tilford Road, Rushmoor, Farnham

Enforcement Notice served to secure cessation of use of woodland for parking and storage of motor vehicles. Compliance required by 6 February 2005. Appeals withdrawn. Vehicles still being parked in the woodland. **Prosecution under consideration.**

Enforcement Officer: Victoria Choularton

Land at Sutton Lodge, Farnham

Enforcement Notice served on 21 December 2009 to secure removal of 1.8 metre

high, close boarded fence. Notice not appealed against. Compliance date was 22 March 2010. **Notice has been complied with. This item will be removed from the report.**

Enforcement Officer: Victoria Choularton

20 Gong Hill Drive, Lower Bourne, Farnham

Enforcement Notice served requiring removal of the front entrance porch with room over and all materials and rubble resulting from this work. Notice served 13 April 2010. Appeal lodged.

Enforcement Officer: Victoria Choularton

Northfields, Tilford Street, Tilford

Enforcement Notice served requiring the cessation of the use of part of the land for storage and business use. Date for compliance 10 November 2009. Agent is submitting an application for a Certificate of Lawfulness to establish the exact extent of the land that is lawfully used for commercial purposes.

Enforcement Officer: Victoria Choularton

Cherry Orchard Farm, Churt, Farnham

Enforcement Notice requiring demolition of unauthorised dwelling served December 2008. **Appeal dismissed but High Court has found that the appeal Inspector erred on a point of law. Another Public Inquiry will be heard on 20 October 2010.**

Enforcement Officer: Victoria Choularton

Recommendation

That Members note the performance on planning enforcement.

Background Papers

There are no background papers (as defined by Section 100D(5) of the Local Government Act 1972) relating to this report.

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