

**Open Report on behalf of Richard Wills
Executive Director for Environment and Economy**

Report to:	Planning and Regulation Committee
Date:	3 October 2016
Subject:	County Matter – Prosecution for non-compliance with a planning contravention notice (PCN)

Summary:

This report gives details of a prosecution taken out by the County Council in respect of non-compliance with a statutory planning notice issued under the Town and Country Planning Act 1990 in respect of a waste transfer station at Summergangs Lane, Gainsborough. The PCN required the submission of information relating to a breach of a planning condition restricting the height of storage of waste materials to 3m. In his absence the operator was convicted at Lincoln Magistrates Court on 8 August 2016 and was fined £770 and full costs of £550 plus a victim surcharge of £77 making a total of £1397.

Recommendation:

That the report be noted

Background

1. This report informs the Committee of a recent Planning prosecution and details of fines and costs awarded by the Court.
2. On 30 March 2015 Lincolnshire County Council served a Planning Contravention Notice (PCN) for information relating to a breach of a condition of planning permission for a waste transfer station at Summergangs Lane, Gainsborough. The site owner is Kevin Thompson who formerly operated the site as Thompson Skip Hire. The site is no longer in use but wastes are still stored at the site.
3. At a site inspection on 7 October 2014 it was noted that wastes at the site were being stored at a height of around 6m. The permitted height is 3m. The operator was requested to reduce the heights to the permitted level. However on 9 February 2015 it was noted that waste materials were still being stored to a height of 6m. A Planning Contravention Notice was served on the owner requiring him to provide information relating to the land and its use. It is a criminal offence to fail to comply with a planning contravention

notice. The maximum penalty for non-compliance is £1000. Whilst the maximum fine level may appear low, the information received following service of a PCN is valuable as it is normally used for the subsequent issue of a Planning Enforcement Notice which would require steps to be taken by persons identified in the PCN to remedy the breach i.e. in this case to reduce the heights to at or below the permitted level of 3m. Non-compliance with a Planning Enforcement Notice carries an unlimited fine. A PCN is therefore a valuable tool for providing the foundation for the issue of a subsequent planning Enforcement Notice. Failure to provide the information can delay the issue of an Enforcement Notice as very often the recipient of the notice is the only person who possesses the required information.

4. The deadline for return of the information required by the PCN was 19 April 2015, however, the information was not returned. Kevin Thompson was invited to attend an interview under caution, but he did not attend and a prosecution file was prepared. A summons was issued for Kevin Thompson to appear at Lincoln Magistrates Court on 2 March 2016 at which charges were also brought against Kevin Thompson by the Environment Agency in respect of his failure to comply with a Court Order to fully clear the site. However the case was adjourned a number of times following Kevin Thompson's failure to appear, until on 11 May 2016 when a warrant with bail was issued by the Court requiring Thompson to appear in Court on 8 August 2016 or submit a medical report stating the reasons why he was unable to appear.
5. However on 8 August 2016 Thompson did not appear at Lincoln Magistrates Court and a medical report was not submitted. Thompson was found guilty in his absence of a failing to comply with the Planning Contravention Notice issued by Lincolnshire County Council.
6. The Court imposed a fine of £770, costs of £550 and a victim surcharge of £77. The EA case was not concluded and was transferred to the Scunthorpe Magistrate's Court at which time the Environment Agency had brought additional charges in respect of another waste transfer station operated there by Thompson. Lincolnshire County Council's prosecution was therefore concluded on 8 August 2016.
7. Whilst the prosecution has been concluded, Lincolnshire County Council will now consider issuing a Planning Enforcement Notice, notwithstanding the absence of information required by the Planning Contravention Notice. However, whilst there is an existing Court Order brought by the Environment Agency for Thompson to completely clear the site, it may not be expedient or necessary to take any further action which may just be duplicating existing action taken by the Environment Agency.
8. Members are invited to contact the Enforcement Team Leader if further information is required.

RECOMMENDATIONS

That the report is noted.

Background Papers

The following background papers as defined in the Local Government Act 1972 were relied upon in the writing of this report.

Document title	Where the document can be viewed
Planning Enforcement and Prosecution File INV/083/2014	Lincolnshire County Council, Planning Enforcement, Unit 4, Witham Park House, Waterside South, Lincoln LN5 7JN

This report was written by Tim Collis, Enforcement Team Leader, who can be contacted on 01522 554847 or dev_planningenforcement@lincolnshire.gov.uk

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