

HAMPSHIRE COUNTY COUNCIL

Information Report

Decision Maker:	Regulatory Committee
Date:	18 October 2023
Title:	Monitoring and Enforcement Update
Report From:	Director of Universal Services

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Purpose of this Report

1. The purpose of this report is to provide information to the Regulatory Committee on the Monitoring and Enforcement work undertaken by the Development Management team (including monitoring and enforcement) Planning during the period June 2023 – September 2023.

Recommendation

2. That the contents of this report be noted.

Executive Summary

3. The report details the number of complaints on authorised and unauthorised sites, and the outcome of negotiations, including, when necessary, enforcement action undertaken.
4. The report also details development control work dealing with Planning Condition (Article 27) applications and Non-Material Amendments.

Complaints

5. The majority of complaints received during the period June 2023 – September 2023 related to unauthorised development (10 sites) and breaches of operational planning conditions on existing mineral and waste sites (9 sites). Investigation and negotiation have followed with planning applications under consideration for 4 of the sites, with 3 more planning applications pending. Investigations are still ongoing at 2 sites. The remainder have been resolved or were enquiries made about general site operations, fly-tipping, odour and waste related development that were dealt with in-house or referred to either the Environment Agency (EA) or Local Planning Authorities as non-County matters.

Enforcement Actions

6. In the period up to September 2023, one Enforcement Notice was served with 2 previous Breach of Condition Notices (BCN) are still extant, with all other

matters either addressed through the planning system or remedied through negotiation.

7. The following provides an update on the latest Notice and enforcement activities since they were previously reported to the committee.

Table 1: Update on enforcement activities

Site	Update
<p>Yokesford Hill Estate, Yokesford Hill, Romsey</p>	<p>Site monitoring determined that stockpile heights had increased substantially over the Covid lockdown period, and the operator had contacted Officers discussed the submission of an application for a washing plant to address the issue, by improving the product and increasing available markets. An application was subsequently approved (21/02392/CMAS) (under delegation). To address the excess height during the construction of the washing plant a subsequent application was submitted to allow a temporary increase of stockpiles to the maximum height which allows the site to remain operational whilst being stable (23/00071/CMAS). However, in the interim, the northern slope of the stockpile slipped and encroached into the adjacent, associated nature reserve area and the eastern slope also threatened to encroach onto the adjacent land. Consequently, a PCN was served to identified which company was directly responsible for the stockpile and its maintenance.</p> <p>Once this information was provided, 2 BCNs and a TSN were served on the operator. The BCNs required the pulling back of the material from the reserve area and the re-planting of any damaged or destroyed trees, the removal of any material from under surrounding trees and from off the surrounding bunds and the regrading of the slopes of the stockpile. The BCNs also prohibit the addition of any further material on to the stockpile until the other requirements have been satisfied. The TSN was served to prevent any material being added in the period before the BCNs came into effect. The initial time period allowed were 3 months for the pulling back from the woodland area and re-planting and 6 months for the regrading of the slopes. However, following discussion with the operator it was accepted that the stockpile was too wet to safely enable a machine to be working on the slopes, so the 3 and 6 month period were extended so that they effectively ran from the beginning of April 2023. The exception is the re-planting requirement which was amended so that the area that had been cleared is re-planted this season with the remaining area re-planted next season.</p>

	<p>Works required by the BCNs has continued although this has had a knock-on effect on the height of the stockpile. The washing plant is still only in the commissioning phase which has delayed addressing the volume of the stockpile as a whole. Consequently, to keep the slopes less steep, the height has not come down as quickly as hoped. This is under discussion with the operator and may require a further BCN to impose further time restrictions on the period to get back on track. The first tranche of planting has been undertaken.</p>
<p>Bunny Lane, Timsbury</p>	<p>The site has been subject of numerous planning applications over the last couple of years, with the permanent retention of the washplant approved in 2022 (22/01323/CMAS) with some minor changes approved March 2023 (23/00149/VARS) in the interest of fire safety. The first periodic site noise assessments has been undertaken and this indicated that noise levels at one of the receptors were too high. This has been discussed with the EA and Environmental Health Officer and the members of the Liaison Panel. Remedial measures have been proposed and these are in the process of being implemented. A further Assessment will then be undertaken to measure whether these measures have produced any improvement.</p>
<p>Waterbrook Industrial Estate, Alton</p>	<p>The site was subject to a planning application to allow for restricted night-time activities including importation of road planings with a resolution to approve subject to a Legal Agreement on lorry routing (51471/007).</p> <p>A Liaison Panel was also to be set up for the site to encourage greater interaction between the operator and local residents. However, the site then closed. A new owner subsequently acquired the site and recommenced operations. They indicated that they were keen to engage with the Liaison Panel and the first virtual meeting was held November 2021. Unfortunately, due to disagreements between several parties, joint visits have been put on hold, and instead separate resident and operator meetings have been held.</p> <p>Due to the new owners taking over at a late stage, the commencement of the night-time deliveries did not start. Consequently, an application was submitted for a further trial period until 31 March 2023 (51471/008). This application was approved on 14 September 2022 and night-time deliveries of road planings apparently began soon thereafter.</p>

	<p>A further planning application (51471/009) has now been submitted to vary the conditions of the previous permission to allow the night-time deliveries as well as some changes from the original site permissions. Further information has been supplied to address some of the concerns about aspects of this application and these are out for comment with consultees.</p> <p>The Environment Agency did undertake some action to get one of the tenants on the site to reduce the quantity of waste paper and plastic on site on fire safety grounds. This is now under control.</p>
<p>Carousel Dairy (Basingstoke AD Plant), Manor Farm, Farleigh Wallop, Basingstoke</p>	<p>An application to make the vehicle increases permanent, with other negotiated changes to conditions, was approved at the February 2019 Committee meeting (18/03001/CMA).</p> <p>The ANPR cameras have been retained and access to the database for monitoring HGV movements secured so that any issues in the future can be investigated. There have been no subsequent complaints about HGVs to and from the site and amendments to the Traffic Management Plan, including some changes to road signage, have been agreed by the company and members of the Liaison Panel. The ANPR cameras are to be retained but will now need a Data Protection Impact Assessment under the GDPR.</p> <p>There had been issues of odour nuisance to the nearest properties, which were reported to the Environment Agency with increasing frequency since Summer 2019. A new biofilter was installed, but, as there had been no discernible improvement in the situation, the Environment Agency (EA) issued an Enforcement Notice requiring measures to be undertaken to improve the odour control process. This led to a number of changes to processes and installation of new equipment, including an application to amend the location and configuration of a previously approved building to contain the screening equipment. The EA were satisfied that their Notice had been complied with and the works undertaken. Further works have continued with improved cooling systems, and the latest results appear to indicate that the problem has largely been addressed. Monitoring is still ongoing with regular Liaison Panels, the last of which was newly constituted under the updated protocol.</p> <p>An NMA has recently been agreed to allow the installation of a new scrubber to further improve the odour control system.</p> <p>The operator keeps good lines of communications with local residents and informs them when any works or</p>

	<p>digestate removal or spreading is to take place and there have been no complaints since the latest changes were made. Another Liaison Panel is due to be arranged.</p>
<p>Four Dell Farm, Pole Lane, Otterbourne</p>	<p>A site with multiple planning permissions for different operations on units within the industrial estate including biomass plant with Adblue production and inert waste recycling. Concerns have recently been raised through Cllr Warwick and by residents about loud noise from the biomass plant in the early hours of the morning. Investigations by the MWPA and WCC EHO ascertained that the issue was due to a mechanical issue with a stuck pressure valve during a power outage on site. Subsequent engineer's investigation found that the back up battery power on the auxiliary pressure relief valve had failed preventing the valve from opening as required. The operator has installed a new battery pack and put testing procedures in place to ensure there is no repeat.</p> <p>The operator has implemented the plan of action to remedy the situation with the height of the stockpile and this has been satisfactorily addressed.</p>
<p>Bowling Alley, Crandall</p>	<p>Planning application (HCC/2021/0302) for a change of use of part of land forming Redfields Plant Centre to use for recycling of inert materials was approved by Committee on 17 November 2022. The permission was subject to the usual conditions, including on operating hours and restricting any screening or crushing on Saturdays, the construction of a wall and dust netting and a commitment to set up a Liaison Panel. The Panel has now met every quarter chaired by Councillor Glen.</p> <p>The operator has made good progress in getting all planting undertaken and constructing the retaining wall and installing the dust netting. No further complaints have been received. The issue of the planning status of the remainder of the wider yard has been clarified by Hart District Council with the other uses confirmed to be established uses. These do not have any conditions on working hours and so residents are advised to report any issues of noise or out of hours activities from these operations to Hart's EHO. Discussions are ongoing between the operator and the nearest resident to determine how to identify the source of any out of hours noise.</p> <p>Concern was raised about activity outside of the authorised yard, but this was determined to be permitted development related to the construction of</p>

	the bund granted permission by HDC and maintenance of tracks across the field.
Alton MRF	Planning permission was recently granted for development of an anaerobic digestion facility and waste transfer station, including partial demolition and reuse of existing buildings and infrastructure (planning application 33619/008). During the Committee Meeting discussions a question was raised whether the approved planting had ever been undertaken. Subsequent investigation determined that the Landscaping Scheme was submitted and approved as required during 2004 and the planting undertaken in the following planting season. A Liaison Panel will be established for the site.

8. Further information on the full suite of enforcement powers available to the County Council as Minerals and Waste Planning Authority (including powers to service PCNs, BCNs and ENs) are included in the County's [Enforcement and Site Monitoring Plan](#).
9. The following table provides information on the joint enforcement activities which have been undertaken with the Environment Agency, the Police and District Planning Authorities.

Table 2: Update on joint enforcement activities with the Environment Agency, the Police and District Planning Authorities

Site	Joint working with	Update
Shedfield Equestrian Centre	Winchester City Council, Environment Agency	<p>Shedfield Equestrian Centre has been the subject of numerous complaints and concern from local councillors over the past few months. This site has multiple uses and, as such, involves both the City Council and the County Council, as well as the Environment Agency. The main source of complaints relate to the number of HGVs, car transporters, etc visiting the site, burning, importation of waste materials, working hours and unauthorised mobile homes/residential uses. Unfortunately, the situation is complicated by the fact that many of the uses on site are permitted.</p> <p>The County Council are involved as part of the site has a Certificate of Lawful Use (CLU) for inert waste recycling, which was won on Appeal against an Enforcement Notice served by Hampshire County Council in 2013.</p>

		<p>Unfortunately, the nature of CLUs is that they do not impose any enforceable conditions on the operation, so we have no control over number of HGVs visiting, the hours of operation or height of stockpiles. The only control is that there is a red lined plan limiting where the activity can take place. In addition, they had allowed another company to start a small waste transfer activity in another (unauthorised) unit at the back of the business park. The operation of the waste transfer station, Avery B, had been granted a Permit by the Environment Agency, however the planning application was subsequently refused (22/01797/HCS). An Enforcement Notice was served at the end of August requiring the cessation of the waste use and the reinstatement of the land to agriculture. We have not been informed that the EN has been appealed, although the landowner has said that they will be appealing the refusal of the planning application. The EN is therefore considered to have taken effect and a meeting is to be arranged to check what is still happening on the land and next steps.</p> <p>Another retrospective application has also been submitted (22/02015/HCS) for the change of use to open storage of recycled aggregate materials and the retention of ancillary office and workshop and associated works as an extension of the Certificate of Lawful Use operation. This application is currently under consideration.</p>
Westwood, Botley Road, West End	Eastleigh Borough Council	<p>The County Council were contacted in November 2021 by Eastleigh Borough Council about at site at Westwood, Botley Road where they had refused planning permission for the use of the yard for the recycling of UPVC windows. They wanted the County Council to take on the enforcement of the site as the operation was a waste activity. On inspection of the site it was apparent that the landowner wanted to make</p>

		<p>changes to their original application to make it more acceptable. Consequently, they were given time to submit an amended application, this time to the County Council, so that we could consider against the policies of the Hampshire Minerals and Waste Plan. An application was submitted (CS/23/94884) and approved at Committee in July 2023.</p> <p>The required schemes and details have been submitted and are out for consultation.</p> <p>Subsequently, it has been reported that a nearby parcel of land under the applicant's control is being used for the storage of some skips and aggregates and building materials. The operator has been informed that there is no permission for any waste use or builder's yard on the land, so although the material can be stored for use on the site itself no material can be processed or exported.</p>
Ropley Quarry	Natural England, Hampshire Police	<p>Permission for chalk extraction at Ropley Quarry was initially granted in 1948 under an old Interim Development Order. In the early 1990s landowners and operators of such IDOs were required to register them with the local Mineral Planning Authority. This process also allowed the Mineral Planning Authority to impose a new set of up-to-date conditions on the permission. This resulted in a Reviewed permission being approved in 1994. However, the operator decided not to operate under these new conditions and the quarry was closed.</p> <p>In late 2016, an application was submitted to vary the dates by which a number of schemes and details had to be submitted and approved (20209/009). This was approved in April 2017.</p> <p>In November 2020, the various schemes and details were submitted and subsequently agreed in June 2021.</p>

		<p>In February 2022, work commenced on site to prepare it for the re-opening of the quarry. However, in the intervening years the site had been populated by dormice and a pair of peregrine falcons. Concern was raised about the impact of the site preparatory works on these protected species and the County Ecologist was consulted. The contractor was subsequently told to cease work until all the necessary approvals from Natural England had been received. The Police have also been involved as a possible case under the Wildlife Act.</p> <p>The appropriate Licences have now been issued by Natural England and amendments to the landscaping and tree schemes have been provided. An NMA has also been agreed to replace one of the derelict storage sheds on the site. Works were proposed to re-start in the Spring. The derelict storage sheds have been removed but there has been no work to construct the replacement or to re-commence any extraction.</p> <p>A Liaison Panel meeting has been arranged for beginning November so that the local community and the operator can discuss their concerns and explain the works undertaken.</p>
<p>Little Testwood Farm, Calmore</p>	<p>New Forest District Council, Environment Agency</p>	<p>Following their own investigations into the use of land as a caravan park, New Forest District Council reported the large-scale storage of packs of old PPE. It became apparent that thousands of packs of medical aprons had been dumped on the land with no obvious signs that they were being protected or stored for some future use. Following subsequent investigation by the EA and the MWPA, it became apparent that the PPE was being stored in preparation to being transferred to a plastic recycling company in Southampton. The use of the land for storage was not permitted and the landowner was given 2 months to clear the land. The MWPA undertook weekly visits to check on the clearance of the site. Good progress was made in clearing the material to the recycling facility and the land was finally cleared</p>

		at the end of August 2023, within the time limit stipulated by the EA.
Unit 10b Comley Hill, Rowlands Castle	Environment Agency, East Hants District Council	Reports of importation and burning of waste including by Cllr Marge Harvey. Joint investigations ongoing with the EA as evidence needed of importation of waste.
Gunboat Wharf, Gosport	Environment Agency, Gosport Borough Council	Reports of importation, dumping and burning of waste on the slipway. Investigations ongoing.
Dovecot, Hawthorn Lane, Four Marks	East Hants District Council, Environment Agency	Reports of unauthorised scrapyards and burning on land. The EA are investigating the burning and EHDC and ourselves looking into the use of the land. EHDC did grant a CLU in 1999 which allows the use of the land as a breaker's yard and for storage of other materials. The owner has indicated that they may want to construct a proper end of life vehicle recycling facility, which will require a new planning application. Meeting with EHDC and owner to be arranged.

Site Monitoring

Chargeable sites

10. Under the [Town and Country Planning \(Fees for Applications and deemed applications\) \(Amendment\) \(England\) Regulations 2006](#), as amended, the County Council is able to charge fees for the monitoring of quarries and landfill sites in the County. Fees are charged for a set number of monitoring visits, the number of visits being dependent on the stage of operations at each site; whether operational, in aftercare or inactive. The number of visits is agreed with each operator and is in line with an assessment of each site made by the County Council. The latest charges were set out in [The Town and Country Planning \(Fees for Applications, Deemed Applications, Requests and Site Visits\) \(England\) \(Amendment\) Regulations 2017](#). Active sites are charged at £397 per visit for between four and eight visits per year. Sites in aftercare are charged at £397 for one visit per year. Inactive sites are charged £132 for one annual visit.
11. There are now 22 active sites, 10 in aftercare and 7 dormant sites liable for chargeable visits.
12. This work is prioritised with inspections for the quarter likely to bring in approximately £7500 in fees.

Non-chargeable sites

13. Non-chargeable sites include waste processing sites, wastewater and treatment works and metal recyclers. These vary from the large Energy Recovery Facilities (ERF) and Materials Recovery Facilities (MRF) to the smaller scale recycling and transfer facilities and updating existing

wastewater treatment works. The larger developments attract much attention in their locality and require regular monitoring to ensure that the local amenity is not impacted, whereas the smaller, built developments require monitoring during construction and implementation, but once up and running need less regular attention and these sites only get further visits should complaints be received. Matrix working arrangements have been made with Waste & Resource Management that their officers undertaking visits to waste sites operating under the County's waste contract also look at planning issues to provide greater coverage. Under the Covid restrictions, routine monitoring was limited, concentrating on sites with issues or causing complaints. Monitoring of waste sites covered by the County's waste contract has also resumed, these sites having remained open during the pandemic as one of the essential sectors listed by Government.

Liaison Panels

14. Since the last update, Liaison Panel meetings have been held for:

- Bleak Hill Quarry, Somerley;
- Bowling Alley, Crondall;
- Roke Manor, Nr Romsey;
- Mortimer Quarry, Mortimer West End;
- Lee Lane, Nursling;
- Forest Lodge Home Farm Quarry, Hardley;
- Bunny Lane, Timsbury;
- Frithend Quarry, Kingsley; and
- North Winchester Recycling Facility.

15. Most panels now take place virtually, although some panels still have in person meetings.

Development Management

Relaxation of Planning Conditions due to Covid-19:

16. As reported in previous enforcement updates, the coronavirus pandemic led to a number of recommendations from Government including the need for Local Planning Authorities to use their discretion on the enforcement of planning conditions which hinder the effective response to COVID-19. The Planning team had numerous enquiries as to our view to relaxing planning conditions during this period for both minerals, waste and Regulation 3 developments. At the time, a report was produced in response to each request made and was signed off by the then Head of Strategic Planning under delegated powers. Local Members are informed on the relaxation. The periods for the relaxation of conditions have ended. The relaxation of conditions did not impact the authority's ability to use its enforcement powers. They were also subject to review should any significant complaints be received.

17. The below table provides an update on sites where an update is required.

Table 3: Update on sites where covid relaxations were agreed

Site	Update
A303 IBA Facility	<p>Temporary emergency use of adjacent land (formerly subject of the 'Wheelabrator EfW' proposal) for storage of excess IBA. Due to the existing site being almost filled to the increased levels as agreed above, the operator discussed the use of the adjacent site for a temporary period with both ourselves and the Environment Agency. Following submission of detailed information, the EA agreed that the land could be used, subject to 12 conditions (relating to operations) and the use ceasing on the 30 September 2020. Subsequent to this approval, the County agreed the temporary use of this land subject to a further 6 conditions, including setting a maximum stockpile height of 5m and a meeting to review the situation by the end of July. The operator was also required to inform the local Liaison Panel. Although only about a half of the capacity for storage was utilised, the market for IBAA in construction projects has still not recovered and the need for the emergency storage remains. A further temporary extension was therefore agreed until 31 March 2021 by both the County Council and the EA. This agreement was subject to the previous conditions and also on the recognition that there would be no future temporary extension of time. Should any further extension be necessary then a full planning application would be required so that the issue can be formally considered. An application (21/00812/CMAN) was submitted for permission to construct the needed concrete surfacing and drainage systems to allow the longer-term use of the land for storage of IBAA. However, this was withdrawn following consultation as it was then considered to be larger than actually needed. A further application (21/02681/CMAN) for a smaller area has now been submitted and is currently being considered.</p>

Planning Condition (Article 27) applications:

25. Where conditions of new permissions require details to be submitted and approved for the proper implementation and control of the development, Article 27 applications are required. Under the [Town and Country Planning \(Fees for Applications and Deemed Applications, Requests and Site Visits\) \(England\) Regulations 2012](#), a fee per submission is required for the discharge of any details submitted. This is now £116 per submission.

26. During the period, Article 27 applications were received and approved or are being determined for 10 submissions (5 for Regulation 3 developments and 5 County Matter), totalling £1160.
27. As detailed previously, following adoption of the Protocol for Dealing with Breaches in Planning Control relating to Development Undertaken by the County Council under Regulation 3 of the [Town and Country Planning General Regulations 1992](#), enforcement updates now also include information on Article 27 applications for County Council developments and any breaches of planning control.

Non-Material Amendments (NMAs):

28. Non-Material Amendments (NMAs) are minor changes to the operation of authorised sites that can be agreed by an application for non-material amendment if the change has no substantial impact on the local amenity. Such an application requires a fee but does not involve general consultation and determination by Committee.
29. Since the last update, Over the period 3 NMA application was received:
 - Slowhill Copse Wastewater Treatment Works, Bury Road, Marchwood:
The proposed non-material amendment seeks approval to change:
 - The position and size of the Interstage-pump station Motor Control Centre (MCC) kiosk. The permitted floor space of 44m² is now proposed to be a little larger at 44.85m². However, the height of the kiosk will be reduced from the permitted 3.61m to the proposed 3.17m. The position of the kiosk is proposed to be shifted by 90 degrees.
 - The position and size of the UV disinfection plant kiosk. The permitted floorspace of 32m² is proposed to be slightly larger at 34.44m². However, the overall height of the kiosk is proposed to be lowered from 3.56m on a 1.8m high platform to 3.17m on a 1.8m high platform. The position of the kiosk is proposed to be approximately 5 metres south of the permitted position.
 - Land at Woodhouse Lane, Botley: Change to mound heights and mound quantity in the area known as Holmesland Lane South - total quantity of material to remain the same.
 - Original - Two x 3m mounds opposite residential properties on Winchester Street as shown in drawing CJ008882 ECH ELS 13317040 DR M 0011 rev
 - P02 in the Uplands Development Infrastructure - Landscape & Ecological Management Plan & Implementation report September 2020

to

 - Three x 1.5m mounds and additional planting to provide a screen to residents. The additional planting will increase from 134 (mix of tree & shrub planting) to approximately 630 (mix of tree & shrub planting) shown in drawings CJ008882-ECH-ELS-13317040-DR-HE-0038 HOLMESLAND SOUTH PLANTING

PLAN 08_06_2023-Layout1 and CJ008882-ECH-HFE-
13317040-DR-HE-0014 HOLMESLAND SOUTH FENCING

- Hirtenberger Defence International Ltd, Craydown Lane, Middle Wallop Stockbridge
 - Amendment 1: On drawing SKT-BP-002B Sheet 2 (Issue E), the internal bund retaining wall is shown as having a thickness of 0.3m. The blocks to be used in the construction of the internal retaining wall are an industry standard of 0.215m. The non-material amendment is to change the thickness to the internal bund retaining wall to 0.215m as shown in drawing SKT-BP-002B Sheet 2 (Issue F).
 - Amendment 2: On drawing SKT-BP-002B Sheet 2 (Issue E dated 25.11.21), all the rainwater is shown as being collected for subsequent disposal by a licensed operator. This is also repeated in the Environmental Statement dated 10.05.22.

The non-material amendment is to allow uncontaminated rainwater to be diverted to an already existing soakaway and only contaminated rainwater to be collected for later disposal.

REQUIRED CORPORATE AND LEGAL INFORMATION:

Links to the Strategic Plan

Hampshire maintains strong and sustainable economic growth and prosperity:	yes
People in Hampshire live safe, healthy and independent lives:	yes
People in Hampshire enjoy a rich and diverse environment:	yes
People in Hampshire enjoy being part of strong, inclusive communities:	yes

Section 100 D - Local Government Act 1972 - background documents

The following documents discuss facts or matters on which this report, or an important part of it, is based and have been relied upon to a material extent in the preparation of this report. (NB: the list excludes published works and any documents which disclose exempt or confidential information as defined in the Act.)

Document

Location

None