

# HAMPSHIRE COUNTY COUNCIL

## Information Report

<b>Decision Maker:</b>	Regulatory Committee
<b>Date:</b>	15 March 2023
<b>Title:</b>	Monitoring and Enforcement Update
<b>Report From:</b>	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) during the period August 2022 – February 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 August 2022 – February 2023 related to unauthorised development (21 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 5 of the sites, with 3 more applications pending. Investigations are still ongoing at 3 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.
6. **Calf Lane** - The planning application ([20/02979/CMAS](#)) for changes to the permitted picking station and fines machinery was approved by Committee on 20 October 2021. This was subject to conditions on the agreement of a Noise Management Plan and a commitment by the operator to set up a Liaison Panel meeting to improve the communication between operator and local

residents. The Liaison Panel has now sat three times and much progress was made in improving the lines of communication and addressing the issues of concern to the local residents. Councillor Glen was chairing this panel. However, since the last Panel meeting the Company has been bought out by another local waste company and the site has now been closed. At present the new owner are still to decide whether the site will be used and re-opened.

7. **Bowling Alley, Crondall** – 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 first meeting of the Panel has been held with a second meeting is due to take place in the next couple of weeks. Councillor Glen is chairing this Panel. At the beginning of the year, the local resident sent in a record of suspected breaches of the operating hours condition over the previous couple of months. However, on investigation it was found that the movements or works were not directly related to the recycling facility but were as a result of the other uses of the wider yard. This included plant and HGV hire. Legal advice was taken whether this new activity would be considered ancillary to the development as the plant and HGVs would only be on site due to the existence of the planning permission and so be covered by the operating hours condition. The advice concluded that the condition frames the restriction on HGV movements to those associated with the permitted use. In doing so it does not restrict the access/egress of HGV's generally from the site for purposes that are not associated with the planning permission. The question as to whether the word 'associated' might mean not just HGV movements for the purpose of the described use but would also catch the use of vehicles that were used for both the inert recycling and then for another and separate purpose would, in Legal's view, be reading too much into the condition. Giving the condition, this meaning effectively would restrict HGV movements even if the use of the HGV at that point was not connected to the inert recycling. This same effect would have been achieved by removing (or not including) the words 'associated with the use' from the condition when the permission was granted, and this not how the permission was granted. The use of the wider yard for the other businesses is a matter for the Local Planning Authority and Hart District Council have been informed.

### **Enforcement Actions**

8. In the period up to February 2023, there was 1 Planning Contravention Notice (PCN), 1 Temporary Stop Notice (TSN) and 2 Breach of Condition Notices (BCN) served, with all other matters either addressed through the planning system or remedied through negotiation.
9. 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
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<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 (<a href="#">HCC/2021/0442</a>) (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 (<a href="#">HCC/2022/0536</a>). 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. 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 run from the beginning of April. 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. A Liaison Panel meeting has been scheduled for March 2023.</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 (<a href="#">51471/007</a>). 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</p>

	<p>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 (<a href="#">HCC/2021/0759</a>). This application was approved on 14 September 2022 and night-time deliveries of road planings apparently began soon thereafter. A further application (<a href="#">HCC/2022/0633</a>) 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. Complaints continue to be received by the Council and the Environment Agency predominantly about noise, and investigations are continuing to find resolutions to the problem. There have also been very recent complaints about the noise from tailgates banging during the night-time deliveries (on three occasions over two nights). The operator is unsure why this problem should now have started with all their HGVs having hydraulic tailgates but have instructed their on-site Supervisor to video each delivery to keep a record and are looking at the possibility of installing rubber stoppers to further minimise any risk of problems.</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 (<a href="#">18/03001/CMA</a>).</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</p>

	<p>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>
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10. 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.
11. 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*

<b>Site</b>	<b>Joint working with</b>	<b>Update</b>
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 are 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 have 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 has been granted by a Permit by the Environment Agency and an application has subsequently been submitted (<a href="#">HCC/2022/0384</a>). This is currently under consideration Another retrospective application has also been submitted (<a href="#">HCC/2022/0428</a>) 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 also currently under consideration.</p>
<p>Redlands, Sherfield-on-Loddon</p>	<p>Environment Agency</p>	<p>Following complaints of continuous stream of lorries using a narrow track to access a field adjacent to Redlands, Sherfield-on-Loddon contact was made with the Environment Agency's (EA) Environmental Crime Team. Information from initial investigations was passed on with agreement that further contact would be made once site visit undertaken. However, on arriving at site, was met by the Police who had attended the site on totally separate investigation and removed the occupants. Accompanied access was allowed and it became apparent that 100+ loads of inert waste and trommel fines (predominantly plastic and wood) had been tipped in the field. Upon discussion with the EA it appears that the names and details provided tie in with a larger case the EA are investigating of systematic illegal tipping by hauliers out of London on numerous sites to the west of London. Unfortunately, legal issues have made</p>

		<p>progress in this case very difficult with a number of the hauliers and the apparent landowner, or person responsible, using bankruptcy laws to try to avoid further action. A Case Review is to be held by the EA to see if there is any realistic chance of successful prosecution.</p>
<p>Westwood, Botley Road, West End</p>	<p>Eastleigh Borough Council</p>	<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 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 has now been submitted and is being validated.</p>
<p>Ropley Quarry</p>	<p>Natural England, Hampshire Police</p>	<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 MPA 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 (<a href="#">20209/009</a>). 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 are proposed to re-start in the Spring.</p>
Station Yard, Rowlands Castle	Environment Agency, East Hants District Council	<p>Complaints were received in the Summer about waste being imported and sorted on the site, a small yard adjacent to the railway station at Rowlands Castle. Following joint meetings with ourselves and the EA the operator agreed to tidy the site, reduce the material coming in and improve their waste handling processes. They also stated their intention to submit a planning application. However, over the Christmas period waste material was bought in by several other sources, stockpiled in the centre of the site and then set alight. It burned for four days with the Fire Dept in attendance. The landowner was threatened with enforcement action and steps were taken to clear the site and the operator forced from the site.</p>

## Site Monitoring

## Chargeable sites



12. 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.
13. There are now 22 active sites, 10 in aftercare and 7 dormant sites liable for chargeable visits.
14. This work is prioritised with inspections for the 2nd and 3rd quarters, bringing in approximately £17,071 in fees.

#### *Non-chargeable sites*

15. 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**

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

- A303 Recycling Facility, Longparish;
- Frithend Quarry, Nr Bordon;
- Mortimer Quarry, Mortimer West End;
- Bowling Alley, Crondall;
- Forest Lodge Home Farm, Hythe;
- Roke Manor, Nr Romsey;
- Lee Lane, Nursling;
- Waterbrook Industrial Estate, Alton; and

- Bunny Lane, Timsbury.

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

## Development Management

### Relaxation of Planning Conditions due to Covid-19:

18. 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.

19. 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	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

	<p>formally considered. An application (<a href="#">21/00812/CMAN</a>) 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 (<a href="#">HCC/2021/0545</a>) for a smaller area has now been submitted and is currently being considered.</p>
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### **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 22 submissions (6 for Regulation 3 developments and 5 County Matter), totalling £2,552.
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 7 NMA applications were received:
  - The Castle, Castle Avenue, Winchester – Window and panelling replacement;
  - Ropley Lime Quarry, Soames Lane, Ropley – Replace blister hanger with a new structure of similar dimensions and scale;
  - The A303 Recycling Facility, Drayton Road, Barton Stacey – installation of replacement picking line and separation equipment;
  - Veolia Environmental Services, Poles Lane, Otterbourne – the incorporation of 2 x CCTV columns to accommodate 2 x CCTV cameras;
  - Sonnet Court Bungalows, Selborne Drive, Eastleigh – retention of existing fences, relocation of pathway and relocation of proposed tree;

- Netley Waste Transfer Station, Off Portsmouth Road, Netley – installation of a CCTV column; and
- Basingstoke AD Plant, Beggarwood Lane, Dummer – installation of wet scrubber to improve odour control systems.

**REQUIRED CORPORATE AND LEGAL INFORMATION:**

**Links to the Strategic Plan**

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