

# HAMPSHIRE COUNTY COUNCIL

## Information Report

<b>Decision Maker:</b>	Regulatory Committee
<b>Date:</b>	14 June 2023
<b>Title:</b>	Monitoring and Enforcement Update
<b>Report From:</b>	Director of Universal Services

**Contact name:** David Smith

**Tel:** 01962 845891

**Email:** [david.smith@hants.gov.uk](mailto:david.smith@hants.gov.uk)

### 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 March 2023 – May 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 March 2023 – May 2023 related to unauthorised development (8 sites) and breaches of operational planning conditions on existing mineral and waste sites (3 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. The Liaison Panel had made much progress in improving

communication between residents and the operator under Cllr Glen’s chairmanship. However, the site was then bought out by another local waste company and closed. A commitment has been given by the new owner that should any activity re-start then the Liaison Panel will be re-activated.

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 three meetings of the Panel have been held with Councillor Glen chairing. 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. There is an ongoing query as to the planning status of the remainder of the wider yard, and Hart District Council have been asked to clarify the position and have been invited to future Panels to give an update.

### Enforcement Actions

8. In the period up to May 2023, there were no further Notices served although the previous 2 Breach of Condition Notices (BCN) are still extant, 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
Yokesford Hill Estate, Yokesford Hill, Romsey	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="#">21/02392/CMAS</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="#">23/00071/CMAS</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,

	<p>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. Works required by the BCNs continue, with the first tranche of planting undertaken. A Liaison Panel meeting was held in March 2023. The next is scheduled for June 2023.</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 (<a href="#">22/01323/CMAS</a>) with some minor changes approved March 2023 (<a href="#">23/00149/VARS</a>) in the interest of fire safety. The periodic noise assessments are due to be undertaken but are weather dependent so have had to be postponed already due to high winds.</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 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="#">51471/008</a>). This application was approved on 14 September 2022</p>

	<p>and night-time deliveries of road planings apparently began soon thereafter.</p> <p>A further planning application (<a href="#">51471/009</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. Further information is still required to clarify some alterations and support the changes proposed, however, aside from one other instance of disturbance from the night-time deliveries, general complaints about the site have lessened. 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.</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 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>

	The operator keeps good lines of communications with local residents and informs them when any works or 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.
Four Dell Farm, Poles Lane, Otterbourne	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 been raised through Cllr Warwick about the location of a picking plant and the height of stockpiles on the recycling area. Instruction has been given to remove the picking station, although it is not for use on the site, and reduce the height of the stockpile or face BCN. The operator has implemented a plan of action to remedy the situation including ceasing importing any more material until the stockpile has been satisfactorily addressed.

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*

Site	Joint working with	Update
Shedfield Equestrian Centre	Winchester City Council, Environment Agency	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.  The County Council are involved as part of the site has a Certificate of Lawful

		<p>Use (CLU) for inert waste recycling, which was won on Appeal against an Enforcement Notice served by Hampshire County Council in 2013. 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="#">22/01797/HCS</a>). This is currently under consideration. Another retrospective application has also been submitted (<a href="#">22/02015/HCS</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</p>

		<p>investigating of systematic illegal tipping by hauliers out of London on numerous sites to the west of London.</p> <p>Unfortunately, legal issues have made 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 was held by the EA to see if there is any realistic chance of successful prosecution and an update is awaited.</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 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 (<a href="#">CS/23/94884</a>) and is under consideration, with a site visit being held end of May 2023.</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</p>

		<p>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 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>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. The concern is that they have been dumped with no intention of removal to a proper facility. The EA have been contacted to see if they can determine where the PPE originated and whether it was discarded by a Health Trust as substandard during the Covid procurement. Enquiries have been made with Land Registry to ascertain land ownership, although this has flagged up a possible HCC link as</p>

		we are mentioned in one clause in relation to a s106 Agreement. I have asked Legal to look into this.
--	--	---

## 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 1st quarter this financial year likely to bring in approximately £8500 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:
  - Bleak Hill Quarry, Somerley;
  - Bowling Alley, Crondall;

- Roke Manor, Nr Romsey; and
- Yokesford Industrial Estate, 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

	<p>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 (<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="#">21/02681/CMAN</a>) 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 4 submissions (6 for Regulation 3 developments and 5 County Matter), totalling £464.
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 1 NMA application was received:
  - Solent Industrial Estate, Caird Avenue, New Milton – a change to approved Ground Floorplan.

**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