

HAMPSHIRE COUNTY COUNCIL

Information Report

Decision Maker:	Regulatory Committee
Date:	16 October 2019
Title:	Monitoring and Enforcement Update
Report From:	Director of Economy, Transport and Environment

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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 Strategic Planning during the period May 2019 – September 2019.

Recommendation

2. That the contents of this report are noted.

Executive Summary

3. Officers have been actively ensuring compliance with minerals and waste permissions granted by Hampshire County Council, investigating any complaints received as well as working with other Authorities and Agencies.
4. The report details the number of complaints on authorised and unauthorised sites, and the outcome of negotiations, including, when necessary, enforcement action undertaken.
5. The report also details the routine monitoring of chargeable and non-chargeable sites and development control work dealing with Planning Condition (Article 27) applications and Non-Material Amendments.

Complaints

6. The majority of the complaints received during the period May 2019 – September 2019 refer to unauthorised development (13 sites) and breaches of operational planning conditions on existing mineral and waste sites (7 sites). Site investigations and negotiation addressed all the issues raised and work is ongoing to remedy 8 of the sites, with 3 planning applications submitted to address issues raised by complaints. 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

7. In the period to the end of September 2019, there were no Notices served, with all matters either addressed through the planning system or remedied through negotiation.
8. The following provides an update on enforcement activities previously reported to the committee.

Table 1: Update on enforcement activities

Site	Update
Courtwood Farm, Fordingbridge	<p>Following the withdrawal of planning application (16/11544) and continued complaints, a Breach of Condition Notice was drafted. However, a further planning application was submitted (17/10612) to address issues on site. This was refused by Committee on 24 January 2018 and enforcement action was authorised. An Enforcement Notice was served on 31 January 2018 requiring the site to operate under conditions 4 (HGV numbers), 7 (operating within the building) and 9 (no outside sorting of waste) of the original permission. The applicant appealed against the Enforcement Notice (and the refusal of the planning application) on the grounds that it should be granted permission, that the County Council's requirements are unreasonable and that the County Council has not allowed sufficient time for them to comply with the Notice.</p> <p>The Appeal Hearing was eventually held on 10 September 2019 (following long delays in processing the case at the Planning Inspectorate) and was attended by Officers from Strategic Planning and Highways. The Hearing lasted a day and a Decision is awaited.</p>
Down Barn Farm, Boarhunt Road, Fareham	<p>Planning permission was granted in 2009 for the use of the site for hardcore/concrete recycling solely for the applicant (P/09/0396/MW). Three subsequent applications have been submitted to retrospectively vary several aspects of the operation (the sole use, HGV numbers and layout) (P/17/1104/CC, P/17/0471/CC and P/16/0299/CC) but these have all been refused. The applicant has since employed a Planning Consultant to address the reasons for the refusals. In the meantime, Officers noted that the site was being operated outside of the permitted hours. Consequently, a Breach of Condition Notice was drafted requiring the site to operate only within the hours permitted by the permission. There have been no further reports of such contraventions. An application for reconfiguration of the site to: facilitate access to gas network infrastructure; enhance</p>

	<p>landscape planting; and create improved highways access to allow increased number of waste vehicle movements per week was submitted and subsequently approved on 24 May 2019 P/18/1122/CC.</p>
<p>Basingstoke AD Plant (formerly Carousel Dairy), Manor Farm, Farleigh Wallop, Basingstoke</p>	<p>Following complaints and investigation it was determined that there were breaches of the conditions setting out the hours that lorries could access the site. A Breach of Condition Notice (BCN) was served to cease the activity and prevent future breaches. A Planning application was subsequently submitted (16/00322/CMA) to address the issue and clarify the permitted times and vehicle numbers. This was approved by the committee in July 2016 with an increase in vehicle movements permitted for an initial trial period of one year. A further application to make the vehicle increases permanent was considered at the September 2017 meeting of the Committee when it was resolved to grant permission for another 1 year period to allow for further monitoring (17/01876/CMA). Proactive site management and regular Liaison Panel meetings improved the situation and monitoring of the traffic movements continued using the vehicle number plate recognition system. An application to make the vehicle increases permanent, with other negotiated changes to conditions, was approved at the 13 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. There has been an issue of odour nuisance to the nearest properties, with increasing frequency over the Summer which has been reported to the Environment Agency. The operator is in the process of installing a new biofilter system which, it is hoped, will address this issue.</p>
<p>Land to the rear of Peacocks Nursery, Ewshot</p>	<p>Following refusal of a second planning application (16/03156/HCC) enforcement action was authorised by Regulatory Committee on 22 March 2017. An Enforcement Notice was served on 22 April 2017 to come into effect 24 May 2017. This EN was appealed (on the grounds that it should be granted planning permission) and the Appeal was heard on 12 December 2017.</p> <p>The Decision was received on 16 January 2018 and the Appeal was upheld (Decision Notice included under 'Appeals' tab of application above). Consequently, the operation had planning permission for a temporary period of 20 months with 4 months to complete restoration.</p>

	<p>Permission expired on 19 September 2019. Monitoring will continue to ensure that operations move off site and that only the permitted restoration works are undertaken on site.</p>
<p>Homestead Farm, Penton Copse, Andover</p>	<p>Following appeals against three Enforcement Notices the enlarged waste handling replacement building and site offices and the extension to the site area now have planning permission. As a result of subsequent site inspections an application was submitted for changes to the layout of the site, relocation of the office building and an extension to the waste handling building. The change to the layout and relocation of the office building were approved, however a further application was required to address the extension of the waste handling building and associated operational matters. This further application has been submitted and is currently under consideration (18/03172/CMAN) with further information required about the drainage system before permission can be granted.</p>
<p>Manor Farm Recycling Facility, Pennington, Lymington, Hants, SO41 8QZ</p>	<p>A Breach of Condition Notice was served on 18 October 2018 requiring a reduction in the height of stockpiles on site to the permitted 3 metres.</p> <p>Subsequent inspections and site surveys confirmed that considerable progress had been made in addressing this matter by the compliance date, so further time was allowed to fully comply. This matter has now been fully resolved, with a great improvement to the amount of material stored on site and the general tidiness of the operational area.</p>

9. 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) is included in the County's Enforcement and Site Monitoring Plan. This can be found on the Strategic Planning website at: <http://documents.hants.gov.uk/planning-strategic/HampshireCountyCouncilPlanningEnforcementandSiteMonitoringPlanJuly2016.pdf>.

10. 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
Whitehouse Field, Goodworth Clatford	Test Valley Borough Council, Environment Agency, Hampshire County Council Highways	<p>In late 1990s, planning permission was granted by Test Valley Borough Council for construction of an extension to the existing golf course. This involved the importation and tipping of inert materials as an engineering operation. This work continued for approximately 10 years until the then operator left the site in 2010 and Test Valley Borough Council considered the development completed. Several years later the operator of Homestead Farm bought the land. He claimed that surveys of the site had shown that the development had not been fully completed and stated his intention to restart work. His argument is that the levels survey agreed under the permission is so vague and contradictory that there is potentially up to 6 metres of fill required (approx. 450 000 tonnes of material).</p> <p>The authorities do not accept that this is authorised and have liaised closely to ensure that if and when work does start the appropriate enforcement action can be taken. Following legal advice from Counsel, it has been decided that the best way forward is for Test Valley Borough Council to enforce against any work as a breach of the original permission, with the EA looking to prosecute for tipping without a Permit. Hampshire County Council Highways are also involved, as part of the site access is highway land historically used by locals as a small car park, and the new landowner has been fencing and blocking it off. Hampshire County Council Highways have therefore taken legal action to secure clearance of the fences and blockades and maintain access. There has been no further work on site whilst the landowner attempts to address</p>

		<p>Permitting issues with the EA and this is now the subject of an Appeal.</p> <p>Test Valley Borough Council has since served Enforcement Notices against preparatory works on site, so this is also the subject of an Appeal and witness Statements have been supplied by Hampshire County Council.</p>
Selborne Brickworks	Natural England and Police's Wildlife Crime Team	<p>Reports of digging holes and burying waste adjacent to settlement ponds on the Brickworks site. Investigation found no evidence of tipping or of removal of clay off site, so this was not a County Planning matter. However, this area is a known habitat of Great Crested Newts (GCN) (a protected species). The landowner was prosecuted in the past for similar destruction so knows he cannot undertake such works without approval of Natural England (NE). The Police and NE started a prosecution, in which the Enforcement Officer was involved as a witness, and the landowner pleaded guilty and was fined £1,200 with a further £205 costs.</p> <p>In March of this year further reports were received of material being imported to the land. A site inspection discovered that the landowner had commenced the infilling of the former settlement ponds associated with the Brickworks. The ponds are now registered as GCN habitat, so Wildlife Protection legislation supersedes Planning legislation. Consequently, the matter has again been reported to the Police and Natural England for further investigation.</p>

Appeal Decision

Unit 7 Waterbrook Industrial Estate Alton

11. A Planning Application ([Ref 51471/006](#) , dated 29 January 2018) was submitted for Variation of conditions 5, 11 and 18 of planning permission 51471/003 to allow for importation of road planings and the night-time importation and exportation of waste. This Application was refused by Regulatory Committee on 31 July 2018 in the interests of local amenity in accordance with Policy 10 (Protecting public health, safety and amenity) of the Hampshire Minerals & Waste Plan (2013) on the grounds that the proposed night time operations would result in unacceptable noise impacts to occupiers of residential property in the surrounding area.

12. The Applicant decided to appeal this Decision and chose to have the Appeal considered under the Written Representations procedure, whereby both sides put their arguments in writing and the Inspector then considers all the evidence, undertakes a site visit and then makes a Decision.
13. The Inspector's Decision was made on 29 August 2019, and the Appeal was dismissed. However, the reason for the dismissal was on narrower grounds than the reason for refusal of the original planning application and does leave open the possibility of a re-submission of the application.
14. The Inspector agreed that the main issue in this case was the impact of the proposal on the living conditions of neighbouring residents, in terms of noise and disturbance. But, on the basis of the modelling and noise assessment carried out (of which the Inspector accepted the Environmental Health Officer's view was sound), the Inspector concluded that there would not be an adverse effect in terms of noise from the proposed night time activities on the site itself.
15. Where the Inspector had concerns was with the off-site noise and HGV movements, concluding that without a Section 106 Agreement to control the route that HGVs should take when approaching and leaving the site there is no guarantee that surrounding occupiers would be adequately protected from noise and disturbance by HGVs.
16. Therefore, although on-site noise could be adequately controlled, the Inspector considered that there would be an adverse effect from night-time HGV movements without a routing agreement in place. As such, the Inspector concluded that the proposal would be harmful to the living conditions of neighbouring occupiers, contrary to Policy 10 of the Minerals and Waste Plan which seeks to protect public health, safety and amenity.
17. The full Inspector's Decision can be found at [Inspector's Decision](#).

Site Monitoring

18. Chargeable sites – under the [Town and Country Planning \(Fees for Applications and deemed applications\) \(Amendment\) \(England\) Regulations 2006](#) 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. 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.
19. There are now 25 active sites, 12 in aftercare and 5 dormant sites liable for chargeable visits. The County Council previously undertook monitoring of 2 active sites for South Downs National Park Authority, but it has now taken back responsibility for these sites.
20. During this period all chargeable visits were undertaken, bringing in approximately £16,600 in fees.
21. Non-chargeable sites – these 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.

Liaison Panels

22. During this period Liaison Panel meetings were held for the following sites: -
- (a) Basingstoke AD Plant, Carousel Dairy, Farleigh Wallop.
 - (b) Humbly Grove Oilfield.
 - (c) Frith End Sandpit, Kingsley.
 - (d) Mortimer Quarry, Mortimer West End.
 - (e) Chineham ERF, Chineham.
 - (f) A303 Recycling Facility, Longparish.
 - (g) Little Bushywarren Composting Facility & Herriard AD Plant, Herriard.
 - (h) Roke Manor Quarry, Nr Romsey.
 - (i) Squabb Wood Landfill, Nr Romsey.

Development Management

Planning Condition (Article 27) applications:

23. Where conditions on 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.
24. During the period, Article 27 applications were received and approved or are being determined for 19 planning permissions, totalling £2,204.
25. 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

26. 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.

27. Over the period eight NMA applications were determined: -

- (a) Sir George Staunton Country Park, Middle Park Way, Havant - Change to the pedestrian crossing layout.
- (b) Eversley Quarry, Coopers Hill, Eversley, Eversley Common RG27 0QA - change to approved restoration plans for 4 associated applications.
- (c) Jermyns House, Jermyns Lane, Ampfield SO51 0QA - increase to the footprint of the tearoom extension.
- (d) South East Hampshire Bus Rapid Transit Phase 1 Fareham to Gosport - to provide for removal of CCTV from bus shelters, removal of cycle storage between Stops 13 & 14 and changes to bus stop platform dimensions.
- (e) Petersgate Infant School, Green Lane, Clanfield, Waterlooville, PO8 0JU - Omission of roof lights on the proposed classroom block.

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