

HAMPSHIRE COUNTY COUNCIL

Information Report

Decision Maker:	Regulatory Committee
Date:	20 April 2022
Title:	Monitoring and Enforcement Update
Report From:	Director of Economy, Transport and Environment

Contact name: David Smith

Tel: 01962 845891

Email: 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 Strategic Planning during the period November 2021 – April 2022.

Recommendation

2. That the contents of this report be noted.

Executive Summary

3. Although the restrictions imposed under the Covid-19 pandemic have been relaxed, allowing site visits to be undertaken on a much more normal basis, liaison with other agencies is still patchy with self-isolation and cases of illness still affecting the possibility of joint visits being undertaken consistently. However, Officers have been able to undertake the highest priority visits and actively investigate any complaints received.
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 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 November 2021 – April 2022 relate to unauthorised development (11 sites) and breaches of operational planning conditions on existing mineral and waste sites (9 sites). We also received complaints about a school. Investigation and negotiation have followed with planning applications under consideration for 8 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.

7. **Bunny Lane** – following refusal of the first planning application for the installation of the washing plant (planning application [20/01753/CMAS](#)) in December 2020, the applicant decided to re-submit their application to try and address the reasons for the original refusal. This was submitted on 16 February 2021 (planning application [21/00588/CMAS](#)) and it was reported to the Council’s Regulatory Committee in July, at which time it was approved.

Although the original commissioning work had been completed, the applicant has continued to experience technical issues with specific parts of the plant such that the wash plant was only been in operation for short periods. This meant that there was a delay in undertaking a proper Noise Assessment as required as part of the noise monitoring and mitigation scheme required under planning permission 21/00588/CMAS. The first such Assessment was undertaken at the beginning of March and the results are being analysed.

Officers continue to visit the site to monitor activities and the implementation of the wash plant planning permission. It is anticipated that an application to make the permission for the wash plant permanent will be submitted shortly.

8. **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 twice and much progress has been made in improving the lines of communication and addressing the issues of concern to the local residents. Councillor Glen is chairing this panel.

Enforcement Actions

9. In the period up to April 2022, there was 1 Planning Contravention Notice served, with all other matters either addressed through the planning system or remedied through negotiation.
10. 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 although 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 has subsequently been approved (HCC/2021/0442) (under delegation) and work undertaken to address the height of the stockpile although further work is still required as detailed under the Planning Contravention Notice served.

<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). The Legal Agreement has been signed and the planning permission issued. 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. A further meeting is to be arranged shortly.</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 has been submitted for a further trial period until 31 March 2023 (HCC/2021/0759). This application is currently under consideration.</p> <p>Complaints continue to be received by the Council and the Environment Agency predominantly about noise, and investigations are underway to try and determine the source of the problem.</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.</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,</p>

	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.
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11. 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](#).
12. 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 (TVBC) 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 TVBC 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.</p> <p>The authorities did not accept that this was 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, TVBC decided 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 were also involved as part of the site access is highway land historically used by locals as a small car park, and the landowner had been fencing and blocking it off. Hampshire County Council Highways have therefore taken legal action to secure</p>

		<p>clearance of the fences and blockades and maintain access.</p> <p>TVBC served Enforcement Notices against preparatory works on site and the variation of the restoration plans showing increased levels, which was the subject of an Appeal Inquiry on 26 – 28 November. A Decision was issued on 13 January 2020. The Decision dismissed the Appeal against the change in levels, although it did allow the Appeal against the preparatory works, and costs were awarded to TVBC. The landowner is now seeking a Permit from the EA to allow the completion of the golf course as originally approved and has Appealed to the Planning Inspectorate over the non-determination of the application.</p> <p>This case is still ongoing.</p>
<p>Shedfield Equestrian Centre</p>	<p>Winchester City Council, Environment Agency</p>	<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. 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. However, it turns out that the operator/landowner</p>

		<p>has been screening material on a piece of land to the rear of the Equestrian Centre (which happens to be the former Raglington Farm landfill site; filled in the early 2000s and bought by the family a few years ago). They have also tipped material along the treeline forming a bank approx. 1 - 2 m. high. 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. All of these activities are unauthorised and have been addressed by remedial work and by the submission of planning applications to regularise the recapping of the former landfill site (HCC/2021/0615) and for the small waste transfer facility. The operation of the waste transfer station has been granted by a Permit by the Environment Agency. This application has subsequently been withdrawn for the re-submission of more accurate drawings, which are still awaited. Another application is also due for a small extension to the CLU permission for offices and some materials bays.</p>
<p>Redlands, Sheffield-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, Sheffield-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. This wider</p>

		investigation is ongoing, and the County Council will assist as necessary.
Westwood, Botley Road, West End	Eastleigh Borough Council	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 HCC 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. Should enforcement subsequently become necessary we would then be enforcing our own policies. However, negotiations are now underway over the sale of the site, so any submission is on hold whilst the owner considers their options.
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 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 (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>
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Site Monitoring

Chargeable sites

13. 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.
14. There are now 22 active sites, 10 in aftercare and 7 dormant sites liable for chargeable visits.
15. This work has been prioritised despite Covid-19 restrictions, with inspections for the 3rd and 4th quarters, bringing in approximately £15,500 in fees.

Non-chargeable sites

16. 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

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

- A303 Recycling Facility, Longparish;
- Kingsley Quarry, Nr Bordon;
- Calf Lane, Odiham;
- Forest Lodge Home Farm, Hythe;
- Roke Manor, Nr Romsey;
- Waterbrook Industrial Estate, Alton; and
- Bunny Lane, Timsbury.

18. The majority of panels now take place virtually, although some panels still have in person meetings.

Development Management

Relaxation of Planning Conditions due to Covid-19:

19. As report in previous enforcement updated, the worldwide coronavirus pandemic has 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 Strategic Planning have had numerous enquiries as to our view to relaxing planning conditions during this period for both minerals, waste and Regulation 3 developments. A report was produced in response to each request made and was signed off by the 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.

20. 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
<i>A303 IBA Facility</i>	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

	<p>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 (HCC/2021/0545) for a smaller area has now been submitted and is currently being considered.</p>
<p><i>Warren Heath Secondary Aggregate Recycling Facility, Eversley</i></p>	<p>Relaxation of conditions 15 (Restriction of number of lorry movements) of planning permission (13/00755/CMA) which restricts the number of lorry movements to the site to 42 per day until the public bridleway (Eversley 11) has been permanently diverted. After this, the number of movements can increase to 136 per day. The bridleway diversion Appeal has been heard and the Inspector approved the diversion. The relaxation is now no longer necessary as the planning condition comes into effect.</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 11 submissions (6 for Regulation 3 developments and 5 County Matter), totalling £1,276.

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 applications were received:

- Woodhouse Lane Phase 2 - Addition of reinforced grass maintenance & parking deterrents;
- Chineham Energy Recovery Facility, Whitmarsh Lane, Chineham, Basingstoke, Hampshire RG24 8LL - Installation of 2no. new diesel fuel tanks;
- Sonnet Court Bungalows, Selbourne Drive, Eastleigh - A change in the path material from concrete block paving to a low impact pathway geogrid paviour in the area highlighted on the revised plan.

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