

HAMPSHIRE COUNTY COUNCIL

Decision Report

Decision Maker:	Regulatory Committee
Date:	25 July 2018
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

1. Recommendation

1.1. That the contents of this report are noted.

2. Executive Summary

2.1. This report is to provide information to the Regulatory Committee on the Monitoring and Enforcement work undertaken by Strategic Planning during the period January 2018 – June 2018.

2.2. Officers have been actively ensuring compliance with minerals and waste permissions granted by Hampshire County Council, investigating any complaints received as well as taking enforcement action where it is expedient to do so.

2.3. The report details the number of complaints on authorised and unauthorised sites, and the outcome of negotiations, including, when necessary, enforcement action undertaken.

2.4. 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.

3. Complaints

3.1. The majority of the complaints received during the period January 2018 – June 2018 refer to unauthorised development (12 sites) and breaches of operational planning conditions on existing mineral and waste sites (14 sites). Planning applications are due on 2 of the sites to remedy the situation, with a further 4 applications being prepared for 4 sites on associated matters. The remainder 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.

4. Enforcement Actions

4.1. In the 6 month period to the end of June 2018, there was one Enforcement Notice and one Breach of Condition Notice served, with all other matters either addressed through the planning system or remedied through negotiation.

4.2. The following provides an update on enforcement activities previously reported to the committee.

Table 1: Update on enforcement activities

Site	Update
Courtwood Farm, Fordingbridge	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 our requirements are unreasonable and that we have not allowed sufficient time for them to comply with the Notice. We are currently awaiting confirmation from the Planning Inspectorate that the Appeal is valid and notification of the timetable for the Appeal.
Down Barn Farm, Boarhunt Road, Fareham	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 operating outside of their permitted hours. Consequently, a Breach of Condition Notice has been drafted for service requiring the site to operate only within the hours permitted by the permission.
Newlands Farm, Tanners Lane, Fareham, PO14	A Planning Contravention Notice (PCN) was served to investigate concerns about the importation, storage and treatment of waste. Following discussion the

2HT	<p>landowner expressed a desire to submit an application to regularise the situation, but uncertainty over the timetable for the Stubbington By-Pass (which runs through the site) complicated their plans. Therefore, whilst enquiries about the By-pass timetable were made, the operation ceased, the plant and machinery were removed and the materials started being cleared. This clearance work ceased so an Enforcement Notice was served. A planning application was subsequently submitted (P/17/0664/CC) for a temporary permission, but Highways require the land sooner than expected, so the application was withdrawn and the Enforcement Notice was re-served with a 6 month compliance period. Compliance with the requirements of the Notice is being monitored, with site clearance due for completion by 1 March 2018.</p> <p>Recent reports have indicated that activities may have restarted on the site and this is being investigated for possible prosecution for breach of the Enforcement Notice.</p>
<p>Carousel Dairy (Basingstoke AD Plant), Manor Farm, Farleigh Wallop, Basingstoke</p>	<p>Following complaints and further 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. Proactive site management and regular Liaison Panel meetings appear to be improving the situation and monitoring of the traffic movements is ongoing using the vehicle number plate recognition system. The 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 which will be done through continued ANPR monitoring (17/01876/CMA)</p> <p>Monitoring of the ANPR data continues and a further application to make the vehicle increases permanent is expected shortly.</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</p>

	<p>(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 has planning permission for a temporary period of 20 months with 4 months to complete restoration. The Inspector agreed with the County Council that the site was not previously developed land and so was still agricultural land and in the countryside. However, he put more weight on the local need for such developments (given that one of the nearby waste sites has since closed) and so allowed the operation to continue for a temporary period, subject to conditions applying a number of strict limitations that will require monitoring.</p> <p>The schemes required to be submitted for approval have been agreed and the operator is in the process of setting up the site in accordance with the approved plans.</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 is required to address the extension of the waste handling building and associated operational matters. This further application is being prepared, although has been delayed due to other enforcement issues on another, nearby site.</p>

4.3. 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. This can be found on the Strategic Planning website at: <http://documents.hants.gov.uk/planning-strategic/HampshireCountyCouncilPlanningEnforcementandSiteMonitoringPlanJuly2016.pdf>.

4.4. 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, HCC 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. 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 TVBC to enforce against any work as a breach of the original permission, with the EA looking to prosecute for tipping without a Permit. HCC 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. HCC Highways have therefore taken legal action to secure clearance of the fences and blockades and maintain access.</p>
Selborne Brickworks	Natural England and Police's Wildlife Crime Team	Further 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 (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 are investigating with a view to a further prosecution.
Importation, storage and burning waste at Trampers Lane, North Boarhunt	Environment Agency (EA)	Gathering of evidence complicated by existence of mobile home park on the site and lack of available witnesses. The landowner pleaded guilty to charges brought by the EA and received a £3,000 fine for the deposit of trommel fines, but investigations into the importation and burning of general skip waste continues.
Importation, storage and burning of waste at Mill View Farm, Old Mill Lane, Denmead	Environment Agency	Part of an investigation by the EA's Crime Investigation Team. The prosecution is continuing.

5. Site Monitoring

- 5.1. 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.
- 5.2. There are 28 active sites, 12 in aftercare and 5 dormant sites liable for chargeable visits. The County Council also undertakes monitoring of 2 active sites for South Downs National Park Authority.
- 5.3. During this period all chargeable visits were undertaken, bringing in approximately £18,500 in fees.
- 5.4. 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 resources dictate 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.

6. Liaison Panels

6.1. During this period Liaison Panel meetings were held for the following sites:-

- (a) Basingstoke AD Plant, Carousel Dairy, Farleigh Wallop.
- (b) Yokesford Industrial Estate, Michelmersh.
- (c) Lee Lane Recycling Facility, Nursling.
- (d) Humbly Grove Oilfield.
- (e) Chineham ERF.
- (f) Plumley Wood Quarry, Somerley.
- (g) Rookery Farm Recycling Facility, Fareham.
- (h) Four Dell Farm Recycling Facility and Biomass burner, Otterbourne.
- (i) Frith End Sandpit, Kingsley.
- (j) Bushywarren AD Plant, Herriard.
- (k) A303 Recycling Facility, Longparish.
- (l) Roke Manor Quarry, Romsey.
- (m) Mortimer Quarry, Mortimer West End.

6.2. A number of new Liaison Panels are to be set up in the coming months including Forest Lodge Home Farm Quarry, Hythe and Bullington Metal Recycling Facility.

7. Development Management

Planning Condition (Article 27) applications:

- 7.1. 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. Following the recent planning fee increase this will now be £116 per submission.
- 7.2. During the period, Article 27 applications were received and approved or are being determined for 7 planning permissions, totalling £1,103.
- 7.3. 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, future enforcement updates will also include information on Article 27 applications for County Council developments as well as any breaches of planning control.

Non-Material Amendments (NMAs):

- 7.4. 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.

7.5. Over the period two NMAs were submitted:

- Integra South West Energy Recovery Facility, Oceanic Way, Marchwood Industrial Park, Marchwood - Installation of 'tuned mass dampers' on the stacks;
- Roke Manor Quarry, Old Salisbury Lane, Shootash Romsey - Changes to the layout and phasing.

8. Future enforcement updates

8.1. Following the 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](#), future enforcement updates will also include information on any Article 27 applications as well as any breaches of planning control for regulation 3 developments.

CORPORATE OR 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.)

DocumentLocation

None