

# HAMPSHIRE COUNTY COUNCIL

## Decision Report

<b>Decision Maker:</b>	Regulatory Committee
<b>Date:</b>	18 October 2017
<b>Title:</b>	Monitoring and Enforcement Update
<b>Report From:</b>	Head of Strategic Planning

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### 1. Executive Summary

- 1.1. This report is to provide information to the Regulatory Committee on the Monitoring and Enforcement work undertaken by the Strategic Planning team at Hampshire County Council during the period July – September 2017.
- 1.2. 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.
- 1.3. The report details the number of complaints on authorised and unauthorised sites, and the outcome of negotiations, including, when necessary, enforcement action undertaken.
- 1.4. 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.

### 2. Complaints

- 2.1. The vast majority of the complaints received during the period July – September 2017 referred to unauthorised waste development (14 sites) and breaches of operational planning conditions on existing mineral and waste sites (5 sites). Enforcement action was initiated on 3 sites to secure planning control although planning applications were subsequently submitted putting further action on hold on 1 of the sites. A further 11 planning applications were submitted to address issues raised by complaints or routine monitoring. On one site unauthorised activities ceased and the land was cleared following negotiation with the landowners. 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 or the relevant district or borough Planning Authority as non-County matters.

### 3. Enforcement Actions

3.1. The following table sets out the enforcement action taken for the period July – September 2017.

*Table 1: Enforcement action undertaken between July and September 2017*

<b>Site</b>	<b>What enforcement action has been undertaken and why</b>
Newlands Farm, Tanners Lane, Fareham, PO14 2HT	A Planning Contravention Notice was served to investigate concerns about the importation, storage and treatment of waste. Following discussion the landowner expressed a desire to submit an application to regularize 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 for a temporary permission, but Highways require the land sooner than expected, so the application was withdrawn and the EN was re-served with a 6 month compliance period.
Buena Vista, The Lakes, Swanmore, Hampshire, SO32 2PR	A Planning Contravention Notice served following complaints of importation of inert waste on to land without the benefit of planning permission.
Hall Copse Wood, Gardeners Lane, East Wellow, Romsey	A Planning Contravention Notice served following complaints of importation and spreading of waste on land without planning permission.

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

*Table 2: Update on enforcement activities*

<b>Site</b>	<b>Update</b>
Homestead Farm, Penton Copse, Andover	Three Enforcement Notices were served against oversized replacement waste handling building and site offices, extension to the site area, and stockpile heights in excess of permitted levels following the refusal of planning application on 23 September 2014.

	<p>Appeals against all three Notices were lodged, with a Hearing held on 27 May 2015. The Appeals against the first two Notices were allowed, but the third Notice (against stockpile heights) was upheld. Consequently the enlarged waste handling replacement building and site offices and the extension to the site area now have planning permission. The required details have since been submitted and agreed and the building is in the process of being completed. As a result of subsequent site inspections an application has been submitted for changes to the layout of the site, relocation of the office building and an extension to the waste handling building.</p>
<p>Junction 9 M3, Winnal, Winchester</p>	<p>Investigation into the importation and processing of waste associated with highway works. A Planning Contravention Notice was served and it was determined that the operation needed planning permission. An application was subsequently submitted and approved at the September meeting of the Committee.</p>
<p>Courtwood Farm, Fordingbridge</p>	<p>Following recent refusal of planning application and continued complaints, a Breach of Condition Notice was drafted. However, a further planning application was submitted to address issues on site so the enforcement action has been put on hold until the application is determined. A further BCN was drafted requiring the submission of details conditioned under the last planning permission, however these details were submitted before serving and are now being considered under the Article 27 process (condition approvals).</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 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 is</p>

	now under consideration.
Land to the rear of Peacocks Nursery, Ewshot	Following refusal of a second planning application 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 will be heard on 12 December 2017.

### **Planning Contravention Notice**

A Planning Contravention Notice (PCN) may be issued in order to ask specific questions in relation to an alleged breach in planning control. This enables a decision to be made regarding whether or not formal enforcement action is necessary or should be taken.

There is a legal requirement to respond to a PCN within 21 days of the date of the notice, unless a longer period of time is specified in the notice.

The issuing of a PCN is optional and does not have any bearing on other action taken by the local planning authority. It is especially useful when trying to identify all parties who have an interest in land or have been involved in a suspected breach of planning control. The PCN also provides for a formal meeting between the planning authority and the recipient of the notice, whenever appropriate. This may help to clarify any misunderstandings and assist in resolving the situation.

Non-compliance with completing the requirements of a PCN is an offence punishable on summary conviction to a fine. Knowingly providing false or misleading information in response to a PCN, is also an offence punishable on summary conviction to a fine.

### **Breach of Condition Notice**

A breach of condition notice (BCN) may be issued where there has been a breach of condition that is attached to an extant planning permission. There is no right of appeal against the service of such a notice, although it can be challenged by way of applying to the High Court for a judicial review.

The BCN will set out the necessary remedial action to ensure compliance with the condition(s) being breached, with a minimum period of 28 days for compliance.

The penalty for non-compliance with a BCN is an offence punishable on summary conviction to a fine.

### **Enforcement Notice**

The authority can issue an enforcement notice where there has been an identified breach of planning control and where it is considered expedient to do so. The enforcement notice will define the breach and

set out prescriptive steps for compliance, with specific timescales, for remedying the breach.

A notice can be served in respect of operational development, a material change of use of land, or where there has been a breach of a condition attached to an extant planning permission. Such a notice must be served on the owners, occupiers and all other parties with an interest in the land that is affected by the notice.

An enforcement notice must come into effect not less than 28 days after its date of issue. There is a right to appeal to the Secretary of State, and such an appeal must be made before the notice comes into effect. Where an appeal is submitted, the requirements of the notice are held in abeyance until the appeal has been decided.

Failure to comply with the requirements of an enforcement notice is a criminal offence which is liable on summary conviction to a fine per offence, or on conviction on indictment to an unlimited fine.

The full enforcement powers available to the County Council as Minerals and Waste Planning Authority 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> .

- 3.3. The following table provides information on the joint enforcement activities which have been undertaken with the Environment Agency and District Planning Authorities.

*Table 3: Update on joint enforcement activities with the Environment Agency and District Planning Authorities*

<b>Site</b>	<b>Joint working with</b>	<b>Update</b>
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.
Importation, storage and burning waste at Trampers Lane, North Boarhunt	Environment Agency	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.

Selborne Brickworks	Natural England and Police's Wildlife Crime Team	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 not a Planning matter, however, this area is known habitat of Great Crested Newts (a protected species). The landowner was prosecuted for similar destruction last year so knows he cannot undertake such works without approval of Natural England. Liaising with NE and the Police about potential prosecution.
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#### 4. Site Monitoring

##### **Chargeable Sites:**

- 4.1. 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 £331 per visit for between four and eight visits per year. Sites in aftercare are charged at £331 for one visit per year. Inactive sites are charged £111 for one annual visit.
- 4.2. In Hampshire currently, there are 27 active sites, 11 in aftercare and 7 dormant sites liable for chargeable visits.
- 4.3. During this quarter all chargeable visits are on target, bringing in approximately £9,000 in fees.

##### **Non-chargeable sites:**

- 4.4. 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 resources dictate these sites only get further visits should complaints be received.

- 4.5. Matrix working arrangements have been made with Waste & Resource Management so that their officers undertaking visits to waste sites operating under the County's waste contract also look at planning issues to provide greater coverage.
- 4.6. As a result of site monitoring 11 planning applications have been submitted or are due.

## **5. Liaison Panels**

- 5.1. During this period Liaison Panel meetings were held for the following sites:-
  - a. Basingstoke AD Plant, Farleigh Wallop, Basingstoke;
  - b. Yokesford Industrial Estate, Belbins, Romsey;
  - c. Lee Lane Materials Recycling Facility, Lee Lane, Nursling;
  - d. A303 Recycling Facility and IBAA Plant, Drayton Road, Barton Stacey;
  - e. Herriard Anaerobic Digester Plant, Bushywarren Lane, Herriard, Basingstoke;
  - f. Chineham ERF, Reading Road, Basingstoke;
  - g. Frithend Quarry, Grooms Farm Lane, Frith End, Bordon;
  - h. Mortimer Quarry, Welshman's Road, Mortimer West End;
  - i. Lode Farm, Kingsley;
  - j. Roke Manor, Salisbury Road, Shootash, Romsey; and
  - k. Minerals and waste external applicant panel.

## **6. Development Management**

### ***Planning Condition (Article 27) applications:***

- 6.1. Article 27 applications are where conditions of new permissions require details to be submitted and approved for the proper implementation and control of the development. Under the [Town and Country Planning \(Fees for Applications and Deemed Applications, Requests and Site Visits\) \(England\) Regulations 2012](#), a fee of £97.00 per submission is required for the discharge of any details submitted. During the period, Article 27 applications were received and approved for 9 submissions, bringing in £1,067. Two submissions are currently under consideration.

### ***Non-Material Amendments (NMAs):***

- 6.2. NMAs are minor changes to developments or the operation of authorised sites which can be agreed through an application for a non-material amendment if the change has no significant impact. Such an application

requires a fee, but does not involve general consultation and determination by Committee.

- 6.3. Over the period NMAs were submitted for:
- (a) Basingstoke Sewage Treatment Works, Whitmarsh Lane, Chineham RG24 8LL – to increase roof height of cake hopper enclosure.
  - (b) Chickenhall Lane, Eastleigh Central, Eastleigh, SO50 6RQ – to shift the two southern AD tanks 9 metres to the north; the Electrical Substation 11.2 metres to the west; & the District Heat Connection 14.2 metres to the west.
  - (c) Horndean B Well site, Sheepwash Road, Horndean PO8 0DS - for retrospective consent for the installation of perimeter security fencing, replacement of existing electricity switch room and for the proposed siting of replacement storage tanks.

## **7. Recommendation**

- 7.1. That the contents of this report be noted.



**CORPORATE OR 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