

## NOTICE OF MEETING

<b>Meeting</b>	Regulatory Committee
<b>Date and Time</b>	Wednesday, 16th June, 2021 at 10.00 am
<b>Place</b>	Ashburton Hall - HCC
<b>Enquiries to</b>	members.services@hants.gov.uk

John Coughlan CBE  
Chief Executive  
The Castle, Winchester SO23 8UJ

## FILMING AND BROADCAST NOTIFICATION

This meeting will be recorded and broadcast live on the County Council's website. The meeting may also be recorded and broadcast by the press and members of the public – please see the Filming Protocol available on the County Council's website.

## AGENDA

### 1. APOLOGIES FOR ABSENCE

To receive any apologies for absence received.

### 2. DECLARATIONS OF INTEREST

All Members who believe they have a Disclosable Pecuniary Interest in any matter to be considered at the meeting must declare that interest and, having regard to Part 3 Paragraph 1.5 of the County Council's Members' Code of Conduct, leave the meeting while the matter is discussed, save for exercising any right to speak in accordance with Paragraph 1.6 of the Code. Furthermore all Members with a Personal Interest in a matter being considered at the meeting should consider, having regard to Part 5, Paragraph 4 of the Code, whether such interest should be declared, and having regard to Part 5, Paragraph 5 of the Code, consider whether it is appropriate to leave the meeting while the matter is discussed, save for exercising any right to speak in accordance with the Code.

### 3. MINUTES OF PREVIOUS MEETING (Pages 3 - 6)

To confirm the minutes from the 17 March 2021 meeting.

### 4. DEPUTATIONS

To receive any deputations notified under Standing Order 12.

**5. CHAIRMAN'S ANNOUNCEMENTS**

To receive any announcements the Chairman may wish to make.

**6. SALVIDGE FARM BUNNY LANE TIMSBURY (Pages 7 - 38)**

To consider a report of the Director of Economy, Transport and Environment regarding Variation of condition 12 (hours of operations and staff working hours) of appeal decision reference APP/Q1770/A/11/2161324 (Planning Application Reference: 10/02712/CMA) (retrospective) at Salvidge Farm, Bunny Lane, Timsbury.

**7. MONITORING AND ENFORCEMENT UPDATE (Pages 39 - 94)**

To consider a report of the Director of Economy, Transport and Environment regarding the Monitoring and Enforcement work undertaken by Strategic Planning during the period March 2021 – May 2021. A review has also been undertaken of the County's Local Enforcement Plan which was originally reported and published in 2018.

**ABOUT THIS AGENDA:**

**On request, this agenda can be provided in alternative versions (such as large print, Braille or audio) and in alternative languages.**

**ABOUT THIS MEETING:**

**The press and public are welcome to observe the public sessions of the meeting via the webcast**

County Councillors attending as appointed members of this Committee or by virtue of Standing Order 18.5; or with the concurrence of the Chairman in connection with their duties as members of the Council or as a local County Councillor qualify for travelling expenses.

# Agenda Item 3

AT A MEETING of the Regulatory Committee of HAMPSHIRE COUNTY COUNCIL held virtually on Microsoft Teams on Wednesday 17th March, 2021

Chairman:

\* Councillor Peter Latham

- |                                 |                               |
|---------------------------------|-------------------------------|
| * Councillor Lance Quantrill    | * Councillor Gary Hughes      |
| * Councillor Christopher Carter | * Councillor Wayne Irish      |
| * Councillor Charles Choudhary  | * Councillor Alexis McEvoy    |
| * Councillor Mark Cooper        | * Councillor Neville Penman   |
| * Councillor Rod Cooper         | * Councillor Stephen Philpott |
| * Councillor Jane Frankum       | Councillor Roger Price        |
| * Councillor Andrew Gibson      |                               |
| * Councillor Pal Hayre          | * Councillor David Harrison   |
| * Councillor Keith House        |                               |

\*Present

## 251. APOLOGIES FOR ABSENCE

Apologies were received from Councillor Roger Price. Councillor David Harrison attended as a deputy.

## 252. DECLARATIONS OF INTEREST

Members were mindful that where they believed they had a Disclosable Pecuniary Interest in any matter considered at the meeting they must declare that interest at the time of the relevant debate and, having regard to the circumstances described in Part 3, Paragraph 1.5 of the County Council's Members' Code of Conduct, leave the meeting while the matter was discussed, save for exercising any right to speak in accordance with Paragraph 1.6 of the Code. Furthermore Members were mindful that where they believed they had a Non-Pecuniary interest in a matter being considered at the meeting they considered whether such interest should be declared, and having regard to Part 5, Paragraph 2 of the Code, considered whether it was appropriate to leave the meeting whilst the matter was discussed, save for exercising any right to speak in accordance with the Code.

## 253. MINUTES OF PREVIOUS MEETING

The minutes of the last meeting were reviewed and agreed.

## 254. DEPUTATIONS

The Chairman confirmed that there was one deputation for the meeting, who would have 10 minutes to speak on Item 6 on the agenda.

255. **CHAIRMAN'S ANNOUNCEMENTS**

The Chairman thanked the Head of Strategic Planning for his work and support on Regulatory ahead of his retirement and the appreciation was echoed by all Members on the Committee. The Chairman also shared best wishes with Members who were standing down at the upcoming elections.

256. **LAND AT SAMUEL CODY COLLEGE BALLANTYNE ROAD  
FARNBOROUGH**

***Development on vacant and surplus land to the east of The Samuel Cody Specialist Sports College to form a new 90 place SEMH campus with associated car park, play areas and sports facilities at Samuel Cody Specialist Sports College, Ballantyne Road, Farnborough GU14 8SN (No. 21/00013/HCC) (Site Ref: RME012)***

The Committee considered a report from the Head of Strategic Planning (item 6 in the minute book) regarding an application at Samuel Cody College in Farnborough.

Members were shown aerial photographs of the site along with the proposed site layout, including the foul sewer easement zone, which could not be developed. Elevation plans enabled Committee to see the buildings in relation to the nearby residential properties and how the new area would appear.

There had been no objections from statutory consultees, and the three representations received had been included in the report. An update report had also been circulated, which included some minor updates as well as amendments to the conditions around hours of working, highways and environmental control and additional conditions around contamination and lighting.

The Committee received one deputation from Dan Keeler on behalf of the applicant, who spoke in favour of the application. It was enforced that the expansion was focussed on accommodating SEMH needs pupils and it was anticipated that the expansion would open in September 2022 if approved.

During questions of the deputations, it was clarified that attenuation tanks were fairly common and would connect up to storm drains in the north and south of the site.

Members agreed that the development would be incredibly beneficial to the local area.

**RESOLVED**

Planning permission was GRANTED subject to the conditions listed in Appendix A and the update report.

Voting

Favour: 15

Abstentions: 1

257. **2020 REVIEW OF THE HAMPSHIRE MINERALS & WASTE PLAN AND UPDATE**

The Committee received a report from the Head of Strategic Planning (item 7 in the minute book) regarding a recent review of the Hampshire Mineral & Waste Plan.

The conclusions from the review were summarised, along with forecasting and provisions needed for the future. There had been lots of shared learning across other authorities and there would continue to be closer working with colleagues to understand more about capacity, markets and the movement of materials.

There was currently an issue with soft sand supply, which would be investigated further. Aggregate sites were monitored on an annual basis and recorded in the Local Aggregate Assessment, which assisted with forecasting.

RESOLVED

The Regulatory Committee noted the content of the report

258. **MONITORING AND ENFORCEMENT UPDATE**

The Committee received a report from the Head of Strategic Planning (item 8 in the minute book), which summarised Monitoring and Enforcement work undertaken by Strategic Planning during the period January 2021 – March 2021.

It was confirmed that there had been an increase in FOI requests relating to certain sites and complaints regarding Bunny Lane and Calf Lane had been addressed.

RESOLVED

The Committee noted the contents of the report

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Chairman,

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## HAMPSHIRE COUNTY COUNCIL Decision Report

<b>Decision Maker:</b>	Regulatory Committee
<b>Date:</b>	16 June 2021
<b>Title:</b>	Variation of condition 12 (hours of operations and staff working hours) of appeal decision reference APP/Q1770/A/11/2161324 (Planning Application Reference: 10/02712/CMA) (retrospective) at Salvidge Farm, Bunny Lane, Timsbury SO51 0PG (No. 21/00298/CMAS) (Site Ref: TV066)
<b>Report From:</b>	Head of Strategic Planning

**Contact name:** Sam Dumbrell

**Tel:** 0370 779 7412

**Email:** [sam.dumbrell@hants.gov.uk](mailto:sam.dumbrell@hants.gov.uk)

### Recommendation

1. That planning permission be GRANTED subject to the conditions listed in **Appendix A.**

### Executive Summary

2. The planning application seeks approval for the variation of condition 12 on Appeal decision reference [APP/Q1770/A/11/2161324](#)) at the existing Bunny Lane site waste processing site at Salvidge Farm, Bunny Lane, Timsbury SO51 0PG.
3. The rationale behind the proposed retrospective change to the site's permitted hours are to regularise the applicant's non-compliance with condition 12 of Appeal decision reference [APP/Q1770/A/11/2161324](#)).
4. It is considered that the proposal would be in accordance with the relevant policies of the adopted [Hampshire Minerals & Waste Plan \(HMWP\) 2013](#) and the [Test Valley Borough Revised Local Plan \(2016\)](#).
5. This application is being considered by the Regulatory Committee after being called in by the local County Councillor.
6. A separate planning application ([21/00588/CMAS](#)) is currently being considered by the Waste Planning Authority for the variation of condition 2, 9 and 10 of Appeal decision reference [APP/Q1770/A/11/2161324](#) (Planning Application Reference: [10/02712/CMA](#)) to reshape and improve the existing peripheral north eastern landscape bund to facilitate enhanced screening from wider views into the site and improve biodiversity on the site's periphery and to accommodate a temporary wash plant operation in the southern section of the site for a period of twelve months only. This is a revised

application following the Regulatory Committee's refusal of planning application [20/01753/CMAS](#) in December 2020. This will be considered by the Regulatory Committee in due course.

7. The site is an existing waste management facility which is safeguarded by Policy 26 (Safeguarding - waste infrastructure) of the adopted [Hampshire Minerals and Waste Plan \(2013\)](#). It contributes towards an adequate and steady supply of aggregates for Hampshire and surrounding areas.
8. The only statutory consultees to object to this proposal are Michelmersh & Timsbury and Braishfield Parish Councils. 4 representations were received from members of the public.
9. The Regulatory Committee did not visit the site but a separate visit/virtual visit will be arranged for planning application [21/00588/CMAS](#) as officers consider that the nature of this other proposal requires a visit. This will take place in due course.
10. The key issues raised are:
  - lack of justification;
  - noise impacts;
  - impacts on road safety;
  - the retrospective nature of the application; and
  - the part retrospective nature of the application.
11. It is considered that the proposal would be in accordance with the relevant policies of the adopted [Hampshire Minerals and Waste Plan \(2013\)](#) and that the proposal would:
  - be acceptable in principle;
  - not cause unacceptable adverse public health and safety or unacceptable adverse amenity impacts; and
  - not cause unacceptable impacts to existing local road safety.
12. Therefore, it is recommended that permission be GRANTED subject to the conditions in **Appendix A**.

### **The Site**

13. The entire site occupies an area of approximately 6.2 hectares of land. The Location Plan (see **Appendix B – Committee Plan**) shows that the site lies approximately 4 kilometres to the north of the town of Romsey, with the villages of Timsbury and Braishfield situated approximately 0.5 kilometres due west and 2 kilometres due east respectively.
14. The site can be subdivided into three distinct areas (see **Appendix C – Approved Layout Plan**). The northern third comprises large stockpiles of imported materials/waste and an area for concrete crushing, the central third houses the materials recycling facility (MRF) and associated materials and



waste storage areas, site buildings (offices and welfare facilities), vehicle/plant storage and parking areas plus the weighbridge and the southern third contains a further operational area associated with the production of recycled and secondary aggregates. This area is less intensively used. Wood shredding and soil blending is also undertaken within this area of the site. The storage of materials (as required when demand higher), containers, skips and other equipment is also undertaken here as an overflow area.

15. Access to the site is achieved from Bunny Lane at the site's south-eastern corner. Access to the wider highway network and Romsey and Southampton is gained via the A3057 due west of the site, where Bunny Lane joins it.
16. The site lies within the countryside and is bounded by hedgerows and trees along its northern and western boundaries. Beyond these are restored former mineral workings (north) and undeveloped grassland and agricultural land (west). The site's eastern boundary is bordered by a shared informal access track and restored former mineral workings characterised by water features, planting and grassland areas. The south-western and southern boundaries are bordered by less mature and significant planting and Bunny Lane.
17. Public footpath 'Route Number 4' runs along the route of Bunny Lane alongside the site's southern boundary and adjoins the site's north-eastern corner.
18. 'Hill Top' and 'Little Herons' are the nearest residential properties to the site situated approximately 0.1 and 0.2 kilometres north-west and west of the northern/north-western boundary. The next nearest residential properties are located approximately 0.3 kilometres to the north of the site on Redland Drive and within the village of Michelmersh further north. Bunny Lane House is situated approximately 0.4 kilometres west of the site at the entrance to Bunny Lane. Other residential properties within the village of Timsbury on Manor Lane and St Andrews Close lie approximately 0.6 kilometres to the west.
19. Timsbury Lake, occupied by Warsash Maritime Academy, is situated on land south of Bunny Lane approximately 0.4 kilometres south of the site. The Casbrook Household Waste Recycling Centre is situated approximately 0.4 kilometres to the north-east of the site. A number of industrial units forming 'Hunts Farm' are located approximately 0.6 kilometres on Rudd Lane to the north (beyond Redland Drive).
20. The site is not located in a sensitive surface water area (in Flood Zone 1, the lowest risk zone) but is situated in a sensitive groundwater area being situated on the boundary between Zones 2 and 3 of the Environment Agency's Groundwater Source Protection Zones (SPZs).

21. The site is not situated within any designated sensitive heritage, ecological or landscape sites.

### Planning History

22. The relevant planning history of the site is as follows.

<b>Application no.</b>	<b>Proposal</b>	<b>Decision</b>	<b>Date</b>
<a href="#">21/00588/CMAS</a>	Revised Application - Variation of condition 2, 9 and 10 of Appeal decision reference APP/Q1770/A/11/2161324 (Planning Application Reference: 10/02712/CMA) to reshape and improve the existing peripheral north eastern landscape bund to facilitate enhanced screening from wider views into the site and improve biodiversity on the site's periphery and to accommodate a temporary wash plant operation in the southern section of the site for a period of twelve months only	Under consideration	N/A
<a href="#">20/01753/CMAS</a>	Variation of condition 2, 9 and 10 of Appeal decision reference APP/Q1770/A/11/2161324 (Planning Application Reference: 10/02712/CMA) to reshape and improve the existing peripheral north eastern landscape bund to facilitate enhanced screening from wider views into the site and improve biodiversity on the site's periphery and to accommodate a temporary wash plant operation in the southern section of the site for a period of twelve months only	Refused	21/12/2020
<a href="#">16/00902/CMAS</a>	Variation of condition 12 (Hours of operation for HCVs) of Appeal Decision APP/Q1770/A/11/2161324	Withdrawn	09/06/2016

<a href="#">15/03107/CMAS</a>	Variation of conditions 12 (Hours of operation for HCVs) and 22 (HCV movements) of Appeal Decision APP/Q1770/A/11/2161324	Withdrawn	25/01/2016
<a href="#">15/00006/CMAS</a>	Removal of an existing lean to building and replacement with a picking station including associated conveyors and containers, replacing an existing picking station with a larger unit, provision of concrete surfacing for aggregate storage, minor extension and relocation of the existing offices/mess rooms and revision of vehicle manoeuvring/car parking area with associated changes to approve Layout Drawing 396C/SL/2 (March 2011 as referenced in Condition 2 of Appeal Decision APP/Q1770/A/11/2161324	Granted	22/04/2015
<a href="#">10/02712/CMAS</a>	Change of use to retain permanently and extend recycling facility with ancillary development and activities	Refused Allowed on Appeal APP/Q1770/A/11/2161324	04/08/2011 12/07/2012
<a href="#">10/00745/CMAS</a>	Variation of Condition 5 (Remove boundary bund) on Planning Permission 09/00540/CMAS	Withdrawn	22/06/2010

23. The facility operates under Appeal Decision [APP/Q1770/A/11/2161324](#), granted in 2012 by the Planning Inspectorate following a successful appeal against the County Council's refusal to grant planning permission under [10/02712/CMAS](#) in 2011.
24. Appeal Decision [APP/Q1770/A/11/2161324](#) allowed the facility to become permanent in nature, to extend its operational area (to today's current site area) and incorporate additional operations ancillary to the main use, including designated working and storage areas, peripheral bunding and

environmental mitigation and enhancements (implemented through conditions and legal agreements).

25. The facility has been operating under Appeal Decision [APP/Q1770/A/11/2161324](#) since 2012. No changes have been made to permitted operations in the interim.
26. Planning application [20/01753/CMAS](#) was refused planning permission by Regulatory Committee in December 2020. It sought to vary three conditions (Nos 2, 9 and 10) on Appeal Decision [APP/Q1770/A/11/2161324](#).
27. A revised application ([21/00588/CMAS](#)) is currently under consideration and will be reported to Regulatory Committee in due course.

### **The Proposal**

28. Planning permission is sought for the variation of condition 12 on Appeal decision reference [APP/Q1770/A/11/2161324](#)).
29. Condition 12 presently reads:

No heavy commercial vehicles (HCVs) shall enter or leave the site and no plant or machinery shall be operated on the site outside the following times: 07:30-17:30hrs Monday to Friday and 07:30-12:30hrs Saturday, and not at any time on Sundays, recognised Public or Bank Holidays.

Reason: To ensure the protection of local residents, visitors and those working within the locality in accordance with Policies 10 (Protecting public health, safety and amenity) and 13 (High-quality design of minerals and waste development) in the Hampshire Minerals and Waste Plan (2013).

30. In early 2021, the Waste Planning Authority began receiving allegations that the applicant was not complying with Condition 12's approved hours of HCV movements, specifically HCVs were entering and exiting the site prior to 07:30 on weekdays, between 06:30 and 07:30am.
31. Following investigations by the Waste Planning Authority, that supported those allegations, the applicant was invited to either cease these unauthorised HCV movements or submit a planning application to regularise them. An application was duly submitted and was registered valid in late January 2021.
32. The applicant advises that the earlier and later arrivals and departures of HCVs have been operating for some considerable time and always in full accordance with the permitted daily numbers of HCVs (104 HCVs or 208 two way movements per day) as controlled under Condition 22 on Appeal Decision [APP/Q1770/A/11/2161324](#).

33. According to the applicant, the justification behind the requirement for the earlier and later arrivals and departures of HCVs is that restrictions to these movements were not imposed on an older permission at the site, ref: 09/00450/CMAS, which only sought to control on-site operations to 07:30-17:30 hrs Monday to Friday and 07:30-12:30 hrs Saturday. This time-limited permission has now lapsed. It predates Appeal Decision [APP/Q1770/A/11/2161324](#) and Condition 12.
34. Furthermore, the applicant advises that these HCV movements have been taking place for fifteen years and until recently without any complaints from third parties or from either the Environmental Health Department at Test Valley Borough Council or the Local Highway Authority.
35. As a result of the above changes sought, the applicant proposed that Condition 12 be varied (in *italics*) upon submission of the application to read:
- Unless otherwise agreed in writing by the Waste Planning Authority or required by the emergency services, no vehicles shall enter or leave the site other than between the hours of 06:30 and 19:00 Mondays to Fridays, and 07:00 and 14:00 Saturdays, and no on-site waste operational movements shall take place except between the hours of 07:30 and 17:30 Monday to Friday and 07:30 - 12:30 on Saturdays. There shall be no working on Sundays and Bank Holidays.*
36. In proposing the above condition, the applicant advises that this is a draft condition and that they are willing to discuss alternatives and amendments with the Waste Planning Authority and other interested parties. Further discussions on the wording of this proposed condition are discussed in the commentary section of this report.
37. Whilst changes to the approved hours of entry to and exit from the site by HCVs are sought, the hours of use for all waste management-related operations, including the use of plant, vehicles, machinery and equipment, would remain at 07:30 - 17:30 Monday to Friday and 07:30 -12:30 on Saturdays only.
38. No changes to the approved maximum number of HCV two-way movements generated by the site on any one day (208 - 104 in and 104 out) are proposed.
39. No changes to the annual permitted amount of waste materials imported to the site, which is 150,000 tonnes, are proposed.
40. Many of the extant conditioned mitigation schemes, controlling impacts from dust, noise, vehicle cleaning amongst others would also be retained. These conditions can also be reviewed and amended should there be material reasons for doing so.

41. The proposed development is not an Environmental Impact Assessment development under the [Town & Country Planning \(Environmental Impact Assessment\) Regulations 2017](#). A Screening Opinion confirming this was issued by the County Council on 02 March 2021.

### **Development Plan & Guidance**

42. Paragraph 47 of the [National Planning Policy Framework \(2019\)](#) (NPPF) requires that 'applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise'. Therefore, consideration of the relevant plans and policies and whether the proposal is in accordance with these is of relevance to decision making.
43. The following plans and associated policies are considered to be relevant to the proposal:

#### **[National Planning Policy Framework \(2019\)](#)**

44. The following paragraphs are relevant to this proposal:
- paragraphs 11 & 12: Presumption in favour of sustainable development;
  - paragraph 47: Determination in accordance with the development plan unless material considerations indicate otherwise;
  - paragraphs 54 - 55 & 58: Use of planning conditions and obligations and enforcement action;
  - paragraph 98: Protect and enhance public rights of way;
  - paragraph 170: Conserve and enhance the natural environment;
  - paragraphs 180: Prevent pollution of local area;
  - paragraphs 181 - 183: Ensure development is appropriately located and effectively integrated into its setting, ensuring impacts on the local environment are mitigated; and
  - paragraphs 203 - 208: Facilitating the sustainable use and supply of minerals.

#### **[National Planning Practice Guidance](#)**

45. Elements of National Planning Practice Guidance NPPG (Live) are also relevant, those being:
- air quality (1 November 2019);
  - climate change (15 March 2019);
  - noise (22 July 2019);
  - planning obligations (1 September 2019); and
  - use of planning conditions (23 July 2019).

### **National Planning Policy for Waste (2014) (NPPW)**

46. The following paragraphs are relevant to the proposal:
- paragraph 1: Delivery of sustainable development and resource efficiency; and
  - paragraph 7: Determining planning applications.

### **National Waste Planning Practice Guidance (NWPPG) (last updated 15/04/2015)**

47. The following paragraphs are relevant to the proposal:
- paragraph 045 (Counties and other Planning Authorities working on waste planning matters);
  - paragraph 047 (Expanding/extending waste management facilities); and
  - paragraphs 050 - 051: (Planning and environmental regulation).

### **Hampshire Minerals & Waste Plan (HMWP) 2013**

48. The following key policies are relevant to the proposal:
- Policy 1 (Sustainable minerals and waste development);
  - Policy 2 (Climate change);
  - Policy 5 (Protection of the countryside);
  - Policy 10 (Protecting public health, safety and amenity);
  - Policy 12 (Managing traffic);
  - Policy 13 (High-quality design of minerals and waste development);
  - Policy 14 (Community Benefits);
  - Policy 17 (Aggregate supply - capacity and source);
  - Policy 18 (Recycled and secondary aggregates development); and
  - Policy 26 (Safeguarding - waste infrastructure).

### **Test Valley Borough Revised Local Plan (2011 - 2029) (2016) (TVBLP)**

49. The following policies are relevant to the proposal:
- Policy E1 (High quality development in the borough);
  - Policy E3 (Protect, conserve and enhance landscape character);
  - Policy E5 (Biodiversity);
  - Policy E7 (Water management);
  - Policy E8 (Pollution);
  - Policy LHW4 (Amenity), and
  - Policy T1: (Managing Movement).

## **Michelmersh & Timsbury Village Design Statement (2001)**

50. This Supplementary Planning Document (SPD) was adopted by Test Valley Borough Council (TVBC) in 2001 for use in the consideration of and to influence development proposals within the Parish.
51. The Village Design Statement seeks to protect the history and character of this historic agricultural settlement, noting that the area does include land uses such as industrial, commercial and mineral extraction amongst more traditional agricultural and residential ones.

### **Consultations**

52. **County Councillor Perry (prior to 07 May 2021):** Concerns raised over the impact from wider HCV movements on local residents.
53. **County Councillor Adams-King (after 07 May 2021):** Echoes the concerns raised to Councillor Perry above.
54. **Test Valley Borough Council - Planning:** Was notified.
55. **Test Valley Borough Council - Environmental Health Officer (EHO):** Opposed to the proposed relaxation of HCV movements, particularly those sought before 07:00 on weekdays and on Saturday afternoons, as these all have the potential to disturb local residents by virtue of noise.
56. **Michelmersh & Timsbury Parish Council:** Objection. The retrospective widening of the hours of vehicular movements has not been justified and does not appear needed either. If allowed, it would potentially subject residents living close to Bunny Lane, the A3057 and on the through-traffic routes through residential areas to further traffic noise and pollution from heavy goods vehicles. The Council also commented that the applicant admission that they've been breaching Condition 12 for many years, without complaint, does not justify this current proposal.
57. **Braishfield Parish Council:** Objection. Any retrospective widening of the hours of vehicular movements would potentially subject residents living close to Bunny Lane, the A3057 and on the through-traffic routes through residential areas to further traffic noise and pollution from heavy goods vehicles.
58. **Romsey Extra Parish Council:** No objection.
59. **Environment Agency:** No comments. Impacts from vehicular movements not within their remit.
60. **Defence Infrastructure Organisation:** No objection.



61. **Highway Authority:** No objection.

62. **Rights of Way:** No objection.

### **Representations**

63. Hampshire County Council's [Statement of Community Involvement \(2017\)](#) (SCI) sets out the adopted procedure and publicity requirements associated with determining planning applications.

64. In complying with the requirements of the SCI, Hampshire County Council:

- published a notice of the application in the [Hampshire Independent](#);
- placed notices of the application at the application site;
- consulted all statutory and non-statutory consultees in accordance with [The Town and Country Planning \(Development Management Procedure\) \(England\) Order 2015](#); and
- notified by letter all residential properties within 100 metres of the boundary of the site as set out in the SCI).

65. When further information was submitted by the applicant in response to comments received, all consultees and the local population originally notified of the proposal, plus those who submitted comments independently, were all informed and invited to comment further.

66. As of 2 June 2021, 4 [representations](#) in opposition to the proposal had been received from local residents. The main areas of concern raised in the objection relate to the following areas:

- the proposal is not fully justified, and Condition 12 as imposed by Appeal Decision [APP/Q1770/A/11/2161324](#) should not be varied and breaches of it should be enforced;
- impacts through noise have not been fully assessed;
- road safety levels on local roads would be worsened;
- levels of air quality pollution would be worsened;
- the retrospective nature of the application; and
- the proposal is not acceptable within a countryside setting.

67. The above issues will be addressed within the following commentary.

### **Commentary**

#### Principle of the development

68. The principle of the site as the location of waste management and specifically the production of recycled and secondary aggregate from imported waste materials has already been determined through the historical permissions granted, in particular appeal decision [APP/Q1770/A/11/2161324](#) and planning permission [15/00006/CMAS](#) granted in 2012 and 2015

respectively. Both of these allow waste management and ancillary operations to be undertaken on a permanent basis.

69. The application relates to a well-established and authorised waste management facility that contributes to the supply of recycled and secondary aggregates in Hampshire, which accords with the relevant policies of the Hampshire Minerals and Waste Plan (HMWP) (2013).
70. The wider established waste management facility is also safeguarded through Policy 26 (Safeguarding – waste infrastructure) of the HMWP (2013), which helps protect strategically important waste management infrastructure against redevelopment and inappropriate encroachment unless the site is no longer required and the merits of any such redevelopment outweigh the safeguarding need.
71. The proposal to extend the hours that HCVs can enter and exit the site at Bunny Lane would continue to contribute to Hampshire's supply of aggregates and management of waste by enabling the transport of waste to the site and the transport of treated waste/product from the site. As already acknowledged the principle of the location of the site, albeit in the countryside, has already been determined. The focus here should be on the changes to the timings of HCV movements to and from the site and the impacts associated with this.
72. The proposed development is therefore considered to be in accordance with Paragraphs 80 and 83 - 84 of the National Planning Policy Framework (NPPF) (2019) all of which encourage the importance of local business needs, the rural economy and the diversification of this economy. The proposal is also considered to be in accordance with paragraphs 203 - 208 (Facilitating the sustainable use and supply of minerals) of the NPPF (2019) as well as Policies 17 (Aggregate supply – capacity and source), 18 (Recycled and secondary aggregates development), 25 (Sustainable waste management) and 26 (Safeguarding – waste infrastructure) of the HMWP (2013) as it helps to contribute to ensuring to an adequate and steady of supply aggregates and supports the management of waste in Hampshire. On this basis, the proposal is considered to be in accordance with Paragraphs 11 & 12 (Presumption in favour of sustainable development) and Policy 1 (Sustainable minerals and waste development) of the HMWP (2013).

#### Impact on public health, safety and amenity

73. Policy 10 (Protecting public health, safety and amenity) of the HMWP (2013) requires that any development should not cause adverse public health and safety impacts, and unacceptable adverse amenity impacts. Also, any proposal should not cause an unacceptable cumulative impact arising from the interactions between waste developments and other forms of development. This acceptability of this proposal in relation to Policy 10 is therefore of importance here.

74. With the exception of recent complaints concerning the unauthorised movements of HCVs outside the permitted hours under Condition 12 of Appeal Decision [APP/Q1770/A/11/2161324](#), no substantiated complaints concerning operational impacts from noise, on air quality or through vibration on the locality and local properties have been made.
75. There are a significant number of conditions on the extant planning approval (appeal decision [APP/Q1770/A/11/2161324](#)) that would remain in force, and modified if necessary, should planning approval be granted for this variation to condition. Conditions may include noise level controls, dust management, hours of use, maximum vehicle numbers and maximum annual waste volumes.
76. National Planning Practice Guidance states that Planning Authorities should assume that other regulatory regimes will operate effectively rather than seek to control any processes, health and safety issues or emissions themselves where these are subject to approval under other regimes ([Paragraph 050 Reference ID: 28-050-20141016](#)) Planning and permitting decisions are separate but closely linked. Planning permission determines if a development is an acceptable use of the land. Permitting determines if an operation can be managed on an ongoing basis to prevent or minimise pollution.
77. The extant waste management facility is also regulated by the Environment Agency (EA) and its Environmental Permit that the operator has to adhere to in terms of permitted waste types, emission control/s and the protection of the water environment to name but a few controls. This would continue to be enforced by the EA, separately to the planning process.
78. Whilst noise from HCV movements has not been substantiated as causing adverse impacts by either the local Environmental Health Officer (EHO) or local residents/users of nearby footpaths, the proposals to extend the hours of HCV movements to and from the established facility have been subjected to noise assessments at receptor locations on the existing haul route. This includes along Bunny Lane westward to its junction with the A3057 and on the A3057 itself (see **Appendix D - Noise Monitoring Receptor Plan (March 2021)**).
79. The applicant has advised that the number and type/s of HCVs that would enter and depart the site between the hours of 06:30 and 07:30 on weekdays would comprise five (5 No.) skip lorries, two (2 No.) RoRo lorries and one (1 No.) articulated lorry.
80. The assessment was undertaken in accordance with the Design Manual for Roads and Bridges (DMRB) and was accepted by the EHO at Test Valley Borough Council. The results identify minor increases in noise levels less than 1dB above background associated with actual HCVs passing the three receptor locations between the hours of 06:30 and 07:30. These times are deemed most sensitive in terms of noise level and the potential for impact/s

at these receptor locations; based on HCV movements within the wider hours sought.

81. These increases not exceeding 1dB show that the increase would largely be an imperceptible one. Whilst this is accepted by the EHO at Test Valley Borough Council, concerns still remain over HCV movements between the hours of 06:30 and 07:30 on weekdays and between 07:00 and 07.30 and 12:30 and 14:00 on Saturdays, as these are 'quieter' and more 'sensitive' periods of the day; and have the potential to disturb local residents by virtue of noise. This was recognised through the imposition of condition 12 on extant planning approval (appeal decision [APP/Q1770/A/11/2161324](#)).
82. Notwithstanding the above conclusions, the capping of HCV type/s and numbers entering and departing the site between the hours of 06:30 and 07:30 on weekdays specifically - being the most sensitive period being sought - within the varied condition 12 has been agreed with the applicant and accepted by the EHO. The relaxation of Saturday mornings from 07:30 to 07:00 for HCV movements to commence is not as sensitive being after 07:00 am. And furthermore, is commonplace on similar waste management facilities within the rural and urban areas in the locality.
83. This capping means some amendments to the originally proposed Condition 12, by the applicant, which is now proposed to be amended (*in italics*) accordingly:

*With the exception of a maximum of five (5 No.) skip lorries, two (2 No.) RoRo lorries and one (1 No.) articulated lorry (all HCVs) entering and leaving the site between 06:30 - 07:30 hrs Monday to Friday only, no heavy commercial vehicles (HCVs) shall enter or leave the site outside the following times: 07:30 - 19:00 hrs Monday to Friday and 07:00 - 14:00 hrs Saturday, and not at any time on Sundays, recognised Public or Bank Holidays.*

*No plant, equipment or machinery involved in the approved waste management operations shall be operated on the site outside the following times: 07:30 - 17:30 hrs Monday to Friday and 07:30 - 12:30 hrs Saturday, and not at any time on Sundays, recognised Public or Bank Holidays.*

*The applicant shall keep daily records of the times all HCVs enter and depart the site. These shall be made available for inspection by the Waste Planning Authority when requested.*

Reason: To ensure the protection of local residents, visitors and those working within the locality in accordance with Policies 10 (Protecting public health, safety and amenity) and 13 (High-quality design of minerals and waste development) in the Hampshire Minerals and Waste Plan (2013).

84. It is important to note that condition 12 as noted above is condition 11 in Appendix A.
85. Based on the development's low risk from noise, on air quality or through vibration and that other regimes are also responsible for monitoring and controlling emissions at this site both, from its existing and proposed operations, as well as the proposed amendments to Condition 12 to cap vehicles leaving the site at sensitive times, the proposed development is considered to be in accordance with Policy 10 (Protecting public health, safety and amenity) of the adopted HMWP (2013) as well as Policy E8 (Pollution) of the of the Test Valley Borough Local Plan (TVBLP) (2016) and relevant paragraphs of the NPPF (2019).

### Road Safety

86. As previously stated, the proposal does not seek to increase the number of permitted HCVs and HCV movements to and from the site each working day controlled by Condition 22 on Appeal Decision [APP/Q1770/A/11/2161324](#), those being 104 HCVs or 208 two-way HCV movements.
87. As a result of this, the Local Highway Authority raises no objection to the proposal in terms of road safety and highway capacity. Extant conditioned mitigation schemes, controlling impacts from dust and vehicle cleaning amongst others would also be retained. The condition relating to the sheeting of vehicles on the Appeal Decision has been strengthened.
88. Based on the development's low risk to road safety and on highway capacity the proposed development is considered to be in accordance with Policies 10 (Protecting public health, safety and amenity) and 12 (Managing traffic) of the adopted HMWP (2013), Policy T1: (Managing Movement) of the of the TVBLP (2016) as well the relevant paragraphs of the NPPF (2019).

### Retrospective nature of the HCV movements

89. The retrospective nature of the application is not a material consideration to the decision. As previously stated, as these HCV movements are being undertaken without planning approval, it is classified as unauthorised development and a clear breach of Condition 12 on Appeal Decision [APP/Q1770/A/11/2161324](#). No complaints have been received by the Waste Planning Authority prior to January 2021 in relation to any breaches of condition 12 of the Appeal decision. To date, beyond the Waste Planning Authority's request for the submission of a planning application to regularise these HCV movements and frequent visits to the site, no further enforcement action against the applicant has been taken by the Waste Planning Authority.
90. Depending on the outcome of all material planning considerations being considered throughout the **Commentary** section of this report, the changes to the hours of HCV movements could either have planning permission

approved, and therefore become authorised development within the wider management facility, or be refused planning permission, and would continue to be unauthorised development.

91. In the event that planning permission is refused, the County Council would then commence discussions with the applicant over the implementation of enforcement action to ensure that the unauthorised vehicular movements to and from the waste management facility were stopped as promptly as possible.

### Community Benefits

92. A frequent concern of communities that host waste development is that there are no immediate benefits to 'compensate' for the inconvenience that occurs. In Hampshire there is already a precedent for minerals or waste operators to contribute to local communities' funds. However, this process lies outside of the planning system.
93. Policy 14 (Community Benefits) of the HMWP (2013) encourages negotiated agreements between relevant minerals and waste developers/operators and a community as a source of funding for local benefits. Agreements can be between operators and local bodies such as Parish Councils or resident's associations. Whilst the Waste Planning Authority encourages these agreements, it cannot be party to such agreements and the agreements cannot be considered in decision making.
94. The Waste Planning Authority continues to encourage the applicant to engage with the local community on this issue. This would be encouraged following determination of this planning application, whether positive or negative, as could be linked to the wider, established waste management facility that has permanent planning permission and will continue to operate.

### Conclusions

95. The applicant seeks retrospective changes to the site's permitted hours of entry to and exit from HCVs (Heavy Commercial Vehicles) through a variation to condition 12 of Appeal Decision [APP/Q1770/A/11/2161324](#).
96. The applicant's noise assessments and proposed set numbers of HCV movements between the hours of 06:30 and 07:30 and 17:30 and 19:00 on weekdays and 07:00 and 14:00 hours on Saturdays only conclude that no adverse impacts upon local amenity or on local road safety and capacity would be caused as a result of the proposed changes to Condition 12. Other operations will still be undertaken in conjunction with the site's permitted operations under appeal decision [APP/Q1770/A/11/2161324](#).
97. The site will continue to operate in accordance with all other planning conditions pursuant to appeal decision [APP/Q1770/A/11/2161324](#).

## **Recommendation**

98. Therefore, it is recommended that permission be GRANTED subject to the conditions in **Appendix A**.

Appendices:

**Appendix A** – Conditions

**Appendix B** – Committee Plan

**Appendix C** – Approved Layout Plan

**Appendix D** – Noise Monitoring Receptor Plan (March 2021)

Other documents relating to this application:

<https://planning.hants.gov.uk/ApplicationDetails.aspx?RecNo=21664>

**REQUIRED CORPORATE AND LEGAL INFORMATION:**

**Links to the Strategic Plan**

<b>Hampshire maintains strong and sustainable economic growth and prosperity:</b>	No
<b>People in Hampshire live safe, healthy and independent lives:</b>	No
<b>People in Hampshire enjoy a rich and diverse environment:</b>	No
<b>People in Hampshire enjoy being part of strong, inclusive communities:</b>	No
<b>OR</b>	
<b>This proposal does not link to the Strategic Plan but, nevertheless, requires a decision because:</b>	
the proposal is an application for planning permission and requires determination by the County Council in its statutory role as the minerals and waste or local planning authority.	

**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

21/00298/CMAS

Hampshire County Council

Variation of condition 12 (hours of operations and staff working hours) of

Appeal decision reference

APP/Q1770/A/11/2161324 (Planning

Application Reference: 10/02712/CMA)

(retrospective) at Salvidge Farm, Bunny

Lane, Timsbury SO51 0PG

(Site Ref: TV066)



## **EQUALITIES IMPACT ASSESSMENTS:**

### **1. Equality Duty**

The County Council has a duty under Section 149 of the Equality Act 2010 ('the Act') to have due regard in the exercise of its functions to the need to:

- Eliminate discrimination, harassment and victimisation and any other conduct prohibited by or under the Act with regard to the protected characteristics as set out in section 4 of the Act (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation);
- Advance equality of opportunity between persons who share a relevant protected characteristic within section 149(7) of the Act (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation) and those who do not share it;
- Foster good relations between persons who share a relevant protected characteristic within section 149(7) of the Act (see above) and persons who do not share it.

Due regard in this context involves having due regard in particular to:

- The need to remove or minimise disadvantages suffered by persons sharing a relevant protected characteristic that are connected to that characteristic;
- Take steps to meet the needs of persons sharing a relevant protected characteristic that are different from the needs of persons who do not share it;
- Encourage persons sharing a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

Officers considered the information provided by the applicant, together with the response from consultees and other parties, and determined that the proposal would have no material impact on individuals or identifiable groups with protected characteristics. Accordingly, no changes to the proposal were required to make it acceptable in this regard.

## CONDITIONS

1. The development hereby permitted shall be carried out in accordance with the following approved plans:

Drawing no. 369C/10 – Location Plan – October 2010  
Drawing no. 396C/AP1 – Application Plan – May 2010  
Drawing No. 396C/SL/2 – Site Layout – March 2011  
Drawing No. BL002Rev.a – Revised Landscape Mitigation Scheme and – Apr 2011  
Drawing no. BL003 – Cross Section Through Proposed Peripheral Bund – October 2010  
Drawing no. BL005 – Indicative Cross-Sections A-A' to C-C' – April 2011  
Drawing no. BL006 – Indicative Cross-Sections D-D' to F-F' – April 2011  
Drawing no. BL007 – Proposed Landscape Planting Scheme – April 2011  
Drawing no. Figure 1 – Site Context, Landscape Character and Viewpoint Locations – October 2010  
Drawing no. Figure 2 – Viewpoints 1 & 2 – October 2010  
Drawing no. Figure 3 – Viewpoints 3 & 4 – October 2010  
Drawing no. Figure 4 – Viewpoints 5 & 6 – October 2010  
Drawing no. DBLC001 – Viewpoint 5: Existing and indicative proposed view – January 2011  
Drawing no. Figure 5 – Viewpoints 7 & 8 – October 2010  
Drawing no. Figure 6 – Viewpoints 9 & 10 – October 2010  
Drawing no. Figure 7 – Viewpoints 11 & 12 – October 2010  
Drawing no. Figure 8 – Viewpoints 13 & 14 – October 2010  
Drawing no. Figure 9 – Viewpoints 15 & 16 – October 2010  
Drawing no. Figure 10 – Viewpoints 17 & 18 – October 2010  
Drawing no. Figure 11 – Viewpoints 19 & 20 – October 2010  
Drawing no. Figure 12 – Viewpoints 21 & 22 – October 2010  
Drawing no. Figure 13 – Tranquillity Map – October 2010  
Drawing no. Figure 14 – Viewpoint 15: Existing and Indicative Proposed View – October 2010  
Hampshire County Council Rights of Way Office – Proposed diversion of part of Michelmersh Footpath No.4 – Amended April 2011.

Reason: For the avoidance of doubt and in the interest of proper planning.

2. No works to the existing perimeter bunding hereby permitted shall physically encroach on to the route of the Michelmersh and Timsbury Footpath No.4 as shown on the drawing entitled Hampshire County Council Rights of Way Office – Proposed diversion of part of Michelmersh Footpath No.4 – Amended April 2011.

Reason: To ensure that the routes as well as the use of and the enjoyment of nearby legally public rights of way are protected at all times in accordance with Policies 5 (Protection of the countryside), 10 (Protecting public health, safety and amenity) and 13 (High-quality design of minerals and waste development) in the Hampshire Minerals and Waste Plan (2013).

3. No changes to the existing earth screening bunds approved and implemented under Appeal Decision APP/Q1770/A/11/2161324 (allowed 12 July 2012) shall be undertaken.

Reason: To prevent harm being caused through unacceptable visual impacts on the locality and those living, visiting and working there in accordance with Policies 5 (Protection of the countryside), 10 (Protecting public health, safety and amenity) and 13 (High-quality design of minerals and waste development) in the Hampshire Minerals and Waste Plan (2013).

4. No changes to the planting scheme approved and implemented under Appeal Decision APP/Q1770/A/11/2161324 (allowed 12 July 2012) as depicted on Drawing No. BL002Rev.a – Revised Landscape Mitigation Scheme – Apr 2011 shall be undertaken.

Reason: To ensure the protection of the local landscape in accordance with Policies 5 (Protection of the countryside), 10 (Protecting public health, safety and amenity) and 13 (High-quality design of minerals and waste development) in the Hampshire Minerals and Waste Plan (2013).

5. No changes to the positions, design, materials and types of erected security fencing, gates and modifications to the site's vehicular entrance approved (dated 24 June 2013; ref: LL /v1.6) shall be under Appeal Decision APP/Q1770/A/11/2161324 (allowed 12 July 2012) shall be undertaken.

Reason: To ensure the protection of the local landscape in accordance with Policies 5 (Protection of the countryside), 10 (Protecting public health, safety and amenity) and 13 (High-quality design of minerals and waste development) in the Hampshire Minerals and Waste Plan (2013).

6. Reversing alarms attached to vehicles and mobile plant and machinery operating on the site that are under the control of the operator shall be low-level and non tonal 'white noise' type alarms at all times. Measures shall be taken by the operator to discourage the use on the site by others of vehicles that have 'non-white noise' alarms.

Reason: To ensure the protection of local residents, visitors and those working within the locality in accordance with Policies 10 (Protecting public health, safety and amenity) and 13 (High-quality design of minerals and waste development) in the Hampshire Minerals and Waste Plan (2013).

7. The development hereby permitted shall continue to be undertaken in accordance with the approved Cole Jarman Noise Compliance Strategy (dated 28 March 2013; ref: 2011/4841/L2-04) requiring that the rating level of noise emitted from the site as determined in accordance with BS4142:1997 shall not exceed 40dB(A) at any existing dwelling on the Casbrook Fields Development and Cranford Farm at any time during permitted site operations as approved in Appeal Decision APP/Q1770/A/11/2161324 (allowed 12 July 2012). The approved strategy shall be implemented in full.

Reason: To ensure the protection of local residents, visitors and those working within the locality in accordance with Policies 10 (Protecting public health, safety and amenity) and 13 (High-quality design of minerals and waste development) in the Hampshire Minerals and Waste Plan (2013).

8. No plant on the site shall exceed 4m in height above the existing ground level. All machinery loading material/waste onto or off stockpiles, plant and vehicles, shall operate in a manner that ensures it is entirely below the level of the bunds and associated screening vegetation in that part of the site. When not being operated all plant and machinery shall be in a location where it is entirely below the level of the bunds in that part of the site.

Reason: To ensure the protection of the local landscape in accordance with Policies 5 (Protection of the countryside), 10 (Protecting public health, safety and amenity) and 13 (High-quality design of minerals and waste development) in the Hampshire Minerals and Waste Plan (2013).

9. The “campaign” foam mix and wood shredding shall only take place in the bunded south west corner of the site as shown on approved drawing no. 396C/SL/2 (March 2011). No more than one campaign activity (washing plant, concrete crushing, wood shredding or foam mix) shall take place on the site at the same time.

Reason: To ensure the protection of the local landscape in accordance with Policies 5 (Protection of the countryside), 10 (Protecting public health, safety and amenity) and 13 (High-quality design of minerals and waste development) in the Hampshire Minerals and Waste Plan (2013).

10. Stockpiles of processed and unprocessed materials and waste on the site shall not exceed 4 metres above existing ground level.

Reason: To ensure the protection of the local landscape in accordance with Policies 5 (Protection of the countryside), 10 (Protecting public health, safety and amenity) and 13 (High-quality design of minerals and waste development) in the Hampshire Minerals and Waste Plan (2013).

11. With the exception of a maximum of five (5 No.) skip lorries, two (2 No.) RoRo lorries and one (1 No.) articulated lorry (all HCVs) entering and leaving the site between 06:30 - 07:30 hrs Monday to Friday only, no heavy commercial vehicles (HCVs) shall enter or leave the site outside the following times: 07:30 - 19:00 hrs Monday to Friday and 07:00 - 14:00 hrs Saturday, and not at any time on Sundays, recognised Public or Bank Holidays.

No plant, equipment or machinery involved in the approved waste management operations shall be operated on the site outside the following times: 07:30 - 17:30 hrs Monday to Friday and 07:30 - 12:30 hrs Saturday, and not at any time on Sundays, recognised Public or Bank Holidays.

The applicant shall keep daily records of the times all HCVs enter and depart the site. These shall be made available for inspection by the Waste Planning Authority when requested.

Reason: To ensure the protection of local residents, visitors and those working within the locality in accordance with Policies 10 (Protecting public health, safety and amenity) and 13 (High-quality design of minerals and waste development) in the Hampshire Minerals and Waste Plan (2013).

12. Any above ground oil/chemical storage tank/container and associated pipe work shall be bunded in a manner so as to retain at least 110% volume of the tank capacity.

Reason: To ensure the protection of land and water in accordance with Policy 10 (Protecting public health, safety and amenity) in the Hampshire Minerals and Waste Plan (2013).

13. The development hereby permitted shall continue to be undertaken in accordance with the approved operational drainage systems at all times during permitted site operations as approved in Appeal Decision APP/Q1770/A/11/2161324 comprising:

- Drainage Statement (dated 10 April 2014, ref: LL/v1.3; and
- Drainage, Hardstanding & Bay Construction Plan (dated July 2006; ref: 396/DRAIN/1.

The approved operational drainage systems shall be implemented in full.

Reason: To ensure the protection of the water environment in accordance with Policies 10 (Protecting public health, safety and amenity) and 11 (Flood risk and prevention) in the Hampshire Minerals and Waste Plan (2013).

14. All site operations within the development hereby permitted shall continue to be managed in accordance with the RFSF Recycling Environmental Management Plan ref: LL/v1.2 dated 15.10.10 pages 1-4 (as amended) and attached Appendix A (pages 5-7) the *Dust Management Scheme* contained within the Environmental Statement as approved in Appeal Decision APP/Q1770/A/11/2161324 (allowed 12 July 2012).

Reason: To ensure the protection of local air quality and surrounding land uses in accordance with Policy 10 (Protecting public health, safety and amenity) in the Hampshire Minerals and Waste Plan (2013).

15. All site operations within the development hereby permitted shall continue to be managed in accordance with the RFSF Recycling Environmental Management Plan ref: LL/v1.2 dated 15.10.10 pages 1-4 (as amended) and Appendix B the *Surface Water Management Scheme* contained within the Environmental Statement as approved in Appeal Decision APP/Q1770/A/11/2161324 (allowed 12 July 2012).

Reason: To ensure the protection of the water environment in accordance with Policies 10 (Protecting public health, safety and amenity) and 11 (Flood risk and prevention) in the Hampshire Minerals and Waste Plan (2013).

16. The development hereby permitted shall continue to be undertaken in accordance with the approved site lighting scheme (dated 03 April 2013; ref: LL /v1.3) at all times during permitted site operations as approved in Appeal Decision APP/Q1770/A/11/2161324 (allowed 12 July 2012). The approved strategy shall be implemented in full.

Reason: To ensure the protection of local residents and the local landscape from unacceptable lighting impacts in accordance with Policies 5 (Protection of the countryside) and 10 (Protecting public health, safety and amenity) in the Hampshire Minerals and Waste Plan (2013).

17. The development hereby permitted shall continue to be undertaken in accordance with the findings of the existing land contamination report (dated April 2013 by Apple Environmental) at all times during permitted site operations as approved in Appeal Decision APP/Q1770/A/11/2161324 (allowed 12 July 2012).

Reason: To protect the health of site workers and local residents and maintain the quality of local ground conditions and the water environment from the effects of contamination in accordance with Policy 10 (Protecting public health, safety and amenity) in the Hampshire Minerals and Waste Plan (2013).

18. All Heavy Commercial Vehicles (HCVs) accessing and egressing the site when loaded with waste or recycled materials shall be fully sheeted to prevent the spillage of materials onto the public highway.

Reason: To ensure the protection of local residents and the locality from unacceptable road safety impacts in accordance with Policies 5 (Protection of the countryside), 10 (Protecting public health, safety and amenity) and 12 (Managing traffic) in the Hampshire Minerals and Waste Plan (2013).

19. No vehicle shall exit the site onto the public highway until the vehicle is sufficiently clean to prevent mud or detritus being carried onto and/or deposited on the public highway.

Reason: To ensure the protection of local residents and the locality from unacceptable road safety impacts in accordance with Policies 5 (Protection of the countryside), 10 (Protecting public health, safety and amenity) and 12 (Managing traffic) in the Hampshire Minerals and Waste Plan (2013).

20. No more than 150,000 tonnes of waste shall be imported to the site per annum.

Reason: To ensure the protection of local residents and the locality from unacceptable road safety impacts in accordance with Policies 5 (Protection of the countryside), 10 (Protecting public health, safety and amenity) and 12 (Managing traffic) in the Hampshire Minerals and Waste Plan (2013).

21. There shall be no more than 208 (104 in and 104 out) Heavy Commercial Vehicle (HCV) movements per day to and from the site. Records of vehicle movements to and from the site shall be kept and made available for inspection at the request of the Waste Planning Authority. An HCV is defined for the purposes of this permission as a commercial vehicle over 7.5 tonnes unladen weight.

Reason: To ensure the protection of local residents and the locality from unacceptable road safety impacts in accordance with Policies 5 (Protection of the countryside), 10 (Protecting public health, safety and amenity) and 12 (Managing traffic) in the Hampshire Minerals and Waste Plan (2013).

22. All approved herpetological, amphibian (newt), butterfly and bat mitigation approved and implemented under Appeal Decision APP/Q1770/A/11/2161324 (allowed 12 July 2012) shall continue to be implemented and maintained throughout the duration of the development in accordance with ecological mitigation proposed within the approved Environmental Statement, including the ECIA report by Jonathon Adey dated June 2010 and the report by Jonathan Cox dated 18 May 2011.

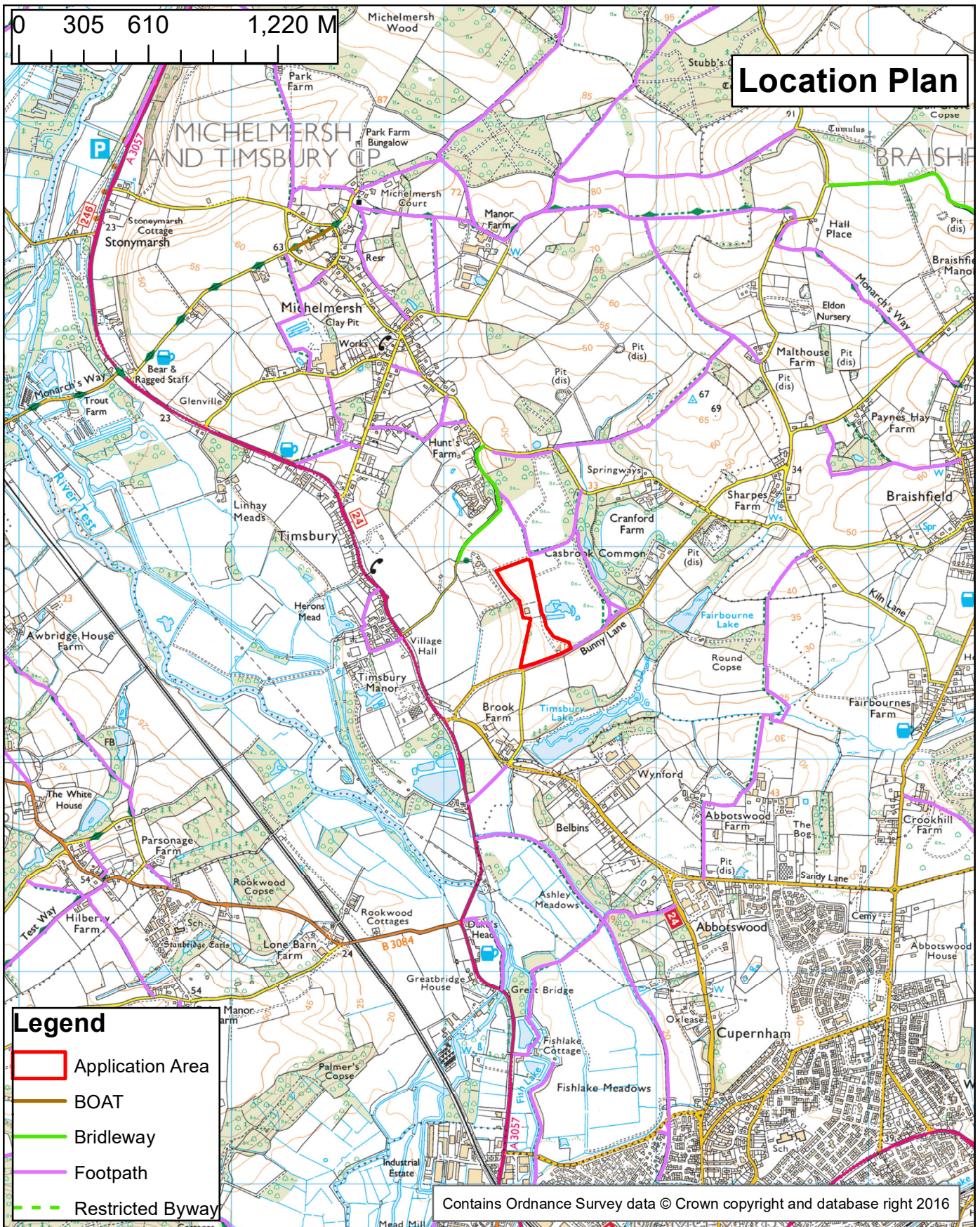
Reason: To ensure the protection of local ecology and biodiversity from unacceptable impacts in accordance with Policies 3 (Protection of habitats and species) and 5 (Protection of the countryside) in the Hampshire Minerals and Waste Plan (2013).

### **Note to Applicants**

1. In determining this planning application, the Waste Planning Authority has worked with the applicant in a positive and proactive manner in accordance with the requirement in the National Planning Policy Framework (2019), as set out in the Town and Country Planning (Development Management Procedure) (England) Order 2015.
2. The Waste Planning Authority strongly recommends that the applicant creates and organises a Liaison Panel that meets regularly throughout the operational life of the site. These panels usually include the applicant, the Waste Planning Authority, other regulators, local councillors, the local Parish Council and local residents/interested parties, all of whom can discuss freely any matters arising within the locality that are attributable to the site and its operations.
3. This decision does not purport or convey any approval or consent which may be required under the Building Regulations or any other Acts, including Byelaws, orders or Regulations made under such acts.

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**Variation of condition 12 (hours of operations and staff working hours) of Appeal decision reference APP/Q1770/A/11/2161324 (Planning Application Reference: 10/02712/CMA)**

**Regulatory Committee**

**Date 16 June 2021**

**1:25,000**



**Application No: 21/00298/CMAS**

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**Hampshire  
County Council**

**Site Reference: TV066**

**Drawn by: Strategic Planning**

**Economy, Transport and Environment**

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# RFSF Recycling

## Recycling Operation Timsbury

### Site Layout

Date: March 2011

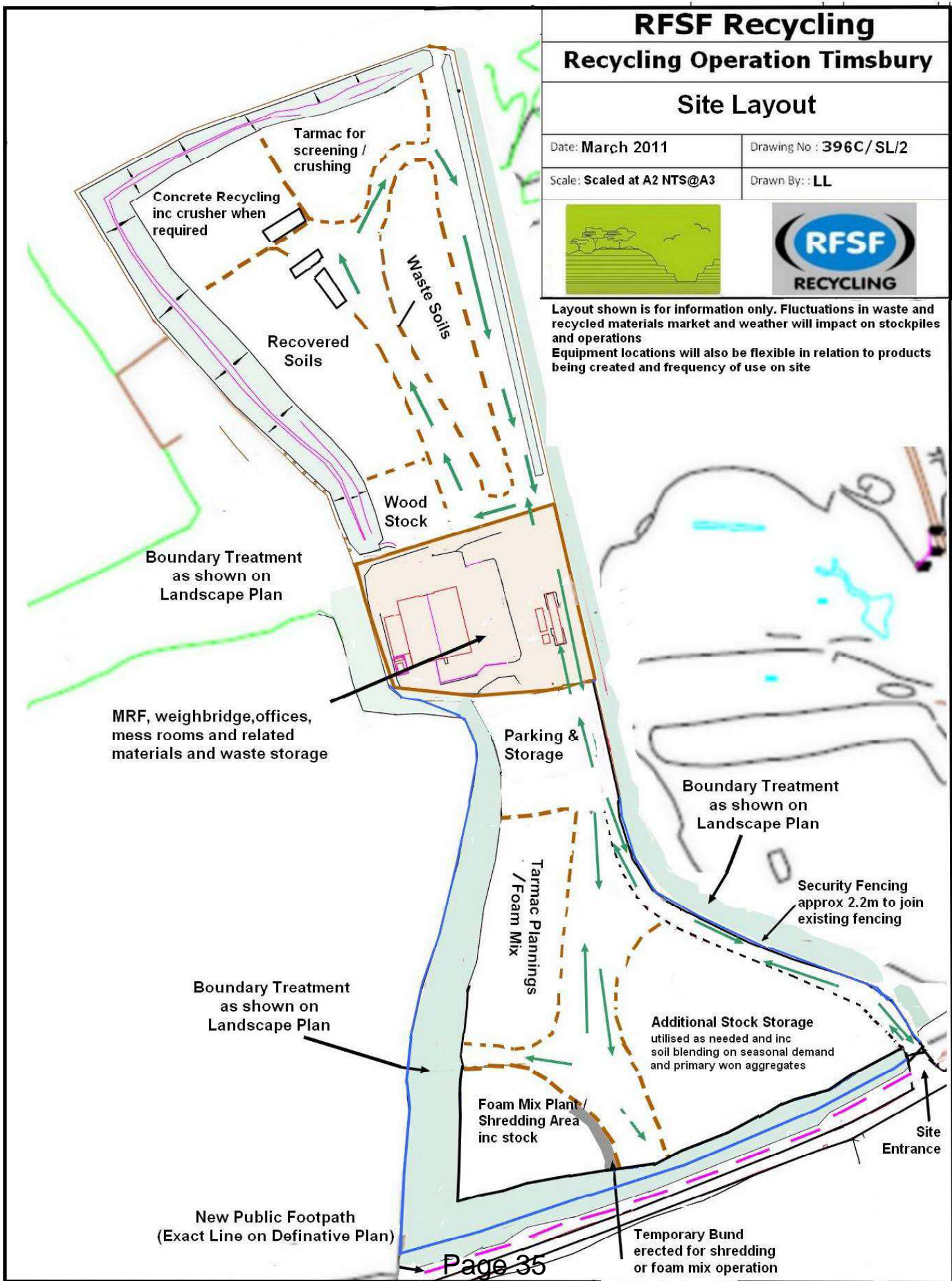
Drawing No : 396C/SL/2

Scale: Scaled at A2 NTS@A3

Drawn By: : LL



Layout shown is for information only. Fluctuations in waste and recycled materials market and weather will impact on stockpiles and operations  
Equipment locations will also be flexible in relation to products being created and frequency of use on site



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## HAMPSHIRE COUNTY COUNCIL

### Information Report

<b>Decision Maker:</b>	Regulatory Committee
<b>Date:</b>	16 June 2021
<b>Title:</b>	Monitoring and Enforcement Update
<b>Report From:</b>	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 March 2021 – May 2021. A review has also been undertaken of the County's Local Enforcement Plan which was originally reported and published in 2018. The reviewed Plan is considered within this report.

### Recommendation

2. That the contents of this report be noted and the updated Local Enforcement Plan approved subject to the finalisation of the document and formatting.

### Executive Summary

3. The Covid-19 pandemic had a major impact on the work of the Monitoring & Enforcement team over the past year, initially with no normal site visits being possible until August and then the re-introduction of lockdown in December. Although the previous levels of regular routine monitoring are still not possible, matters are now starting to return to normal and Officers have been able to undertake the highest priority visits and actively 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 development control work dealing with the relaxation of planning conditions due to recent Covid-19 Government advice, Planning Condition (Article 27) applications and Non-Material Amendments.

### Complaints

6. The majority of the complaints received during the period March 2021 – May 2021 refer to unauthorised development (7 sites) and breaches of operational planning conditions on existing mineral and waste sites (12 sites). A number of these complaints related to 2 existing sites that are already the subject of

planning applications and were escalated to the formal complaints procedure to the Chief Executive. These have been detailed separately. Investigation and negotiation have followed on the remaining sites with planning applications on a further 5 of the sites. 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 recent application for the installation of the washing plant (planning application [20/01753/CMAS](#)) in December 2020, a formal complaint was made to the Chief Executive regarding the failure to secure removal of the washing plant or enforce other conditions on stockpile heights, working hours and surface water drainage.

The County Council conducted its investigation in response to the complaint against Economy Transport and Environment under the Corporate Complaints procedure. It found that Officers have been operating in accordance with National guidance and our own enforcement plan to move the operator to compliance with the planning conditions before resorting to formal enforcement action and that the response to the breaches of planning control has been appropriate and proportionate and as a result, the complaint was not upheld. The outcomes of this investigation was reported in the last Enforcement Update in March 2021.

The National Planning Policy Framework states that the use of enforcement powers is discretionary, and local planning authorities should act proportionately. If the operator is willing to work with us within the planning process or by agreed remedial action/works, then enforcement action should be a last resort. In this particular case, the recent planning application was refused on 21 December 2020. The applicant has until 21 June 2021 to appeal against this refusal of the permission. However, they have instead 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](#)). The County Council cannot refuse to accept a re-submission and will have no option but to follow the planning process and consider the application on its merits. The application will be reported to a future meeting of the Council's Regulatory Committee. In the event that this application is refused, the refusal would be accompanied by a recommendation to instigate enforcement action requiring the removal of the plant.

The submission of a planning application greatly restricts the scope for the County Council to take any enforcement action unless there is serious, demonstrable harm (such as dealing with hazardous waste or tipping in a SSSI). The serving of an Enforcement Notice is an option; however, this can be appealed, and any appeal would be held in abeyance whilst the application was considered so this would not move the matter forward – unfortunately, the wash plant would still be there. In the meantime, the site is being visited, unannounced, on at least a weekly basis and the operator is being challenged on all the issues raised.

It is known that they continued to complete construction and the commissioning of the washing plant despite planning permission being refused. Commissioning has now been completed and the washplant has



only been in operation for some short term working to allow for a proper Noise Assessment as part of the planning application.

Officers have been to site to assess the stockpile height and a subsequent survey of the stockpiles has been undertaken to ascertain the exact situation. This has indicated that two of the stockpiles are up to 10m high. Steps have been taken in the past couple of months to address this and the heights are coming down. We continue to monitor the situation and reserve the right to serve a Breach of Condition Notice should progress not continue.

Information was provided highlighting the issue with HGV operating hours, as we had not received any complaints about this matter previously. The operator contends that the condition should not apply to empty vehicles entering or leaving the site. We do not agree and, consequently, they have applied to vary this condition (21/00298/CMAS). Again, we will consider this application on its merits and, again, whilst the application is being processed, any enforcement action on this issue will be held in abeyance.

The approved Surface Water Management Schemes for the southern area states the northern area is reliant on infiltration/percolation through the hardcore surface, an approach that has been followed since the 2012 appeal decision. The operator has taken steps to try and address the situation including settlement pools and silt fences to contain surface water debris. They have also been hand picking debris from the areas outside the gate that are accessible from the public footpath. The operator is working with the Environment Agency regarding surface water issues and have a consultant drawing up new measures to handle surface water drainage. We expect a plan to be submitted for implementation by the summer. When received, we will consider whether the proposed new measures are covered by the existing scheme or whether another application is needed. In terms of the surface water washing waste material off site, this is more a matter for the Environmental Agency under the Permit. We are liaising with the EA on this matter.

8. **Calf Lane** - following the submission of an application for retrospective variation of planning permission for the use of a picking station in association with the recycling operation allowed by way of a Certificate of Lawful Use, a formal complaint was made concerning failure to correctly process the application, to enforce the conditions detailed in the original Certificate of Lawful Use and to inform the Regulatory Committee in the Monitoring and Enforcement Update of the complaints pertaining to Calf Lane Quarry.

Again, the County Council has fully investigated and found that Officers have been operating in accordance with National guidance and the relevant policies and guidance in relation to the processing of the planning application and its monitoring and enforcement duties. The full outcomes of the investigation were reported in the last Enforcement Update in March 2021.

The County Council has fully complied with the statutory requirements for the handling of this application as set out in the Town and Country Planning (Development Management Procedure) (England) Order 2015 and the Council adopted Hampshire Statement of Community Involvement. Under the regulations an application of this sort must be publicised by either putting up a site notice in at least one place on or near the land to which the application relates for not less than 21 days or by serving the notice on any adjoining

owner or occupier. There is no requirement to notify residents who are not adjoining owner or occupiers.

However, under the County Council's Hampshire Statement of Community Involvement, the Council has committed to being as open and transparent as possible, and, as such, all applications are publicised by site notice, by advertisement in the local press and by notifying residents within 50m of the site. In certain circumstances this is increased to all residents within 100m. In this case, the nearest house is approx. 250m away with the remainder about 300 – 350m away.

Given that the main issue here is the noise and amenity impact, it was subsequently decided that the nearest residents to the quarry and the access road would be notified by letter. In view of this, it was also agreed to extend the consultation period for residents allowing the normal, full period for making any comment.

The County Council therefore followed and, in fact, exceeded the requirements for the dealing with planning applications as set out in national regulations.

A Certificate of Lawful Use (CLU) is not the same as a planning permission, where permission is granted subject to the conditions listed in the decision. A CLU is merely a statement of the activity taking place at a site at a particular date and which has been legally shown to have been taking place for at least 10 years. There are no enforceable planning conditions attached to a CLU. Action can only be taken if there is a material change to the use of the site (and case law has decided that an increase in lorry numbers or a change in waste streams is not material). Thus, we were able to require the submission of a planning application for the installation of the picking station (which they now are looking to retrospectively vary). The County Council has therefore done all that the law allows in trying to control activities at the site.

A Monitoring & Enforcement Update is taken to Committee every 3 or 4 months, depending on the agenda. The complaints about Calf Lane were included in the figures for the number of complaints received in the previous 3 month period and in the figures for the number of planning applications that were to be submitted to try and resolve these issues. Specific sites are not highlighted until enforcement action is taken or deemed necessary. The complaints history of a site will be included as part of the Committee Report for any application when it goes to Regulatory Committee.

### **Enforcement Actions**

9. In the period to May 2021, there were no notices served, with all 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
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<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 <u><a href="#">planning application 51471/007</a></u>. The Legal Agreement has now been signed and so the planning permission issued. A Liaison Panel is to be set up for the site to encourage greater interaction between the operator and local residents. Monitoring of the site has indicated that operations are ceasing and waste is no longer accepted at the site.</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 (<u><a href="#">16/00322/CMA</a></u>) 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 (<u><a href="#">17/01876/CMA</a></u>). 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 February 2019 Committee meeting (<u><a href="#">18/03001/CMA</a></u>).</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 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</p>

	<p>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 commenced. Works have now been completed, and the latest results appear to indicate that the problem has largely been addressed. The County has not been made aware of any subsequent issues. Monitoring is still ongoing with regular liaison between the Plant's management and local residents.</p>
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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*

<b>Site</b>	<b>Joint working with</b>	<b>Update</b>
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 was 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 did 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, TVBC decided to enforce against any work as a breach of the</p>

		<p>original permission, with the EA looking to prosecute for tipping without a Permit. HCC 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. HCC Highways have therefore taken legal action to secure 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>
Shedfield Equestrian Centre	Winchester City Council, Environment Agency	<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 HCC 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</p>

		<p>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 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 application to regularise the recapping of the former landfill site, although this application has yet to be validated. The operation of the small waste transfer station is currently subject of a Permit application to the EA and will require a planning application.</p>
<p>Lowhill Farm, Colden Common</p>	<p>Winchester City Council, Environment Agency</p>	<p>Development associated with Shedfield Equestrian Centre. Material processed at the Recycling Facility permitted by the Certificate of Lawful Use has been imported to Lowhill Farm and spread on the land. The central questions are whether the development is permitted development and, as such, a matter for WCC and whether the material used is waste. WCC have been asked to provide information as to the work agreed as permitted development and any subsequent measurements taken so that the County can take a view as to the status of the work. The Facility at Shedfield is able to produce a product under the WRAP Protocol that can be designated as 'not waste' by the Environment Agency subject to the proper testing. Information has been provided by the operator to satisfy the EA's requirements and this is being analysed. Should the material not be waste, then the development would have to be considered as an engineering operation by WCC.</p>

Redlands, Sherfield-on- Loddon	Environment Agency	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 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 investigation is ongoing and HCC will assist as necessary.
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### Site Monitoring

13. Chargeable sites – 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 25 active sites, 12 in aftercare and 5 dormant sites liable for chargeable visits.
15. This work has been prioritised despite Covid-19 restrictions, however, once all inspections have been completed for the 1st quarter, it will bring in approx. £10 000.
16. 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. Under the current restrictions, routine monitoring has been limited, concentrating on sites with issues or causing complaints. Monitoring of waste sites covered by the County's waste contract has also resumed, albeit on a reduced basis, as these sites have remained open during the pandemic as one of the essential sectors listed by Government.

### **Liaison Panels**

17. During the past year Liaison Panel meetings have been held as virtual meetings to keep these avenues of communication open. Virtual Liaison Panel meetings have been held for;
  - A303 Recycling Facility, Longparish;
  - Kingsley Quarry, Nr Bordon;.
18. Discussions were ongoing about setting up the Waterbrook Recycling Facility, but the operator wanted the first meeting to be on site to give attendees an appreciation of site activities. However, it now appears that waste operations have ceased so this is now on hold.
19. The Virtual Liaison Panels have worked well and officers are keen to explore their continued use as restrictions ease.

### **Development Management**

#### **Relaxation of Planning Conditions due to Covid-19:**

20. 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.

#### *Minerals and Waste Sites*

21. The Government stated that the waste sector is safeguarded to continue to provide waste removal services from domestic and other protected sectors. The Government's response to the pandemic may consequently require changes to the way existing minerals and waste sites operate. Often such sites have planning permissions which include conditions which restrict and/or control working. These may include hours of working and height of stockpiles for example. In some instances, sites may need more flexibility to manage their activities during this unprecedented period.
22. Recognising this, a Protocol was agreed in March 2020 by Assistant Director of Waste Planning Environment (WPE) in the Economy, Transport and Economy (ETE) department setting out arrangements to agree temporary relaxation of some conditions or other planning controls where a request has



been made by a waste or minerals site operator and where this can be clearly demonstrated to be required as a result of the response to Covid-19. It also covers where operations may take place which are without the benefit of planning control currently.

23. Strategic Planning have had numerous enquiries as to our view to relaxing planning conditions during this period, but to this point have received 4 formal requests for such relaxations, which have been addressed through the procedures put in place by the Protocol. A Report is produced in response to each request made. This outlines the history of the site, the conditions effected and the reasons for the request, as well as consideration of the impacts of any change and the provisions for any relaxation. This report is signed off by the Head of Strategic Planning under delegated powers. Local Members are informed on the relaxation.

1. 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 ourselves 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.

The operator has now submitted a planning application (planning application [21/00812/CMAN](#)) for permission to construct the needed concrete surfacing and drainage systems to allow the longer term use of the land for storage of IBAA. This is likely to be considered by the Regulatory Committee in due course.

2. Warren Heath Secondary Aggregate Recycling Facility, Eversley - 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. Despite agreeing the alignment, design and construction of the Bridleway diversion with the County Council, the formal process for registering the diversion has been referred to the Planning Inspectorate. This has been further delayed due to a request for a Public Inquiry by an interested third party and delays due to Covid-

19. The request, which would not have been necessary had the formal diversion process been able to have been finalised, is partly due to the increase in activity since the onset of the Covid-19 pandemic whereby local independents and self-employed building contractors are using the facility for building materials within Hampshire. Additionally, a substantial quantity of material is required to complete construction of the bunds around the perimeter of the site. The operator anticipates that these movements and tonnage levels will only increase as time progresses as they have been one of the few recycling and aggregates suppliers to remain open during the pandemic. The operator has also suggested submission of an application to vary the condition if the bridleway diversion has not been sorted out by the end of the year. The relaxation was therefore agreed until 31 December 2020 subject to notification of the Parish Council. The current position is under review in line of the continuing bridleway diversion Appeal, which is set for a Hearing later in the year.

24. The relaxation of conditions, if agreed, did not impact the authority's ability to use its enforcement powers. They were also subject to review should any significant complaints be received.

#### *Regulation 3 Site*

25. The Governments published Our Plan to Rebuild: the UK Government's COVID-19 recovery strategy on 11 May 2020 which made it clear that construction work could be re-established across England providing sites are able to operate safely in line with the new COVID-19 Secure guidelines. In doing so, the Government recognised that the construction industry needs to be able to adapt its normal practices. As part of this, temporary extensions to working hours may be required on some sites to facilitate safe working and allow tasks to be completed where social distancing can be challenging. It acknowledged that longer working hours may be needed on construction sites. A subsequent Written Ministerial Statement on construction (dated 13 May 2020) made it clear that, with immediate effect, Local Planning Authorities should take a swift and positive approach to requests from developers and site operators for greater flexibility around construction site working hours. This is to ensure that, where appropriate, planning conditions are not a barrier to allowing developers the flexibility necessary to facilitate the safe operation of construction sites during the response to the COVID-19 pandemic and to proceed at pace with work otherwise delayed as a result of COVID-19. The statement sets out the following:

- Where only a short term or modest increase to working hours is required, local planning authorities should, having regard to the reason for the condition and to their legal obligations, not seek to undertake enforcement action;
- Where developers require longer term or more significant changes to working hours, they should apply to the local planning authority to temporarily amend a condition or a construction management plan in the usual way;
- Any temporary relaxation of working hours should be proportionate and should not involve working on Sundays or recognised Public Holidays;

- Local Authorities should not refuse requests to extend working hours until 9pm, Monday to Saturday without very compelling reasons for rejection;
  - In all cases, sympathetic site management should be demonstrated to mitigate local impacts and local authorities should show best endeavours to facilitate such requests;
  - Applications should only be refused by the Local Authority where there are very compelling reasons such as significant impact on neighbouring businesses or uses which are particularly sensitive to noise, dust or vibration, which cannot be overcome through other mitigation, or where impacts on densely populated areas would be unreasonable; and
  - Any temporary changes to construction working hours conditions granted by local planning authorities should not extend beyond 13 May 2021.
25. In response to this, a Protocol was prepared setting out arrangements to agree temporary relaxation conditions relating to hours of working for Regulation 3 sites.
26. To date, one request has been received for the relaxation of hours of working conditions at Chineham Park Primary School, Shakespeare Road, Basingstoke RG24 9BP (Austen Academy). The associated works which the relaxation related to have been completed.

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

27. 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.
28. During the period, Article 27 applications were received and approved or are being determined for 15 submissions (14 for Regulation 3 developments and 1 County Matter), totalling £1740.
29. 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):**

30. 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.
31. Over the period no NMA applications were received.

## **Review of Local Enforcement Plan**

32. Paragraph 58 of the National Planning Policy Framework (NPPF) states:

“Effective enforcement is important as a means of maintaining public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control. Local Planning Authorities should consider publishing a Local Enforcement Plan to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where it is appropriate.”

33. In accordance with the NPPF, the Hampshire Local Enforcement and Site Monitoring Plan (‘the Plan’) sets out what enforcement and site monitoring service businesses and individuals can expect from Hampshire County Council as Mineral, Waste and County Planning Authority.

34. The Plan was first adopted in 2018 and is now under review. A link to the the draft version of the new Plan can be found in Appendix A and any comments on the contents of this draft would be welcomed.

35. A recommendation on the draft’s approval is noted at the start of this report, subject to officers finalising the Plan and formatting of it’s associated document.

## **Appendix A**

### **Hampshire Local Enforcement and Site Monitoring Plan.**

#### **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

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# Planning Enforcement and Site Monitoring Plan

Add picture

*Guidance on the monitoring and enforcement of  
minerals and waste developments and on the  
compliance of Regulation 3 and Cross boundary  
planning applications in Hampshire*

**A guide for elected members, local communities, other local  
planning authorities, developers and other interested parties**

Add HCC logo

Draft - for Consideration by the Regulatory Committee, June 2021

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# 1. INTRODUCTION

Paragraph 58 of the [National Planning Policy Framework \(2019\)](#) (NPPF) states:

*“Effective enforcement is important as a means of maintaining public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control. Local Planning Authorities should consider publishing a Local Enforcement Plan to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where it is appropriate .”*

In accordance with the NPPF, the Hampshire Local Enforcement and Site Monitoring Plan (‘the Plan’) sets out what enforcement and site monitoring service businesses and individuals can expect from Hampshire County Council as Mineral, Waste and County Planning Authority.

The County Council has the responsibility for determining applications for:

- Regulation 3 development is development that the County Council wishes to carry out and may include Schools; Libraries; Museums; Country Parks; and Development on other County Council owned land (e.g., farms).
- minerals sites such as quarries, processing facilities etc;
- waste sites; and
- some cross boundary planning applications where the proposal crosses the boundary with one of Hampshire’s National Parks.

When planning permission is granted, it is the applicant’s responsibility to ensure that all conditions associated with a planning permission are complied with.

This Plan sets out the Hampshire County Council’s (HCC) approach to planning enforcement of minerals, waste, County Council and relevant cross boundary developments.

It sets out:

- how breaches of planning control will be addressed and by whom.

and specifically, for Regulation 3 and cross boundary developments:

- how the County Council would seek to regulate any breaches of planning control relating to development undertaken by County service providers under [Regulation 3 of the Town and Country Planning General Regulations 1992](#).

and for minerals and waste developments:

- what action the County Council would take to address any breaches; and
- establishes formal procedures to enable the County Council, both the Regulatory Committee (the Committee) and officers acting under delegated powers, to be consistent and effective in their approach.

The County Council does not have power to take enforcement action against its own Regulation 3 developments, instead this power is given to the appropriate Local Planning Authority. It also does not have enforcement powers for any cross-boundary planning applications (with the exception of any cross boundary minerals or waste proposals). More information on this can be found in [section 4](#) of the Plan. Previously there has been a separate Protocol for compliance of Regulation 3 developments. This Protocol will be removed on the publication of this Plan as its provisions have been encompassed into this Plan.

For operational minerals and waste site with planning permissions granted by the County Council, officers undertake routine monitoring to ensure compliance with conditions imposed as part of such permissions. Where there are breaches of planning control from unauthorised mineral or waste development or from non-compliance with planning conditions, the County Council has the discretionary power to take enforcement action as considered appropriate. More information on this can be found in [section 5](#).

The Plan also sits alongside the [Development Management Charter](#) as well as a wider suite of procedural and guidance documents for development management in Hampshire.

## **2. RIGHT TO ENTER LAND**

All officers, or other persons duly authorised in writing by the County Council, may at any reasonable hour enter any land to ascertain whether there has been a breach of planning control in accordance with the [Town and Country Planning Act 1990](#). Any person that wilfully obstructs an authorised person in carrying out these duties is committing an offence, punishable on summary conviction to a fine not exceeding level 3 on the standard scale.

## **3. WHAT ARE BREACHES OF PLANNING CONTROL?**

It is the applicant's responsibility to ensure there is not a breach of planning control.

[National Planning Practice Guidance](#) gives details about what is a breach of planning control.

**Enforcement and post-permission matters** Paragraph: 001 Reference ID: 17b-001-20140306 states that: A breach of planning control is defined in [the Town and Country Planning Act 1990](#) as:

- the carrying out of development without the required planning permission; or
- failing to comply with any condition or limitation subject to which planning permission has been granted.

Any contravention of the limitations on, or conditions belonging to, permitted development rights, under the [Town and Country Planning \(General Permitted Development\) \(England\) Order 2015](#), constitutes a breach of planning control against which enforcement action may be taken.

[The Town and Country Planning Act 1990](#) imposes a general but not mandatory duty to ensure compliance with planning control. Accordingly, because there is an element of discretion as to whether or not it might be expedient to take appropriate action, there is a need for procedures to be adopted and followed to ensure that the County Council's approach is consistent and effective when deciding what action should be taken.

Breaches of planning control are likely to be brought to the attention of the County Council either by routine site inspections for other development at the site or following a complaint from a member of the public or other third party.

The types of breach that may be likely to occur during development include:

- i. Breach of conditions attached to an extant planning permission;
- ii. The carrying out of development where there is no planning permission, and such a planning permission is unlikely to be granted; and
- iii. The carrying out of development where there is no planning permission, but permission is likely to be granted retrospectively.
- iv. Breach of conditions attached to an extant planning permission;
- v. The carrying out of development where there is no planning permission, and such a planning permission is unlikely to be granted; and
- vi. The carrying out of development where there is no planning permission, but permission is likely to be granted retrospectively.

Breaches of planning control may include:

- i. Unauthorised development;
- ii. Unauthorised erection of a structure;
- iii. Development not in accordance with the approved plans of the planning permission;
- iv. Material change of use of a building or land;
- v. Failure to comply with the conditions attached to a planning permission; and
- vi. Failure to properly maintain land so that it affects the amenity of the area.

Examples of a breach of planning control include:

- Commencing on site without planning permission having yet been granted;
- Failing to comply by a condition of a planning permission;
- Having a development with planning permission that has lapsed due to exceeding a condition with a timescale giving temporary permission; and
- Failing to discharge a condition requiring submission and approval of information via an Article 27 application.

### 3.1. How to report a breach of planning control

You can contact the Strategic Planning team either on the webpage at [Report a Suspected Planning Breach](#).



## Microsoft Forms

Before making a complaint, it is helpful to have as much information as possible, such as:

- Description of the possible breach;
- Date the activity started (is it continuing?);
- Site address;
- Name and any details of the site owner or those involved (including vehicle registration numbers if possible); and
- Name, address and telephone number or email of the complainant.

More information on confidentiality in relation to complaints is set out in [section 7.3](#) of the Plan.

## 4. HOW BREACHES OF PLANNING CONTROL ARE ADDRESSED FOR REGULATION 3 AND CROSS BOUNDARY DEVELOPMENTS

Regulation 3 developments

Regulation 3 development is development undertaken by the County Council under [Regulation 3 of the Town and Country Planning General Regulations \(1992\)](#). It may include:

- Schools;
- Libraries and Discovery Centres;
- Museums;
- Country Parks;
- Highway Schemes; and
- development on other County Council owned land (e.g. farms).

A Regulation 3 development has exactly the same level of requirement of compliance as other planning permissions issued by the County Council for minerals or waste development or indeed by any other planning authority.

It is expected that the County Council will promote best practice in its own development, be it through County Council staff or contractors. Where development is granted planning permission, the applicant is obliged to ensure that all planning conditions are complied with in full. It is very important to ensure compliance to minimise the risk of negative impact to Hampshire County Council's reputation. Applicants should comply with permissions granted as it helps to demonstrate to local communities and other interested parties that the County Council follows its own procedures and complied with permissions granted.

Effective enforcement of Regulation 3 developments is also essential as it ensures public confidence in the planning system. Whilst the enforcement of a breach of planning control relating to a Regulation 3 development is carried out by the relevant local District or Borough Council, the County Council will still have a role to play in helping to address any breaches.

## Cross boundary developments

In some instances, the County Council will be planning authority for proposals that would normally be determined by the relevant District or Borough Council. *R v Northumberland National Park (1999)* changed the way cross boundary proposals (with a National Park) should be determined / and by whom. Where an application straddles a National Park, that the part of an application outside of the National Park should be dealt with by the County Council and not the relevant District or Borough Council.

Like with Regulation 3 developments, the effective enforcement of cross boundary developments is also essential as it ensures public confidence in the planning system. In most instances the enforcement of a breach of planning control will be carried out by the relevant local District or Borough Council unless the proposal relates to a minerals or waste development.

### 4.1 Who is responsible for enforcement of Regulation 3 and cross boundary developments?

The County Council is only authorised in law to take enforcement action against development which is considered a 'county matter' - for minerals and waste development. [Paragraph 11 of Schedule 1 of the Town and Country Planning Act 1990](#) clarifies that although the County Council can enforce against mineral and waste developments granted by the authority, all other enforcement powers fall to the District planning authority (i.e., the relevant [District or Borough Council](#)).

More information on how complaints are managed is set out in [Section 7](#) of this Plan.

## 5. HOW BREACHES OF PLANNING CONTROL ARE ADDRESSED AT MINERALS OR WASTE SITES

### 5.1. Taking formal enforcement action

Potential breaches of planning control, are likely to be brought to the attention of the County Council through either routine site monitoring inspections, or as a complaint from a member of the public or other third parties.

The Enforcement Powers available to the County Council as Minerals and Waste Planning Authority are set out at [Appendix 1](#).

The County Council has the overall responsibility for taking enforcement action relating to 'County matters'. 'County Matters' are defined in [Schedule 1 of the Town and Country Planning Act 1990](#) and the [Town and Country Planning \(Prescription of County Matters\) \(England\) Regulations 2003](#).

This is a discretionary power as the [Town and Country Planning Act 1990](#) does not impose a general duty to ensure compliance with planning control. Because of the discretionary nature of enforcement, there is a need for procedures to be adopted and followed to ensure that the authority's approach is consistent and accountable when deciding what action should be taken. A flow chart is attached at [Appendix 2](#) to this Plan outlining the general progression of enforcement investigation.

### 5.2. Procedure for taking formal enforcement action

#### Initial Investigation

The investigating officer will, under normal circumstances, visit the site in question to determine whether a breach of planning control has taken place.

Checks will normally be made whether planning permission exists, whether the development has [permitted development rights](#) or benefits from a lawful use.

When necessary, [City/District/Borough Councils](#) will be consulted to determine whether any locally granted permission exists.

#### Follow-up Action

Upon concluding there has been a breach of planning control, the investigating officer needs to consider the harm being caused and make a judgment as to whether or not planning permission is required and if so whether it is likely to be granted for the development in question. If it is not immediately expedient to take enforcement action, as the harm being caused is limited, negotiation will normally be the first step



to addressing the situation. Where a landowner or operator is willing to comply with the recommendations of the investigating officer and the investigating officer is confident that such recommendations are likely to be implemented swiftly, the need for formal enforcement action may be avoided.

If remedial action to address the breach of planning control needs to be taken, the investigating officer will write to all parties involved setting out what is required to correct the situation and advising of the consequences that would result from failure to carry this out. A timescale will always be set for the completion of the works. Confirmation will then be sought from the parties in question indicating that they are willing to carry out these works in the time period. If the works do not progress, or a commitment is not received to carry out the necessary remedial works, the investigating officer will then consider taking formal enforcement action. In certain circumstances, it may be appropriate to seek a retrospective planning application where the investigating officer is of the view that planning permission may be granted and such permission would enable the County Council to control the development through the imposition of conditions. In these situations, those responsible for the unauthorised development will be invited to make a planning application. If such an application is not forthcoming within a reasonable timescale, the County Council may then decide to take formal enforcement action to remedy the breach.

#### Enforcement Action

The investigating officer will make a judgement as to whether it is expedient to take formal enforcement action in particular whether the development unacceptably affects public amenity, or the existing use of land and it is in the public interest to do so. A recommendation will be made that enforcement action is taken, primarily based on the conflict with planning policy and the harm being caused. Formal enforcement action, in certain circumstances, may well be the only effective way in which to remedy the breach of planning control.

There are a range of notices available to the County Council, as listed in Government Guidance: [Enforcement and post-permission matters](#) when considering taking formal enforcement action and the decision as to what route to take will be made in liaison with the council's Legal Service. These powers are outlined in [Appendix 1](#). Enforcement action will always be commensurate with the breach of planning control to which it relates (for example, it would be usually inappropriate to take formal enforcement action against a trivial or technical breach of control which causes no harm to amenity in the locality of the site).

#### Contravening Enforcement Action

Where a breach of planning control continues after an Enforcement Notice has taken effect, the County Council may take appropriate action against the person committing or responsible for the breach of planning control. This may involve

prosecution proceedings in the Magistrates Court or Crown Court as well as taking out an injunction against the perpetrator if necessary.

### 5.3. Determining the appropriate course of action

#### Where development is carried out without permission

It is not an offence to carry out development without first obtaining the necessary planning permission. Where the assessment indicates it is likely that unconditional planning permission would be granted for development which has already taken place, a retrospective planning application should be submitted (together with the appropriate application fee). It may also be appropriate to consider whether any other body (e.g. the Highway's Authority, Local Planning Authority, Environmental Health Authority or Environment Agency) is better able to take remedial action.

While it is clearly unsatisfactory for anyone to carry out development without first obtaining the required planning permission, an enforcement notice will not normally be issued solely to "regularise" development which is acceptable on its planning merits, but for which permission has not been sought.

In such circumstances, a Planning Contravention Notice will be considered to establish what has taken place on the land and persuade the owner or occupier to seek permission for it, if permission is required. The owner or occupier of the land may be told that, without a specific planning permission, they may be at a disadvantage if they subsequently wish to dispose of their interest in the land and has no evidence of any permission having been granted for development comprising an important part of the valuation.

#### Where unauthorised development can be made acceptable by the imposition of conditions

Where the development has been carried out without the requisite planning permission, but the development could be made acceptable by the imposition of planning conditions (for example, to control the hours, or mode, of operation; or to carry out a landscaping scheme), the Local Planning Authority may invite the owner or occupier of the land to submit an application, and pay the appropriate application fee, voluntarily.

It may be pointed out to the person concerned that the authority does not wish the business, or other activity, to cease; but has a public duty to safeguard amenity by ensuring that development is carried out, or continued, within acceptable limits, having regard to local circumstances and the relevant planning policies. If, after a formal invitation to do so, the owner or occupier of the land refuses to submit a planning application, the council will consider whether to issue an enforcement notice to remedy any 'injury to amenity' which has been caused by the breach.

Where the unauthorised development is unacceptable on the site, but relocation is feasible

It is not the authority's responsibility to seek out and suggest to the owner or occupier of land on which unauthorised development has taken place an alternative site to which the activity might be satisfactorily relocated.

If an alternative site has been suggested, officers will make it clear to the owner or occupier of the site where unauthorised development has taken place that they are expected to relocate to the alternative site. A reasonable timescale, within which relocation should be completed, will be expected. What is reasonable will depend on the particular circumstances, including the nature and extent of the unauthorised development; the time needed to negotiate for, and secure an interest in, the alternative site; and the need to avoid unacceptable disruption during the relocation process. If a timetable for relocation is ignored, it will usually be expedient for the authority to issue an enforcement notice.

Where the unauthorised development is unacceptable and relocation is not feasible

Where unacceptable unauthorised development has been carried out, and there is no realistic prospect of its being relocated to a more suitable site, the owner or occupier of the land will be informed that the authority is not prepared to allow the operation or activity to continue at its present level of activity, or (if this is the case) at all.

If the development nevertheless provides valued local employment, the owner or occupier will be advised how long the authority is prepared to allow before the operation or activity must stop or be reduced to an acceptable level of intensity. If agreement can be reached between the operator and the County Council about the period to be allowed for the operation or activity to cease, or be reduced to an acceptable level, and the person concerned honours the agreement, formal enforcement action may be avoided.

If no agreement can be reached, the issue of an enforcement notice will usually be justified, allowing a realistic compliance period for the unauthorised operation or activity to cease, or its scale to be acceptably reduced. Any difficulty with relocation will not normally be a sufficient reason for delaying formal enforcement action to remedy unacceptable unauthorised development.

Where the unauthorised development is unacceptable and immediate remedial action is required

Where, in the Council's view, unauthorised development has been carried out and it considers that:

1. The breach of control took place in full knowledge that planning permission was needed (whether or not advice to this effect was given by officers to the person responsible);
2. The person responsible for the breach will not submit a planning application for it (despite being advised to do so); and/or;
3. The breach is causing harm to public amenity or the environment.

## 6. ENFORCEMENT ACTION IN PRACTICE

### 6.1. Resources allocated to enforcement and monitoring and prioritisation

Enforcement and monitoring of minerals and waste sites is labour intensive and in practice often involves a large proportion of officers' time, especially in complex cases where there might be a significant impact on amenity or highway safety or when frequent monitoring is required. Many Authorities rely on their Planning / Development Management Officers to contribute to the overall enforcement and monitoring function, in addition to their normal casework. However, Hampshire employs a specific team of Enforcement and Monitoring Officers who are responsible for recording and dealing with all complaints/referrals, all routine and chargeable monitoring of authorised sites and the investigation of unauthorised activities. This is undertaken in accordance with this Plan.

### 6.2. Prioritising cases

In order to make the best use of time and resources there is a need to prioritise cases according to the urgency of response that is required and without losing sight of the 'lesser' breaches. This enables staff to concentrate on the more harmful cases. Notwithstanding the appropriate course of action described above, as each case is logged in, it will be considered as a priority under the following headings:

1. Safety Hazards: Whether the development is causing or could cause a hazard.
2. Existing Enforcement Action: Whether existing enforcement action is being taken or whether the matter has been drawn to the attention of the operator on previous occasions.
3. Severity of Breach/Proportionality: Whether, for instance, the degree of harm caused to residents, the highway network, the landscape or the countryside is significant or not.

4. Past History of Operator: Whether the operator has previously shown disregard for planning legislation and is therefore likely not to respond to reasonable requests to curtail activities.

5. Time Periods: Whether the periods of time for taking enforcement action are running out.

6. Political Dimension: Whether there is significant public interest in action being taken.

The above headings will be made into a diagram in the final version of the document.

## **7. DEALING WITH COMPLAINTS**

### **7.1 Regulation 3 and cross boundary developments**

In the event that a complaint is received by the County Council about a County Council development, County Council planning officers will attempt to liaise and resolve any issues which the applicant before the need for enforcement measures to be undertaken by the District or Borough Council.

The following procedure applied to dealing with complaints about Regulation 3 developments is set out in Figure 1.

Figure 1: Procedure for dealing with complaints



## **Registering**

A record of the complaint will be added to the County Council's planning database upon receipt once it has been ascertained that the complaint relates to a permission granted by the Council for a Regulation 3 development.

## **Site Monitoring and Gathering of Information**

In instances where there are breaches of planning control associated with a Regulation 3 development, the County Council will try and resolve the issue in discussion with the applicant.

Officers acting for the County Council as planning authority may need to do initial investigation of any breaches of planning control which relate to developments permitted by the County Council once informed about them.

In such instances, County Council officers and contractors working with or for the County Council shall enable site inspections to take place and assist in providing any necessary information.

## **What happens if the County Council cannot resolve the complaint?**

As the County Council cannot instigate enforcement action on its own development, in the event that a breach is identified and not addressed appropriately by the applicant, the complaint can be referred to the relevant District / Borough Council for investigation. This approach may be employed for serious breaches of planning control as a last resort and considered on a case-by-case basis.

The investigation enforcement procedures of the relevant District / Borough Council will then apply. The issue on whether it is expedient to take enforcement action will be determined by the District / Borough Council and not the County Council.

**The above text will be made into a diagram in the final version of the document.**

## 7.2 Minerals and waste developments

The following procedure will be applied when a complaint is received by the County Council:

- a) Acknowledgement of complaints: A new complaint record will be created in our planning database and the complaint will be acknowledged within 3 working days of the Council receiving the complaint;
- b) Checking the facts: This may include a site inspection and checking records;
- c) If no breach is found: The complainant(s) and, if necessary, the company involved, will be informed within 10 working days of the date of receipt of the complaint;
- d) If a breach is found but is not a 'County Matter': The relevant District/Borough Council/Environment Agency will be informed of the complaint within 10 working days of the date of receipt of the complaint, whilst informing the complainant(s) and, if necessary, the company involved within the same period;
- e) A breach is found that is a County Matter: The necessary course of action will be considered in accordance with this Plan and all parties will be informed within 10 working days of the date of receipt of the complaint.

The above text will be made into a diagram in the final version of the document.

Note: As stated, formal enforcement action may not always be expedient or appropriate.

Where complaints appear to be repeatedly unfounded and/or vexatious the complainant will be directed to the County Council's formal complaints procedure for a resolution.

The standards of service are set out at [Appendix 3](#). An enforcement investigation can be lengthy and complex. The time taken to determine each case will vary depending on the site, the people involved, and the type of breach reported.

## 7.3 Confidentiality

All complaints received by the County Council will be dealt with in the strictest confidence and details of the person reporting will not be made known without their agreement. The nature of the alleged breach is not confidential. It is important to note that if the complaint progressed into a court of law, you may be requested to provide evidence.



Anonymous complaints will not be investigated unless they relate to a matter of public safety or serious environmental damage or harm to amenity.

Our [Privacy Statement about planning enforcement and complaints](#) sets out our approach to data protection.

## 8. MONITORING OPERATIONAL MINERALS AND WASTE SITES

### 8.1 Chargeable mineral and landfill site monitoring visits

Mineral and landfill sites involve continuous activity sometimes over many years. Planning permissions are subject to technical planning conditions to help mitigate the environmental impact of mineral and waste working.

In 2006, [Regulations](#) initially came into force in England to allow the Council to charge a fee to mineral and waste operators for site inspections to monitor compliance with the planning permissions.

The purpose of a monitoring site visit is to check compliance with operating conditions attached to mineral and landfill planning permissions, any related planning obligations relevant for a site and the need to ensure that no unauthorised development is taking place.

Officers and operators should work together constructively to review compliance with permissions in the light of the stage of development reached and possible changing operational circumstances and needs. In this way problems can be avoided, and formal enforcement action is less likely to be necessary.

The Government considers that charging a fee for site monitoring is a positive process that will have several positive outcomes. The main benefits are improving communications and relations between operators and the planning authorities and local communities close to mining or landfill operations. The monitoring will encourage good practice in site operation and management and therefore reduce the need for enforcement or other action. This is very much a proactive exercise rather than a reactive way of working. By working in this way, the number of potential complaints received from local residents to the planning authorities should be reduced.

#### **The Hampshire Approach:**

The [Regulations](#) (and as amended in 2012) allow the County Council to charge for up to 8 visits per year, although sites that are inactive, in aftercare or dormant can only be charged for 1 visit per year.

In order to determine the number of visits, an assessment is made for each site taking into account issues such as:

- size of site;
- type of operation;
- previous history of compliance or enforcement;
- location and distance to sites with environmental protection; and
- local or political sensitivities

More information on this can be found in [Appendix 5](#).

**If an active site has a very poor history of compliance and has received several justified complaints and the operator shows no sign of improving and working according to the planning permissions, then it is very likely that the maximum number of 8 visits per year would be required for this site.** Further visits may also be warranted but these cannot be charged for.

**If the operator starts to comply with conditions and fewer complaints are received about the site, the following year the number of visits could be reduced.**

**Inactive sites receive the maximum allowance of one chargeable monitoring visit per year.**

If, after taking all of this into account, an operator considers that it has been subjected to an excessive number of visits then they are entitled to approach the Local Planning Authority to request that the number of annual visits is reduced.

All waste disposal sites (namely landfill sites) and mineral sites under the remit of the County Council will be visited by an officer with suitable experience. The frequency of these visits will vary depending on whether the site is dormant, inactive or active, and all sites will be visited in the financial year.

The Regulations have set the fees for monitoring visits, at £397.00 per visit to an active site and £132.00 per visit to an inactive site, as at February 2018. The operator of the site is responsible for the payment of the fee.

The following applies:

- If there are multiple operators within a site, the operator in overall control is expected to pay the fee. If multiple operators cannot be identified, or where an operator is not currently present at a site, then the site owner(s) are required to pay the fee.
- The authority agrees the invoicing arrangements with the individual operators. The fee is only to be charged after the monitoring site visit has taken place. A period of payment in accordance with the County Council's invoicing procedures is agreed and any failure to pay is referred through the Council's debt recovery procedure.

When the Regulations first came into force a letter was sent to the operator to explain the site monitoring fee process and procedure and the number of visits that the site was due. For relevant developments that have gained permission since, a letter is sent to the operator informing them of the position prior to the development commencing.

Notification of the number of visits is renewed at the beginning of each financial year and the operator is informed in writing.

The Local Planning Authority compile a file which contains a complete planning history of the site and a list all the current and previous planning permissions, any related planning obligations or legal agreements and the site monitoring reports.

A date and time for site visit is scheduled with the operator for visits for specific purposes (i.e., aftercare meetings). Normal routine monitoring is unannounced.

**At the Chargeable Site Monitoring Visit:**

1. A systematic review of all the conditions attached to current planning permissions, and any related planning obligations or legal agreements that are associated with the operation, is carried out;
2. Boundary Limits are checked;
3. Discussion is held with the operator to reach agreement on any course of action and timescales to redress any non-compliance with conditions attached to the current planning permission;
4. Recognition of any good practice is noted;
5. Notes of the visit are made electronically on the Site Monitoring form and compliance with all relevant conditions is graded (from 0 for fully compliant up to 3 for a serious problem requiring immediate remedy to avoid formal enforcement action). The form is signed by the Monitoring Officer and the Site Manager and a copy emailed to the Site Manager and/or Estates Manager or other responsible person;
6. Photographs / videos are taken of the site.

The above text will be made into a diagram in the final version of the document.

**After the site monitoring visit:**

1. The form is entered onto the County's database;
2. On receipt of any comments from the site operator, if appropriate, the planning authority makes any amendments to the monitoring report;
3. An invoice for the monitoring fee is raised and is sent out on quarterly basis;
4. The operator is then be expected to carry out any actions agreed following the site visit and identified in the report in order to comply with the relevant planning permissions and the conditions/obligations/legal agreements associated with that and to do so within the agreed timescales to avoid potential enforcement action against a breach of planning control.

The above text will be made into a diagram in the final version of the document.

## 8.2 Non-chargeable waste management site monitoring visits

The [Waste \(England and Wales\) Regulations 2011](#) came into force in 2011.

Regulation 19 specifically requires that the (waste) planning authority must ensure that appropriate periodic inspections of those establishments or undertakings (carrying out the disposal or recovery of waste) are made.

Currently the County Council has limited resources available to monitor all the waste sites on a frequent basis. However, the Waste Regulations only require 'periodic inspection'.

Matrix working arrangements have been made with other Sections of the Economy Transport and Environment Department within the Council where sites are inspected for other reasons, i.e. Household Waste Recycling Centre's or Waste Transfer Stations under the waste disposal contract. Where this takes place, all planning issues will also be considered and the reports of these visits are passed to the Monitoring & Enforcement Team. Any issues or concerns raised are then addressed by Monitoring & Enforcement Officers.

With regards the remainder of the waste sites, it is considered that the most appropriate method of monitoring is through a 'risk-based' approach that would set the frequency of visits based on potential environmental risk and previous record of complaints/planning enforcement.

If the site is a high risk and has been subject to planning enforcement action and/or had planning complaints, then the frequency of visits is recommended to be at least every 3 months. If a site is low risk and the WPA has not received complaints or taken previous action then monitoring visit should take place annually.

Sites that are also monitored by the Environment Agency will be considered as lower risk and so have less frequent routine visits. Complaints or concerns will continue to be investigated as a priority irrespective of the set frequency of routine visits. More information on monitoring by other regimes can be found in section 9 of this Plan.

## **9. MONITORING, ENFORCEMENT AND OTHER REGULATORY REGIMES**

There is often an overlap of enforcement of activities involving waste disposal and recycling between the County Council and other authorities, particularly the District and Borough Councils' Environmental Health Departments and the Environment Agency (EA). Other regulatory regimes include those operated by Natural England and the Health and Safety Executive.

### **Environment Agency**

The EA is responsible for the control of pollution and for the regulation of waste activities through the Environmental Permitting regime. Even if planning permission is granted by the County Council, the applicant may have to satisfy the EA that it should grant an Environmental Permit before it becomes operational.

The EA will usually be the lead authority where an activity results in or has the potential to result in pollution. Some activities may be a criminal offence under legislation enforced by the EA so they may be in a stronger position to remedy harm, if required.

### **District and Borough Councils Environmental Health**

Regardless of the planning position, where an operation does not hold a Permit from the Environment Agency, Environmental Health Officers within District and Borough Councils have powers to monitor and enforce against statutory nuisance; this can include noise, odour and dust.

### **Joint Working**

In all cases that involve multiple authorities, the County Council will seek to engage early, and a joint investigation may take place. Once there is sufficient information to do so, a decision will be made about which authority is most appropriate to lead the investigation.

## 10. THE HUMAN RIGHTS ACT 1998

The enactment of the [Human Rights Act](#) reinforces the need for openness and consistency as the decision to take, or not to take action may adversely affect someone's rights under the Act.

The County Council will seek to uphold an individual's rights as set out in the European Convention on Human Rights. Where interference is permitted with an individual's rights by that Convention the Council will seek to ensure that any action it does take which affects a person's rights is:

1. Proportionate to the breach of planning control it seeks to address and;
2. In accordance with the exceptions set out in the article which permit interference with that right.

Where there is a clear breach of planning control the Council's delay in taking enforcement action, or its decision not to take action, may adversely affect the rights of third parties who have been affected by the breach of planning control. When reaching its decision on whether or not to take action and, if so, on what action to take, the Council will consider the effect on the rights of these third parties as well as on the rights of the person committing the breach of planning control.

[Appendix 4](#) lists the above-mentioned rights conveyed under the [Human Rights Act](#) 1998, and gives an interpretation of how they may affect enforcement issues.

The [Human Rights Act](#) 1998 is currently still enshrined within British law but its long-term future is unsure and may be rescinded and/or amended following the UKs leaving of the European Union.

## 11. INFORMING THE DEVELOPMENT AND REGULATORY COMMITTEE ON ENFORCEMENT MATTERS

Where there has been a breach of planning control on a County Council, minerals or waste development site, the matter will be reported to the next available and suitable Regulatory Committee (on the request of the Chairman) or at least a three-monthly basis.

This will include reports on items where the Committee itself has not authorised enforcement action to be taken (i.e. the action is authorised under officer delegated powers).

## **12. REVIEW OF THIS PLAN**

This Plan will be reviewed every two years. The next review is due in 2023.

Any review of the Plan will be reported back to the Regulatory Committee.



# APPENDICES

## Appendix 1 - Powers Available to the County Council in undertaking its Enforcement Function

The below text will be summarised and made into a diagram in the final version of the document.

There are a number of powers available to the County Council when it considers investigating unauthorised development and taking enforcement action. These are described in order to explain the extent of the County Council's powers and to identify which course of action is likely to be most appropriate.

### **Right to Enter Land**

All officers, or other persons duly authorised in writing by the County Council, may at any reasonable hour enter any land to ascertain whether there has been a breach of planning control in accordance with the Town and Country Planning Act 1990.

Any person that wilfully obstructs an authorised person in carrying out these duties is committing an offence, punishable on summary conviction to a fine not exceeding level 3 on the standard scale.

### **Requisition for Information**

Where the County Council considers it has sufficient information regarding activities on land use but requires further details on the ownership of the land, a Requisition for Information may be issued.

The issuing of a Requisition for Information is optional and does not have any bearing on other action taken by the local planning authority.

### **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 not exceeding level 3 on the standard scale. Knowingly providing false or misleading information in response to a PCN, is an offence punishable on summary conviction to a fine not exceeding level 5 on the standard scale.

### **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.

### **Stop Notice**

A stop notice must be issued either with or before the enforcement notice comes into effect. A stop notice cannot be issued on its own. The service of a stop notice is essential where the local planning authority considers it expedient to stop an activity before the associated enforcement notice comes into effect. A stop notice would not normally come into effect until 3 days after service unless special considerations are attached indicating that it should come into effect earlier.

There is no right of appeal against a stop notice. An appeal against an enforcement notice will hold the requirements of the enforcement notice in abeyance, but the requirements of the stop notice to cease a particular activity remain effective.

As a stop notice prevents an activity from continuing, there is a right to claim compensation against the local planning authority if the notice has not been served properly.

Non-compliance with the requirements of a stop notice is an offence, punishable by a fine on summary conviction and, on conviction on indictment, to an unlimited fine.

### **Temporary Stop Notice**

The authority may issue a temporary stop notice (TSN) where there has been an identified breach of planning control and when it is expedient that the activity, or any part of the activity that amounts to the breach, should cease immediately.

Unlike a 'stop notice', a 'temporary stop notice' can be served on its own; there is no requirement for it to be served with an enforcement notice. 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 notice has effect immediately but ceases to have effect after 28 days, unless it is withdrawn earlier. This allows a period of time (up to the maximum of 28 days) for the local planning authority to decide whether further enforcement action is appropriate and what that action should be, without the breach intensifying by being allowed to continue.

As a temporary stop notice prevents an activity from continuing, there is a right to claim compensation against the local planning authority if the notice has not been served properly.

There is risk of immediate prosecution for failing to comply with a temporary stop notice, for which a fine is payable on summary conviction for the first offence, and for any subsequent offence, or on conviction on indictment to an unlimited 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 not exceeding level 3 on the standard scale.

### **Injunction**

Where the authority deems it expedient to restrain any actual or anticipated breach of planning control it may apply to either the High Court or the County Court for an injunction.

Such an application can be made whether or not the local planning authority has exercised, or proposes to exercise, any of its other powers to enforce planning control.

The taking of such action would be necessary where other enforcement powers are unlikely to stop unauthorised activities.

Failure to comply with the terms of an injunction is contempt of court. The court has the discretion to imprison anyone found to be in contempt, or to administer an unlimited fine.

### **Direct Action by the County Council**

In order to secure compliance with an enforcement notice the Planning Acts empower local planning authorities to take direct action in default by the owner or occupier of the land.

Where any steps required by an enforcement notice to be taken are not taken within the period for compliance with the notice, the local planning authority may:

1. Enter the land and take the steps; and
2. Recover from the person who is the owner of the land any expenses reasonably incurred by them in doing so.

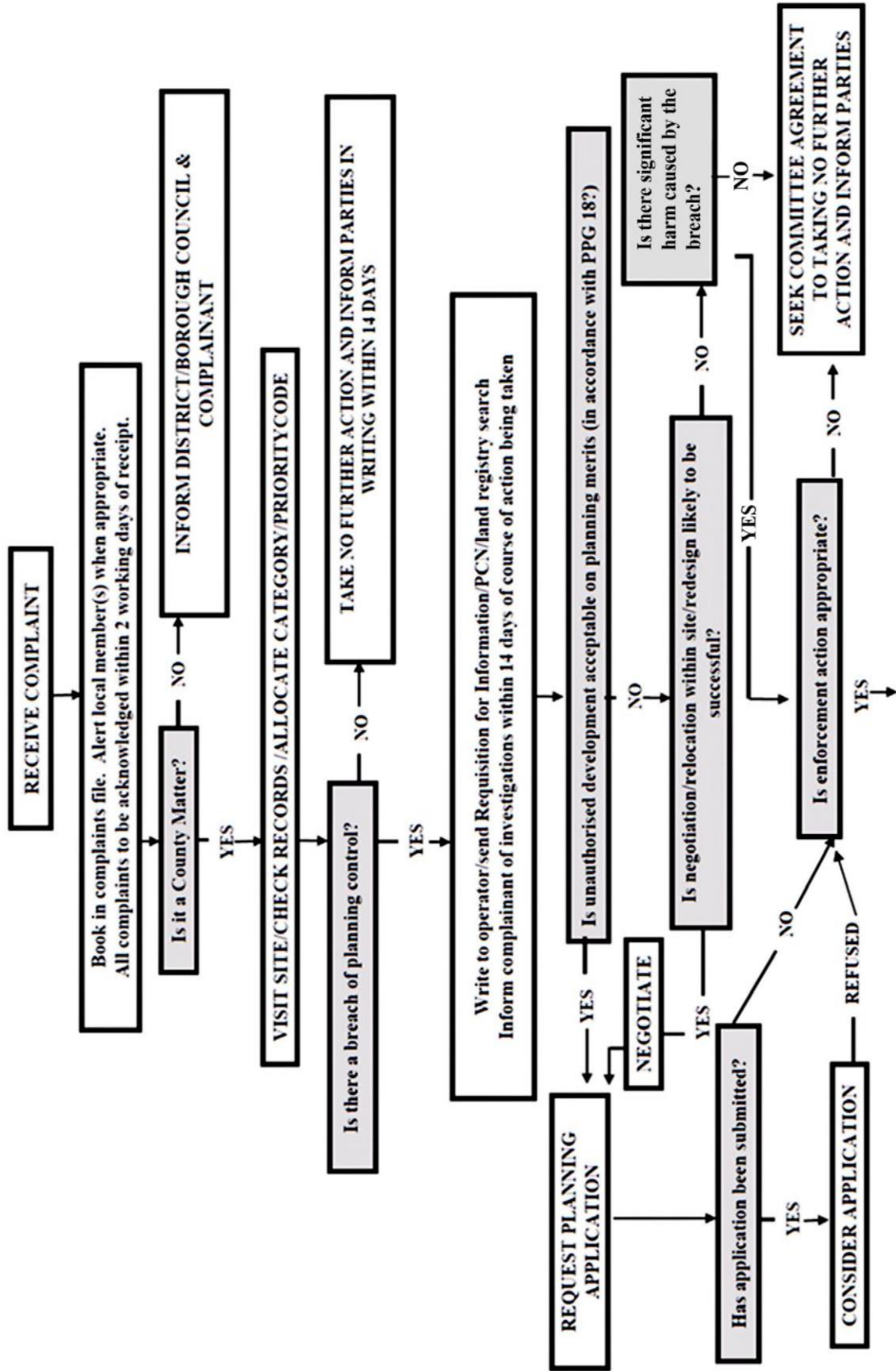
Planning legislation also creates an offence of wilful obstruction. Any person who wilfully obstructs any person who is exercising the local planning authority's power to take direct action may be guilty of an offence. The offence is triable in the Magistrates Court, and punishable by a fine.

The Town and Country Planning Act 1990 enables local planning authorities to recover from a person who is then the owner of the land any expenses reasonably incurred by them in taking any direct action to carry out the steps required by an enforcement notice.

By virtue of regulation 14(2) of the Town and Country Planning General Regulations 1992, the local planning authority's expenses in taking default action become a legal charge on the land to which the enforcement notice relates until the expenses are fully recovered. This charge is binding on successive owners of the enforcement notice land.

The decision by the County Council to take direct action may be challenged by an application to the High Court for a Judicial Review, of the Council's decision.

# ENFORCEMENT PROCEDURES FLOW CHART





Both diagrams be updated in final version of the Plan



## Appendix 3 – Standards of Service

The following text will be made into a diagram in the final version of the Plan.

### **Openness**

1. We will advise any complainant and anyone carrying out unauthorised development as to the code that applies;
2. We will keep as much as possible in the public domain whilst protecting the confidentiality of the complainant and any sensitive business information;
3. We will report on a three monthly basis to the Council's Regulatory Committee the latest situation on all ongoing enforcement cases;
4. We will meet with company staff when requested both before and during any enforcement action to seek an agreed solution.

### **Helpfulness**

1. We will keep any complainant advised as to the stage reached in any enforcement action.
2. We have a specific enforcement officer to whom all initial contact can be made. However, the team's officers can answer general enquiries.
3. All letters and telephone calls will be answered promptly and all responses will leave a contact name and telephone number.

### **Complaints about the Service**

The County Council has clear and specific procedures, which are published as part of all policy standard documents. If we cannot resolve your complaint, you will be advised on how to take this further.

### **Proportionality**

1. Following a complaint received, we will deal with each case on a priority basis, ascertained during an initial investigation.

2. Depending on the scale of the breach of planning control, we will always seek co-operation to resolve problems and use formal enforcement powers only as a last resort.

### **Consistency**

1. We will adhere to the Enforcement Policy;
2. We will hold regular Enforcement and Monitoring Officers' Group meetings and liaise with our opposite numbers in the City/District/Borough Councils to ensure a consistent approach;
3. We will endeavour to maintain close liaison with the Environment Agency;
4. We will share information with these other enforcing agencies, subject to confidentiality;
5. Where discretion is applied against standards, this will be the responsibility of the team's manager whose responsibility is to ensure that it happens in a fair, equitable and consistent way.

### **Procedures**

1. Advice following an investigation will be put clearly and simply in writing. All letters/electronic mail and notices to unauthorised developers will explain the breach, the requirements of the authority to put the matter right including time scales and remind the developer of the powers the authority has to take formal action. Letters will also give contact names and telephone numbers to ensure developers are given as much information as is possible to help and advise.
2. The rights of appeal of the developer against any formal notice will be clearly explained;
3. Before any formal enforcement action is undertaken, operators will be invited to discuss their problems with the officer, unless immediate action against the breach of planning control is necessary;
4. Any threat of formal action will be followed up with such action swiftly if there is inadequate evidence of steps being taken to resolve the problems.

## Appendix 4 - Interpretation of how the Human Rights Act may affect Enforcement Issues

<b>Article of the Act</b>	<b>How relates to enforcement</b>
<b>Article 6: Right to a fair trial</b>	<p>Any person(s) issued with an enforcement notice has the right to appeal to the First Secretary of State and eventually the Courts. This ensures that there is no breach of an individual's right to a fair trial against the decision of the enforcement-taking authority to take action.</p> <p>Any person affected by an unauthorised development should expect a service within a reasonable time period by the authority, which following Planning Enforcement Policy should ensure that there was no breach of human rights or Ombudsman intervention.</p>
<b>Article 8: Right to respect for private and family life</b>	<p>Both parties to any dispute could claim that their rights under this article were being adversely affected by a decision of the enforcement-taking authority. Therefore, it is important that whether action is taken under delegated powers or following a Committee resolution, the impact on the parties' rights under this article is, and is actually seen to be, taken into account. The decision should be based on the balance between the respective harms to private and family life of both sides whilst seeking to minimise any interference at all.</p> <p>Any interference that does occur with this right must also be seen to be proportionate to the need to restrain the breach of planning control that is being committed. Accordingly, to ensure that this factor is given sufficient weight in reaching any decision whether or not to take enforcement action, it is considered that it should be specifically referred to under the severity of breach/proportionality section in the enforcement priority categories.</p>
<b>Article 14: Prohibition of discrimination</b>	Compliance with the Planning Enforcement Policy should not result in any discrimination.
<b>Article 1 of the First Protocol: Protection of property</b>	<p>The right to peaceful enjoyment of possessions is a matter of balance between those in breach and those affected by the breach.</p> <p>Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be</p>

	deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.
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## Appendix 5 - Monitoring Fees Assessment

### Hampshire Minerals and Waste Sites Monitoring Strategy

<b>Site Name:</b>	<b>Date:</b>
<b>HCC Number:</b>	<b>Grid Ref:</b>

#### 1. Environmental Appraisal (all current uses on site)

##### *A. Waste (as defined post Landfill Directive)*

Hazardous Landfill (5)		Transfer Station (3)	
Non hazardous Landfill (HCI) (4)		MRF (2)	
Inert Landfill (3)		Compost Site (2)	
Clinical Waste Transfer Station (4)		HWRC (2)	
Chemical Treatment Plant (4)		Pet Cemeteries (1)	
Incinerator (3)		WWTW (1)	
Gas flare / power Plant (1)			

##### *B. Minerals*

Minerals extraction and processing (5)		Aggregates wharf (2)	
Minerals extraction (4)		Oil and gas extraction (2)	
Aggregates recycling (3)		Conbloc (1)	
Aggregates rail depot (2)			

## 2. Operational Status

Operational (2)		Pre-operational (-2)	
Restored (-1)		Lapsed (-2)	
Aftercare (-1)		Dormant (-2)	
Extraction complete but not yet landfilled (-1)		Post Operational (1)	
Not yet implemented (-1)			

## 3. Proximity

Within 250 m from residents (1)	
Site entrance more than 100 metres from classified road (1)	
Within 100m from sensitive habitat (1)	
Within airport birdstrike zone (1)	

## 4. Other

Legal Agreement (1)		Enforcement history (total x2)	
Liaison Panel / significant public interest (1)		More than 3 current permissions (1)	
Monitored by other competent authority (-1)			

<b>Score:</b>	
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<b>Annual visits required*:</b>	
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*\*Annual visits required = Score divided by 2 (rounded)*

This document can be made available in large print, on audio media, in Braille or in some other languages. For further information, please contact Development Management (Monitoring and Enforcement) in the Strategic Planning group:

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