

HAMPSHIRE COUNTY COUNCIL

Information Report

Decision Maker:	Regulatory Committee
Date:	20 March 2023
Title:	Monitoring and Enforcement Update
Report From:	Director of Universal Services

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Purpose of this Report

1. The purpose of this report is to provide information to the Regulatory Committee on the Monitoring and Enforcement work undertaken by the Development Management team (including monitoring and enforcement) Planning during the period October 2023 – January 2024.

Recommendation

2. That the contents of this report be noted.

Executive Summary

3. The report details the number of complaints on authorised and unauthorised sites, and the outcome of negotiations, including, when necessary, enforcement action undertaken.
4. The report also details development control work dealing with Planning Condition (Article 27) applications and Non-Material Amendments.

Complaints

5. The majority of complaints received during the period October 2023 – January 2024 related to unauthorised development (19 sites) and breaches of operational planning conditions on existing mineral and waste sites (6 sites). Investigation and negotiation have followed with planning applications under consideration for 3 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.

Enforcement Actions

6. In the period up to end January 2024, one Enforcement Notice was served with 2 previous Breach of Condition Notices (BCN) are still extant, with all other matters either addressed through the planning system or remedied through negotiation. An Appeal been made against the Enforcement Notice

which will be considered by the Planning Inspector via the written representation process. Following a recent refusal of planning permission enforcement action is to be initiated at that site.

7. 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
<p>Yokesford Hill Estate, Yokesford Hill, Romsey</p>	<p>Site monitoring determined that stockpile heights had increased substantially over the Covid lockdown period, and the operator had contacted Officers discussed the submission of an application for a washing plant to address the issue, by improving the product and increasing available markets. An application was subsequently approved (21/02392/CMAS) (under delegation). To address the excess height during the construction of the washing plant a subsequent application was submitted to allow a temporary increase of stockpiles to the maximum height which allows the site to remain operational whilst being stable (23/00071/CMAS). However, in the interim, the northern slope of the stockpile slipped and encroached into the adjacent, associated nature reserve area and the eastern slope also threatened to encroach onto the adjacent land. Consequently, a Planning Contravention Notice (PCN) was served to identified which company was directly responsible for the stockpile and its maintenance. Once this information was provided, 2 Breach of Condition Notices (BCNs) and a Temporary Stop Notice (TSN) were served on the operator. The BCNs required the pulling back of the material from the reserve area and the re-planting of any damaged or destroyed trees, the removal of any material from under surrounding trees and from off the surrounding bunds and the regrading of the slopes of the stockpile. The BCNs also prohibit the addition of any further material on to the stockpile until the other requirements have been satisfied. The TSN was served to prevent any material being added in the period before the BCNs came into effect. The initial time period allowed were 3 months for the pulling back from the woodland area and re-planting and 6 months for the regrading of the slopes. However, following discussion with the operator it was accepted that the stockpile was too wet to safely enable a machine to be working on the slopes, so the 3 and 6 month period were extended so that they effectively ran from the beginning of April 2023. The exception is the re-planting requirement which was amended so that the area that had been cleared is re-planted this season with the remaining area re-planted next</p>

	<p>season. The first tranche of planting has been undertaken. Due to issues with the commissioning of the washplant there have been delays to the work to reduce the material in the stockpile. The stockpiles have not increased, as per the terms of the BCN, but due to the exceptionally wet weather, together with the wash plant not being operational, it has not been safe to allow machines to operate on the stockpiles. As soon as the weather and ground is stable and the wash plant commissioned the priority will be to start to reduce the height. A meeting of the Liaison Panel is to be held 18 March to provide an update and keep parties informed.</p>
<p>Bunny Lane, Timsbury</p>	<p>The site has been subject of numerous planning applications over the last couple of years, with the permanent retention of the washplant approved in 2022 (22/01323/CMAS) with some minor changes approved March 2023 (23/00149/VARS) in the interest of fire safety. The first periodic noise assessments has been undertaken and this indicated that noise levels at one of the receptors were too high. This has been discussed with the EA and Environmental Health Officer and the members of the Liaison Panel. Remedial measures have been proposed and these have been implemented. A further Noise Assessment is due to measure whether these measures have produced any improvement.</p>
<p>Waterbrook Industrial Estate, Alton</p>	<p>The site was subject to a planning application to allow for restricted night-time activities including importation of road planings with a resolution to approve subject to a Legal Agreement on lorry routing (51471/007). A Liaison Panel was also to be set up for the site to encourage greater interaction between the operator and local residents. However, the site then closed. A new owner subsequently acquired the site and recommenced operations. They indicated that they were keen to engage with the Liaison Panel and the first virtual meeting was held November 2021. Unfortunately, due to disagreements between several parties, joint visits have been put on hold, and instead separate resident and operator meetings have been held.</p> <p>Due to the new owners taking over at a late stage, the commencement of the night-time deliveries did not commence. Consequently, an application was submitted for a further trial period until 31 March 2023 (51471/008). This application was approved on 14 September 2022 and night-time deliveries of road planings apparently began soon thereafter.</p>

	<p>A further planning application (51471/009) has now been submitted to vary the conditions of the previous permission to allow the night-time deliveries as well as some changes from the original site permissions. Further information was supplied to meet the concerns of consultees but further amendments are required to address issues in view of changes on site with one of the tenants ceasing operation and the associated alteration of the noise impact.</p>
<p>Bowling Alley, Crondall</p>	<p>Planning application (HCC/2021/0302) for a change of use of part of land forming Redfields Plant Centre to use for recycling of inert materials was approved by Committee on 17 November 2022. The permission was subject to the usual conditions, including on operating hours and restricting any screening or crushing on Saturdays, the construction of a wall and dust netting and a commitment to set up a Liaison Panel. The Panel has now met every quarter chaired by Councillor Glen. The operator has made good progress in getting all planting undertaken and constructing the retaining wall and installing the dust netting. No further complaints have been received. The issue of the planning status of the remainder of the wider yard has been clarified by Hart District Council with the other uses confirmed to be established uses. These do not have any conditions on working hours and so residents are advised to report any issues of noise or out of hours activities from these operations to Hart's EHO. Discussions are ongoing between the operator and the nearest resident to determine how to identify the source of any out of hours noise, but there has been no instances over the period over which to investigate.</p> <p>Concern was raised about activity outside of the authorised yard, but this was determined to be permitted development related to the construction of the bund granted permission by HDC and maintenance of tracks across the field. This is still ongoing, held up by wet conditions.</p>
<p>Alton MRF</p>	<p>Planning permission was recently granted for development of an anaerobic digestion facility and waste transfer station, including partial demolition and reuse of existing buildings and infrastructure 33619/008 During the Committee Meeting, a question was raised whether the approved planting had ever been undertaken. Subsequent investigation determined that the Landscaping Scheme was submitted and approved as required during 2004 and the planting undertaken in the following planting season.</p>

8. 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](#).
9. The following table provides information on the joint enforcement activities which have been undertaken with the Environment Agency, the Police and District Planning Authorities.

Table 2: Update on joint enforcement activities with the Environment Agency, the Police and District Planning Authorities

Site	Joint working with	Update
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 Hampshire County Council in 2013. Unfortunately, the nature of CLUs is that they do not impose any enforceable conditions on the operation, so we have no control over number of HGVs visiting, the hours of operation or height of stockpiles. The only control is that there is a red lined plan limiting where the activity can take place. In addition, they had allowed another company to start a small waste transfer activity in another (unauthorised) unit at the back of the business park. The operation of the waste transfer station, Avery B, had been granted a Permit by the Environment Agency, however the planning application was subsequently</p>

		<p>refused (22/01797/HCS). An Enforcement Notice was served at the end of August requiring the cessation of the waste use and the reinstatement of the land to agriculture. The Enforcement Notice has been appealed on the grounds that planning permission should be granted and that insufficient time has been given to comply with the terms of the Notice. The applicant has requested that the Appeal be heard via the written representation process, which is now underway.</p> <p>Another retrospective application was also submitted (22/02015/HCS) for the change of use to open storage of recycled aggregate materials and the retention of ancillary office and workshop and associated works as an extension of the Certificate of Lawful Use operation. This application was refused on 24 January and is now subject to enforcement action.</p>
<p>Westwood, Botley Road, West End</p>	<p>Eastleigh Borough Council</p>	<p>The County Council were contacted in November 2021 by Eastleigh Borough Council about at site at Westwood, Botley Road where they had refused planning permission for the use of the yard for the recycling of upvc windows. They wanted the County Council to take on the enforcement of the site as the operation was a waste activity. On inspection of the site it was apparent that the landowner wanted to make changes to their original application to make it more acceptable. Consequently, they were given time to submit an amended application, this time to the County Council, so that we could consider against the policies of the Hampshire Minerals and Waste Plan. An application was submitted (CS/23/94884) and approved at Committee in July 2023. The required schemes and details have been submitted and agreed.</p> <p>Much of the required works and layout changes have been undertaken with the mobile home removed, the storage bay moved to the back of the site and the</p>

		<p>acoustic fencing erected along the boundary. The new gates (bi-fold on each side) has been installed but there is a problem with the ground around one of the posts cracking. Consequently it won't take the weight of the close board cladding until it has been re-concreted and it is currently too wet to put in place. This is under regular review to avoid undue delay. The roadside landscaping is to be undertaken this coming season.</p> <p>Subsequently, it has been reported that a nearby parcel of land under the applicant's control called Jacksons Farm, Bubb Lane is being used for the storage of some skips and aggregates and building materials. The operator has been informed that there is no permission for any waste use or builder's yard on the land, so although the material can be stored for use on the site itself no material can be processed or exported. An application has been submitted to the County Council but requires further information to be provided before it can be validated.</p>
Ropley Quarry	Natural England, Hampshire Police	<p>Permission for chalk extraction at Ropley Quarry was initially granted in 1948 under an old Interim Development Order. In the early 1990s landowners and operators of such IDOs were required to register them with the local Mineral Planning Authority. This process also allowed the Mineral Planning Authority to impose a new set of up-to-date conditions on the permission. This resulted in a Reviewed permission being approved in 1994. However, the operator decided not to operate under these new conditions and the quarry was closed.</p> <p>In late 2016, an application was submitted to vary the dates by which a number of schemes and details had to be submitted and approved (20209/009). This was approved in April 2017.</p>

		<p>In November 2020, the various schemes and details were submitted and subsequently agreed in June 2021.</p> <p>In February 2022, work commenced on site to prepare it for the re-opening of the quarry. However, in the intervening years the site had been populated by dormice and a pair of peregrine falcons. Concern was raised about the impact of the site preparatory works on these protected species and the County Ecologist was consulted. The contractor was subsequently told to cease work until all the necessary approvals from Natural England had been received. The Police have also been involved as a possible case under the Wildlife Act.</p> <p>The appropriate Licences have now been issued by Natural England and amendments to the landscaping and tree schemes have been provided. An NMA has also been agreed to replace one of the derelict storage sheds on the site. Works were proposed to re-start in the Spring. The derelict storage sheds have been removed but there has been no work to construct the replacement or to re-commence any extraction.</p> <p>The first Liaison Panel meeting was held at the beginning November 2023, chaired by Cllr Oppenheimer, and will follow every 6 months. A separate meeting with several of the attendees and Highways is to be held to look specifically at HGV routing and any improvements that may be made to enable passing points on what is a single track road.</p>
Unit 10b Comley Hill, Rowlands Castle	Environment Agency, East Hants District Council	Reports of importation and burning of waste including by Cllr Marge Harvey. Joint investigations ongoing with the EA as evidence needed of importation of waste.
Gunboat Wharf, Gosport	Environment Agency, Gosport Borough Council	Reports of importation, dumping and burning of waste on the slipway. Investigations ongoing. Again evidence of importation required.
Dovecot, Hawthorn Lane, Four Marks	East Hants District Council, Environment Agency	Very complicated situation which has had questions asked in the House of Commons.

		<p>The site was granted a Certificate of Lawful Use for breaking vehicles, storing vehicles, storing scrap metals and storing building materials in the late 1990s by EHDC. At that time scrapyards were considered as a light industrial use and not waste and so HCC were not involved and the County currently has very little control over the site. From a Planning perspective, the site is authorised and neither EHDC (as the issuing authority) nor ourselves have any powers to prevent the use of the land as a scrapyard and other associated uses. The landowner has indicated that he wants to set up a modern ELV (End of Life Vehicle) facility and is looking to submit applications for new buildings. At this point the County will be involved, as we will deal with any such application as these are now considered waste activities, and full consideration will be given to the impact of the development, but again, even if this is refused, it will not stop the authorised use of the land as a scrapyard.</p> <p>In practice, the main source of control of activity on site is via the Environment Agency, as the operation of a scrapyard requires an Environmental Permit. At present, the current owner does not have a Permit, but is in discussion with the EA. The questions raised in the House of Commons related to meetings we'd had with the EA, whether it is compliant with a Permit and what steps are being taken to ensure compliance, and what action the Environment Agency will take to prevent environmental contamination. Our answers to these questions were:</p> <ol style="list-style-type: none">1. I have met with both EHDC Enforcement and the EA on site with the landowner on separate occasions.2. This is a matter for the EA, but the landowner has been instructed that he needs a Permit to re-commence use of the land for breaking vehicles.
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Site Monitoring

Chargeable sites

10. 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 2023](#) (legislation.gov.uk). This was amended on 6 December 2023. Active sites are now charged at £496 per visit for between four and eight visits per year. Sites in aftercare are charged at £496 for one visit per year. Inactive sites are charged £165 for one annual visit.
11. There are now 22 active sites, 10 in aftercare and 7 dormant sites liable for chargeable visits.
12. This work is prioritised with inspections for the quarter ending December 2023 bringing in approximately £8500 in fees.

Non-chargeable sites

13. Non-chargeable sites include waste processing sites, wastewater and treatment works and metal recyclers. These vary from the large Energy Recovery Facilities (ERF) and Materials Recovery Facilities (MRF) to the smaller scale recycling and transfer facilities and updating existing wastewater treatment works. The larger developments attract much attention in their locality and require regular monitoring to ensure that the local amenity is not impacted, whereas the smaller, built developments require monitoring

during construction and implementation, but once up and running need less regular attention and these sites only get further visits should complaints be received. Matrix working arrangements have been made with Waste & Resource Management that their officers undertaking visits to waste sites operating under the County's waste contract also look at planning issues to provide greater coverage. Under the Covid restrictions, routine monitoring was limited, concentrating on sites with issues or causing complaints. Monitoring of waste sites covered by the County's waste contract has also resumed, these sites having remained open during the pandemic as one of the essential sectors listed by Government.

Liaison Panels

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

- Bleak Hill Quarry, Somerley;
- Bowling Alley, Crondall;
- Roke Manor, Nr Romsey;
- Mortimer Quarry, Mortimer West End;
- Lee Lane, Nursling;
- Ropley Quarry;
- Bunny Lane, Timsbury;
- Frithend Quarry, Kingsley; and
- North Winchester Recycling Facility (EcoGen), Kings Worthy.

15. Most panels now take place virtually, although some panels still have in person meetings.

Development Management

Relaxation of Planning Conditions due to Covid-19:

16. As reported in previous enforcement updates, the coronavirus pandemic led to a number of recommendations from Government including the need for Local Planning Authorities to use their discretion on the enforcement of planning conditions which hinder the effective response to COVID-19. The Planning team had numerous enquiries as to our view to relaxing planning conditions during this period for both minerals, waste and Regulation 3 developments. At the time, a report was produced in response to each request made and was signed off by the then Head of Strategic Planning under delegated powers. Local Members are informed on the relaxation. The periods for the relaxation of conditions have ended. The relaxation of conditions did not impact the authority's ability to use its enforcement powers. They were also subject to review should any significant complaints be received.

17. The below table provides an update on sites where an update is required.

Table 3: Update on sites where covid relaxations were agreed

Site	Update
A303 IBA Facility	<p>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 the County Council and the EA. This agreement was subject to the previous conditions and also on the recognition that there would be no future temporary extension of time. Should any further extension be necessary then a full planning application would be required so that the issue can be formally considered. An application (21/00812/CMAN) was submitted for permission to construct the needed concrete surfacing and drainage systems to allow the longer-term use of the land for storage of IBAA. However, this was withdrawn following consultation as it was then considered to be larger than actually needed. A further application (21/02681/CMAN) for a smaller area was submitted and granted permission on 15 December 2023.</p>

Planning Condition (Article 27) applications:

25. Where conditions of new permissions require details to be submitted and approved for the proper implementation and control of the development, Article 27 applications are required. Under the [Town and Country Planning \(Fees for Applications and Deemed Applications, Requests and Site Visits\) \(England\) Regulations 2012](#), a fee per submission is required for the discharge of any details submitted. This was also amended on 6 December 2023 by [The Town and Country Planning \(Fees for Applications, Deemed Applications, Requests and Site Visits\) \(England\) \(Amendment\) Regulations 2023 \(legislation.gov.uk\)](#) and is now £145 per submission.
26. During the period, Article 27 applications were received and approved or are being determined for 11 submissions (3 for Regulation 3 developments, 7 for

County Matters and 1 for a cross boundary application), totalling approx. £1220.

27. As detailed previously, following adoption of the Protocol for Dealing with Breaches in Planning Control relating to Development Undertaken by the County Council under Regulation 3 of the [Town and Country Planning General Regulations 1992](#), enforcement updates now also include information on Article 27 applications for County Council developments and any breaches of planning control.

Non-Material Amendments (NMAs):

28. Non-Material Amendments (NMAs) are minor changes to the operation of authorised sites that can be agreed by an application for non-material amendment if the change has no substantial impact on the local amenity. Such an application requires a fee but does not involve general consultation and determination by Committee.

29. Since the last update, 6 NMA applications were received over 4 sites:

- Wyvern Technology College, Botley Road, Fair Oak, Hampshire SO50 7AN – Design Changes.
- Bleak Hill, Hamer Warren Quarry, Harbridge Drove, Nr Ringwood BH24 3PX –

The application seeks a non-material amendment to planning permission ref 19/11324, decision dated 1 December 2021, for an aggregate recycling plant and operations at Hamer Quarry. The only amendment sought through this application are amendments to the description of development, so that the description reads as follows; Extension of time for an aggregate recycling plant and operations at Bleak Hill I.

The application seeks a non-material amendment to planning permission ref 19/11325, decision dated 1 December 2021, for the working of minerals and the tipping of materials at Hamer Quarry. The only amendment sought through this application are amendments to the description of development, so that the new description would read as follows;

Extension of time for the working of minerals and the tipping of materials at Bleak Hill I and II.

The application seeks a non-material amendment to planning permission ref 19/11326, decision dated 1 December 2021, for mineral working at Hamer Quarry. The only amendment sought through this application is an amendment to the description of development, so that the new description would read as follows;

Planning permission for an extension of mineral working at Hamer Warren Quarry, to extract some 600,000 tonnes of sand and gravel from Bleak Hill III, including works to create an extended haul road and back filling with inert material and progressive restoration to agriculture with increased nature conservation and biodiversity enhancements.

- Mortimer Quarry, Welshmans Road, Mortimer West End RG7 3UQ - Variation of condition 2 approved drawing SS.008 Rev B to SS.008 Rev C (Phasing Plan).
- Efford Leachate Treatment Plant, Milford Road, Lymington SO41 8EZ - Installation of new ground level HDPE pipework from existing tanker delivery point to existing treated leachate balance tank.

Installation of a flow regulator or similar device to the treated leachate balance tank discharge pipe and installation of new ground level HDPE pipework between treated leachate balance tank discharge pipe and outlet chamber, removal of existing ground level HDPE pipework between treated leachate balance tank and reed bed.

REQUIRED CORPORATE AND LEGAL INFORMATION:

Links to the Strategic Plan

Hampshire maintains strong and sustainable economic growth and prosperity:	yes
People in Hampshire live safe, healthy and independent lives:	yes
People in Hampshire enjoy a rich and diverse environment:	yes
People in Hampshire enjoy being part of strong, inclusive communities:	yes

Section 100 D - Local Government Act 1972 - background documents

The following documents discuss facts or matters on which this report, or an important part of it, is based and have been relied upon to a material extent in the preparation of this report. (NB: the list excludes published works and any documents which disclose exempt or confidential information as defined in the Act.)

Document

Location

None