

# HAMPSHIRE COUNTY COUNCIL

## Information Report

<b>Decision Maker:</b>	Regulatory Committee
<b>Date:</b>	17 July 2024
<b>Title:</b>	Monitoring and Enforcement Update
<b>Report From:</b>	Director of Universal Services

**Contact name:** David Smith

**Tel:** 07810 162684

**Email:** [david.smith@hants.gov.uk](mailto: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 the Development Management team (including monitoring and enforcement) Planning during the period February 2024 – June 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 February 2024 – May 2024 related to unauthorised development (12 sites) and breaches of operational planning conditions on existing mineral and waste sites (4 sites). Investigation and negotiation have followed with investigations and/or remedial works still ongoing at 6 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 June 2024, 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 an earlier Enforcement Notice which is being considered by the Planning Inspector via the written representation process. Following a recent refusal of planning permission enforcement action has been held in abeyance at that site as an amended planning application has been submitted.

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
Yokesford Hill Estate, Yokesford Hill, Romsey	<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 (<a href="#">21/02392/CMAS</a>) (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 (<a href="#">23/00071/CMAS</a>). 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</p>

	<p>that the area that had been cleared is re-planted this season with the remaining area re-planted next 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. The latest meeting of the Liaison Panel was held 8 July 2024 which reported that the washing plant was now working at near full capacity. This means that the stockpile height has been reduced by about 4m across its full width with a lower bench on the northern side which is used to supply the washplant. It is expected that the heights will be fully compliant within next couple of months.</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 (<a href="#">22/01323/CMAS</a>) with some minor changes approved March 2023 (<a href="#">23/00149/VARS</a>) 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 (EHO) and the members of the Liaison Panel. Remedial measures have been proposed and these have been implemented. Further Noise Assessments will continue to check that these measures have produced any improvement. Concerns have been raised about the height of one of the stockpiles and the fact that machinery is often seen on top, contrary to the conditions of the permission. There is need for a machine to be on top as part of the work to reduce the height, but not to place any more material up there. An application has been submitted to alter the height of the stockpile and in the meantime remedial work is being taken to utilise the available footprint on site to store material and reduce the height of the stockpile.</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 (<a href="#">51471/007</a>). 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</p>

	<p>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 (<a href="#">51471/008</a>). This application was approved on 14 September 2022 and night-time deliveries of road planings apparently began soon thereafter. A further planning application (<a href="#">51471/009</a>) has 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 in view of changes on site with one of the tenants ceasing operation and the associated alteration of the noise impact. This application is before the July 2024 Regulatory Committee.</p>
Bowling Alley, Crondall	<p>Planning application (<a href="#">21/02058/HCC</a>) 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, the latest on 2 July 2024, 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.</p> <p>The issue of the planning status of the remainder of the wider yard has been clarified by Hart District Council (HDC) 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. This continues to be monitored.</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 EA, 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>
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 EA. The main source of complaints are the number of Heavy Goods Vehicles (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 EA, however the planning application was</p>

		<p>subsequently refused (<a href="#">22/01797/HCS</a>). 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 awaiting the Inspector's Decision.</p> <p>Another retrospective application was also submitted (<a href="#">22/02015/HCS</a>) 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 CLU operation. This application was refused on 24 January although enforcement action has been held in abeyance as an amended application has been submitted in attempt to address the reasons for the original refusal.</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 (EBC) 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. EBC 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 (<a href="#">CS/23/94884</a>) 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 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 the ground was too wet to enable this to be completed. The work to address this was due to commence mid-June.</p> <p>Subsequently, it was 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 was 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. At present there is no waste use on site, but the operator has suggested that it could be used to store processed waste from the Westwood site if required. Consequently, this would be a County Matter and an application has been submitted to the County Council which is now under consideration (planning application <a href="#">CS/24/97256</a>).</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 (IDO). 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 (<a href="#">20209/009</a>). 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 was 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. A second Liaison panel meeting has been held, with extraction due to commence once weather conditions dry sufficiently for agricultural liming to begin.</p>
Unit 10b Comley Hill,	Environment Agency, East	Reports, including from Cllr Marge Harvey, of importation and burning of



Rowlands Castle	Hants District Council	waste. 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	<p>Very complicated situation which has had questions asked in the House of Commons. The site was granted a CLU for breaking vehicles, storing vehicles, storing scrap metals and storing building materials in the late 1990s by East Hants District Council (EHDC). At that time scrapyards were considered as a light industrial use and not waste and so the County Council was not involved. The County Council 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 End of Life Vehicle (ELV) 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 EA, 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 EA will take to prevent environmental contamination. Our answers to these questions were:</p> <ol style="list-style-type: none"> <li>1. The Lead Enforcement Officer has met with both</li> </ol>

		<p>EHDC Enforcement and the EA on site with the landowner on separate occasions.</p> <ol style="list-style-type: none"> <li>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.</li> <li>3. The County Council would expect that ground contamination and issue such as drainage and groundwater protection would be addressed as part of the EA Permit application process. The Planning Authorities can't require any retrospective remediation unless or until an application is submitted that would allow us to include these issues as a consideration.</li> </ol> <p>A meeting between the local residents and owner has been held to discuss the future and possible alternative uses and a follow-up meeting with all the stakeholders involved was to be arranged. However this was cancelled when the EA couldn't attend. Subsequently, the site has been split up into 15/16 different units which are being advertised for renting as light industrial units. Any such uses would be a matter for EHDC. Any waste uses would come to the County Council to determine. Highways have initiated legal action against the new access constructed onto Hawthorn Lane and the roadside fencing as unauthorised works within the highway.</p>
<p>Long Acre Farm, Laveys Lane, Fareham</p>	<p>Environment Agency, Winchester City Council</p>	<p>Investigation started after reports received of importation of construction and demolition waste and burning. Initial visits found that an area had been stripped and hardcore spread, inert waste had been imported, stockpiled and a screener was on site. Part of the land was used for storage of scaffolding and other areas used for building works and storage of builders materials. Following the initial visit the inert waste</p>

		processing ceased and the plant and machinery removed off site. Remaining soils were to be used to reinstate the land with some to remain to create a screen bund with the adjacent golf course. The hardstanding area is to be subject of a planning application for erection of a barn to Winchester City Council (WCC). A subsequent visit revealed work at the back of the site which the landowner claimed is re-construction of an existing track to address drainage issues. This is potentially permitted development as an engineering operation but needs to be agreed with WCC.
Bridge Street, Titchfield	Environment Agency, Fareham Borough Council	EA investigating waste offences and breaches of waste carrier's license related to the deposition of waste on the land. This has progressed to authorisation for legal action by the EA and they will be exploring various avenues as part of this investigation. A joint meeting with the County Council and Fareham Borough Council (FBC) being arranged.

## 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 March 2024 bringing in approximately £8500 in fees and the quarter ending June 2024 approximately £11000.

### *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..

### **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;
- Yokesford Industrial Estate, Timsbury;
- Blashford/Nea Farm/Plumley, Nr Ringwood;
- 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**

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

16. 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.

17. During the period, Article 27 applications were received and approved or are being determined for 17 submissions (8 for Regulation 3 developments, 9 for County Matters and 1 for a cross boundary application), totalling approx. £2300.
18. 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):**

19. 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.
20. Since the last update, 1 NMA application was received for 1 site:
  - Little Bushywarren Compost Site, Bushywarren Lane, Ellisfield, Hampshire RG25 2NS - Update to approved site layout plan.

#### **Enforcement and Site Plan Review**

21. The Enforcement & Site Monitoring Plan is currently being reviewed and will be put before Regulatory Committee for signing off. There have been a number of changes to enforcement powers and monitoring responsibilities due to the recent [Levelling Up and Regeneration Act 2023](#) that came into force on 25 April 2024 and the Biodiversity Net Gain (BNG) requirements under [Schedule 14 of the Environment Act 2021](#) which became mandatory from 12 February 2024.
22. Under the [Levelling Up and Regeneration Act 2023](#) the fines for all Notices were increased to be unlimited on summary conviction, the period for a Temporary Stop Notice was increased from 28 days to 56 days and a new Notice was introduced. This is the Enforcement Warning Notice which enables the Planning Authority to issue a Notice in cases where unauthorised development is taking place but it is thought that a planning application would be successful. The idea is to reset the time period for when development would be immune from enforcement action (the 10-year rule which has now been extended to all forms of development).

**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