

HAMPSHIRE COUNTY COUNCIL

Information Report

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| Decision Maker: | Regulatory Committee |
| Date: | 17 November 2021 |
| Title: | Monitoring and Enforcement Update |
| Report From: | Director of Economy, Transport and Environment |

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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 Strategic Planning during the period June 2021 – October 2021.

Recommendation

2. That the contents of this report be noted.

Executive Summary

3. Although the restrictions imposed under the Covid-19 pandemic have been relaxed, allowing site visits to be undertaken on a much more normal basis, liaison with other agencies is still patchy with self-isolation and cases of illness still affecting the possibility of joint visits being undertaken consistently. However, Officers have been able to undertake the highest priority visits and actively investigate any complaints received.
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 Planning Condition (Article 27) applications and Non-Material Amendments.

Complaints

6. The majority of the complaints received during the period June 2021 – October 2021 refer to unauthorised development (14 sites) and breaches of operational planning conditions on existing mineral and waste sites (5 sites). A number of these complaints related to 2 existing sites that were already the subject of planning applications and were escalated to the formal complaint's procedure to the Chief Executive. These have been detailed separately. Investigation and negotiation have followed on the remaining sites with planning applications on 1 of the sites. Investigations are still ongoing at 2 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 first 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 outcome of this investigation was reported in previous Enforcement Updates to Committee.

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 planning application was refused on 21 December 2020. The applicant had until 21 June 2021 to appeal against this refusal of the permission. However, they 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](#)) and reported to the Council's Regulatory Committee in July, at which time it was approved.

Although the original commissioning work has now been completed, they have continued to experience technical issues with specific parts of the plant such that the wash plant has only been in operation for short periods. This has meant that there has been insufficient working to allow for a proper Noise Assessment as required as part of the noise monitoring and mitigation scheme.

A further application was submitted to address the issue of empty HGV entering and leaving the site outside of the permitted operating hours ([21/00298/CMAS](#)). This was approved by Regulatory Committee on 18 June 2021. Officers continue to visit the site to monitor activities on site and the implementation of the wash plant planning permission.

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 fully investigated and found that Officers had 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 previous Enforcement Updates in March and July 2021.

The application ([20/02979/CMAS](#)) for changes to the permitted picking station and fines machinery was approved by Committee on 20 October 2021. This was subject to conditions on the agreement of a Noise Management Plan and a commitment by the operator to set up a Liaison Panel meeting to improve the communication between operator and local residents. Arrangements are in hand in setting up the Liaison Panel, with attendees being drawn up and local Member, Councillor Glen, to chair.

Enforcement Actions

9. In the period to October 2021, there was 1 Planning Contravention Notice served, with all other 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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| Yokesford Hill Estate, Yokesford Hill, Romsey | Site monitoring determined that stockpile heights had increased substantially over the Covid lockdown period, and although 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 has subsequently been submitted (HCC/2021/0442), but stockpile heights continue to rise, such that they are now visible from outside the site and subject to complaints. A Planning Contravention Notice has therefore been served requiring information as to how the stockpile height is going to be reduced irrespective of any decision on the application for a washing plant. |
| Waterbrook Industrial Estate, Alton | 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>planning application 51471/007</u> . The Legal Agreement has been signed and the planning permission issued. A Liaison Panel was also to be set up for the site to encourage greater interaction between the operator and local residents. However, monitoring of the site had indicated that operations had ceased, and waste was no longer accepted at the site. A new owner has subsequently acquired the site and has recommenced operations. They have indicated that they are keen to engage with the Liaison Panel |

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| | and a virtual meeting has been arranged for November 2021. |
| Carousel Dairy (Basingstoke AD Plant), Manor Farm, Farleigh Wallop, Basingstoke | <p>An application to make the vehicle increases permanent, with other negotiated changes to conditions, was approved at the February 2019 Committee meeting (18/03001/CMA).</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 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 undertaken. Further works have continued with improved cooling systems, and the latest results appear to indicate that the problem has largely been addressed. Monitoring is still ongoing with regular Liaison Panels, the last of which was newly constituted under the updated protocol.</p> |

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

| Site | Joint working with | Update |
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| Whitehouse Field, | Test Valley Borough Council, Environment Agency, | 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 |

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| <p>Goodworth Clatford</p> | <p>Hampshire County Council Highways</p> | <p>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.</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 original permission, with the EA looking to prosecute for tipping without a Permit. Hampshire County Council 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. Hampshire County Council 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> |
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| <p>Shedfield Equestrian Centre</p> | <p>Winchester City Council, Environment Agency</p> | <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. 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 applications to regularise the recapping of the former landfill site (HCC/2021/0615) and for the small waste transfer facility (although this is still being validated). The operation of the waste transfer</p> |
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| | | station has been granted by a Permit by the Environment Agency. |
| Pinks Farm, Curdrige Lane, Curdrige/Poplar Farm, Curdrige Lane, Curdrige | Winchester City Council (WCC) | Complaints have been received by both Hampshire County Council and WCC about operations on both sites, allegedly part of the disposal activities associated with the Shedfield Equestrian Centre. Investigations on both sites are continuing by both Authorities to ascertain any breaches of planning control. |
| 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 (EA) 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 Hampshire County Council will assist as necessary. |

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 22 active sites, 10 in aftercare and 7 dormant sites liable for chargeable visits.
15. This work has been prioritised despite Covid-19 restrictions, with inspections for the 2nd and 3rd quarters, bringing in approx. £16 700.
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 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

17. During the past year Liaison Panel meetings have been held as virtual meetings to keep these avenues of communication open. Now restrictions have been relaxed the option to hold virtual meetings has been retained where needed. Liaison Panel meetings have been held for;
 - A303 Recycling Facility, Longparish;
 - Kingsley Quarry, Nr Bordon;
 - Basingstoke AD Facility, Basingstoke;
 - Forest Lodge Home Farm, Hythe;
 - Roke Manor, Nr Romsey
 - Waterbrook Industrial Estate, Alton.

Development Management

Relaxation of Planning Conditions due to Covid-19:

18. As report in previous enforcement updated, 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. The Strategic Planning have had numerous enquiries as to our view to relaxing planning conditions during this period for both minerals,

waste and Regulation 3 developments. A report was produced in response to each request made and was signed off by the 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.

19. The below provides an update on sites where an update is required.
20. *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. 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 ([HCC/2021/0545](#)) for a smaller area has now been submitted and is out for consultation.
21. *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 delayed after being referred to the Planning Inspectorate. The current position is under review in line of the continuing bridleway diversion Appeal, a Hearing of which has been held, but the Decision still awaited.

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 is now £116 per submission.

26. During the period, Article 27 applications were received and approved or are being determined for 14 submissions (12 for Regulation 3 developments and 2 County Matter), totalling £1624.
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. Over the period 4 NMA applications were received:
 - Little Bushywarren Compost Site, Bushywarren Lane, Ellisfield - amendment of an approved plan to show an extra CCTV Column;
 - Huhtamaki (Uk) Ltd, Rowner Road, Gosport - amendments to Eclipse Busway Phase 1;
 - Grange County Junior School, Franklin Road, Gosport - reduction of 10 car parking spaces to the proposed car park;
 - Sonnet Court Bungalows, Selbourne Drive, Eastleigh - the re-shaping of the approved external bin store located in the northwest corner of the existing Sonnet Court car park.

REQUIRED CORPORATE AND LEGAL INFORMATION:

Links to the Strategic Plan

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| 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