

TO: PLANNING & REGULATORY COMMITTEE

DATE: 17 OCTOBER 2012

BY: PLANNING DEVELOPMENT CONTROL TEAM MANAGER

DISTRICT(S): ALL

ELECTORAL DIVISION (S):

PURPOSE: FOR INFORMATION

GRID REF:

TITLE: ENFORCEMENT & MONITORING UPDATE REPORT

SUMMARY

This report covers the period from 1 April to 31 August 2012

MONITORING AT AUTHORISED MINERAL & WASTE SITES

- 1 Scheduled site monitoring visits maintain our information on site activity undertaken on mineral and landfill sites, operational and built development at the sites, changes of use and operational and practical problems that are being experienced by the site operators. The reviews of the extant planning permissions and conditions under which the sites operate provide the mechanism for outstanding matters to be identified, addressed and pursued if overdue. Retrospective planning applications are encouraged if expedient and cessation of breaches is sought if development is considered unlikely to obtain planning permission.
- 2 Issues have arisen at a small number of sites that have complex planning and environmental permit backgrounds and are the subject of public concern. These more complex sites have absorbed significant Officer time spent communicating with the public, logging and addressing public concern, partnership working with other regulatory authorities, liaising with elected members and responding to press queries.
- 3 The following list of ten sites involve the Enforcement Officers working closely with Planning Officers and operators and their planning advisors with the objective of bringing about positive change. The current economic climate clearly has had an impact on sites, in terms of both daily business and their ability to fund necessary development.
 - 3.1 **Clay Hall Lane, Copthorne:** Neighbours concern regarding the slow implementation of planning permission regarding the closure of the existing access, creation of screening bunds with acoustic fencing and creation of new site access; heights of stockpiled materials within the site; siting of a storage hopper and blending of cement based products on site; crushing of concrete and the storage of waste soils on land beyond CLUED. The operator has been involved in discussion with Officers to address these matters and a range of development issues now have clearly defined dates for compliance. A planning application for the installation of a concrete pad to facilitate composting has also been received.

- 3.2 **Mid Surrey Farm, Epsom:** A planning application to provide site infrastructure and the possible siting of a site building to locate waste processing remains to be submitted. A revised CLUED to include the blending of soils and compost has not yet been determined.
- 3.3 - **Oxted Lime, Oxted:** Review of Minerals Planning (ROMP) submitted and awaiting determination. Stockpiled inert waste at the site has recently been transferred to the mineral void for restoration purposes
- 3.4 **Sunnyside Recycling, Worplesdon:** A retrospective planning application has been approved to revise the siting of external processing plant. A further retrospective planning application to address the currently unauthorised storage of waste fines is anticipated.
- 3.5 **Capital House, Addlestone:** On 20 April 2007, following Surrey County Council's refusal of planning application Ref. RU04/1299, the Secretary of State for Communities and Local Government allowed the applicant's appeal and granted planning permission (Ref. APP/B3600/A/06/2007220) for use of land for waste transfer and recycling activities comprising storage, separation, breaking, screening, sorting and redistribution of materials such as: hardcore, scalpings, topsoil, road planings, ballast, shingle, sand, bricks, wood, timber, slates, tiles, concrete and engineering materials; loading and unloading of skips incorporating associated materials as listed above; and the storage, repair and maintenance of ancillary plant, machinery and vehicles on the application site.

In October 2008 Surrey County Council challenged the Secretary of State's decision to grant this planning permission at the High Court. This challenge was dismissed and the Secretary of State's decision to grant planning permission stands.

In 2010 the applicant applied for planning permission (Ref. 2010/0041), which seeks Surrey County Council's approval of details relating to landscaping, dust management scheme, and external lighting. This application is to be presented to the Planning and Regulatory Committee for determination on 17 October 2012. Further, the applicant has also sought planning permission (Ref. 2012/0046) for an extension of the time period in which the development permitted by planning permission Ref. APP/B3600/A/06/2007220 is to begun by. Similarly, this application is to be presented to the Planning and Regulatory Committee for determination on 17 October 2012.

The applicant has also sought to discharge condition 16 of planning permission Ref. APP/B3600/A/06/2007220 that requires that details of access improvements be submitted to and approved by the County Planning Authority. This application remains undetermined whilst the County Highway Authority discusses these details with the applicant.

The applicant formally notified the County Planning Authority on 20 April 2012 that the development permitted by planning permission Ref. APP/B3600/A/06/2007220.

- 3.6 **Tillingdown Farm, Caterham:** The site is for sale following the death of the owner. Despite considerable time spent in discussions with interested parties, no one has purchased the land. Unauthorised stockpiles of inert waste remain on the site awaiting removal by the new owners. A traffic

management scheme will be required to enable the removal of the unauthorised waste via the A22.

3.7 **Land at 2 Perrylands Lane, Smallfield** – An unauthorised waste soil recycling operation on land benefiting from a CLEUD for a scrapyard commenced and a retrospective planning application was subsequently refused. As a consequence, an Enforcement Notice was issued in January 2010. An Appeal was subsequently made and was upheld in October 2010, resulting in a permanent planning permission at the site for soil recycling. The setting up of the required bunds on the site and a number of operational issues have caused considerable concern to the local neighbourhood, but have largely been successfully addressed. The landscaping of the bunds will take place this autumn.

3.8 **Brookwood Cemetery, Cemetery Pales, Brookwood** – Further to the unauthorised import, deposit and disposal of waste soils to create two large bunds on the northern boundary of the site, the Environment Agency were unsuccessful in securing a prosecution against the developers. The CPA maintained pressure for either the removal of the waste or the submission of an application to seek to regularise the development. Considerable time and great patience has been spent in discussion with a consultant who is representing the landowner family, however no material progress has been made and the issue of an Enforcement Notice unless a final deadline for the submission of a valid planning application is achieved.

A meeting was hosted by Officers with the landowners, their planning representative and Woking BC Officers to discuss the range and scope of the application in spring 2012 with a view to receiving an application at the end of summer. A progress update has recently been sought from the planning agent with regard to an application and enforcement action to address this long standing issue remains likely.

3.9 **Dairyhouse Farm, Axes Lane, Salford** - The unauthorised importation, deposit and spreading of inert waste was found to have taken place, with the landowner claiming Agricultural Permitted Development rights and operating under an EA exemption certificate. Investigations are ongoing with both the EA and Reigate & Banstead Borough Council maintaining an interest in various site activities. Communications with the landowner, who has a long history of enforcement at the site, are not straightforward but SCC Officers maintain the view that it is waste related development and that retrospective planning permission is required if the material is to remain. In the absence of a planning application enforcement remains a possibility.

3.10 **Lodge Farm & Swires Farm, Ewood Lane, Henfold** – A Planning Contravention Notice was issued in October 2010 to obtain information relating to waste disposal and the raising of levels on the land utilising imported waste soils. A retrospective planning application was sought to regularise the development, but has been resisted by the landowners planning representative, despite their involvement in another application with the CPA for a green waste development on the farm. A large stockpile of hardcore, some of which has been imported, also remains on the land.

The Environment Agency has recently stated that stockpiles of processed plasterboard at the Lodge Farm site is waste and would require processing prior to the intended spreading on the land for agricultural improvement.

Planning permission for the processing of the waste would be required, and the landowner and their agents have been made aware.

Enforcement action to address the various breaches of planning control will be considered if planning applications fail to materialise. A former planning application for green waste composting was withdrawn by the applicant, but unauthorised stockpiles remain on the land that are the subject of ongoing discussion.

ACTION AT UNAUTHORISED SITES

- 4 Complaints and the investigation of unauthorised waste development and breaches of planning control are given priority and have been dealt with in accordance with the Division's performance target.
- 5 **Ridgeways Farm, Lonesome Lane, Reigate** – Further to the issuing of a Planning Contravention Notice in December 2008 regarding the unauthorised import, deposit, storage, processing and disposal of waste materials, a CLEUD application was subsequently submitted in October 2010 and refused in May 2011. As a result, an instruction to Legal Services was prepared to enable an Enforcement Notice to be issued. These instructions were reviewed following the publication of the National Planning Policy Framework in March and an Enforcement Notice is now likely to be issued by November 2012.
- 6 **Conway Cottage, Lonesome Lane, Reigate** – Further to discussion with the landowner concerning the use of the site for the recycling of scrap metal, a Certificate of Lawful Existing Use (CLEUD) was submitted in November 2011. The CLUED was however refused in April 2012 as the applicant's evidence in support of the application was not sufficiently clear and precise on the balance of probability to substantiate that the use had taken place over a 10 year period. As a result, an instruction to Legal Services was prepared to enable an Enforcement Notice to be issued. These instructions were reviewed following the publication of the National Planning Policy Framework in March and an Enforcement Notice is now likely to be issued by November 2012.

UPDATES ON SITES WHERE ENFORCEMENT ACTION WAS PREVIOUSLY TAKEN

- 7 **Barnfield, War Coppice Road, Caterham** – Compliance with an Enforcement Notice and Stop Notice that were issued in December 2010 was largely achieved by mid-April 2011, but subsequently the breach re-occurred. A prosecution for non-compliance was not sought as the Environment Agency were already preparing a prosecution for offences on site regarding waste import, deposit and transfer and disposal. In order to achieve proper planning control a County Court Injunction (CCI) was sought and obtained by the CPA Kingston County Court in December 2011 prohibiting the importing, depositing, handling, sorting, screening, storing and disposing, or any of these, of waste materials and soils on land known as Barnfield. The CCI was then breached and as a consequence the CPA prosecuted the operator who received a 3-month suspended jail sentence. He was subsequently found guilty of waste offences in a prosecution by the Environment Agency and was sentenced to 6-month in jail, and was to serve at least 3-months. The landowner's family have now undertaken the removal of waste stockpiles from the land and have also reduced the level of 2 areas where waste soils had been tipped. English Heritage is to oversee

the removal of waste from the area of an Ancient Monument at the site that should complete compliance with the EN.

- 8 **Land at New Pond Farm at the junction of Furze Lane & New Pond Road, Compton** – Following the issue of a Temporary Stop Notice in June 2006, an Enforcement Notice was subsequently issued in July 2006 to address the unauthorised importation of waste soils on the northern half of the site. This notice has not been complied with and remains extant. Following further breaches of planning control including the import, deposit and storage of waste soils and the import, deposit and disposal through burning of green waste another Enforcement Notice was issued in December 2011 on the rear area of the site and an additional area of land opposite the main site, to the north of Furze Lane. An appeal was lodged by the occupier and was refused after a planning inspector considered written representations. Meeting with the landowners is to be arranged to discuss their ultimate responsibility as to compliance with the extant enforcement notices. A letter has also been sent to the occupier seeking their compliance with the extant EN.
- 9 **Land at Muckhatch Lane, Thorpe** – The unauthorised disposal by burning of green waste continued despite a successful prosecution by the Environmental Health Department of Runnymede Borough Council. Enforcement & Stop Notices were issued in May 2010 that required the cessation of both unauthorised landraising and burning of imported waste. No appeal was lodged and the unauthorised development largely ceased. Subsequently, the landowner applied for and obtained retrospective planning permission for the land raising that had taken place and compliance with pre-commencement conditions is being pursued. Concern remains that breaches may be taking place in relation to further burning of imported waste and joint ad-hoc monitoring of the site with Runnymede BC continues.
- 10 **Brick Kiln Copse, Old Lane, Ockham** – Unauthorised waste development continues to result in site monitoring, including monitoring the removal of remaining composted green waste stockpiles. These matters are subject to an extant Enforcement Notice. The screening of the compost stockpiles to separate useable fines prior to export from coarser organic materials and contaminated waste (predominantly shredded plastics) has been seasonal as weather conditions permit. Generally the activity has been very successful with the majority of the screening having now taken place and large areas of the site cleared.

Compliance with the extant Enforcement Notice remains a requirement with the removal of oversized organic materials and non-organic waste. Clearance of the site is the objective.

Some unauthorised waste development has also been closely monitored, and concerns regarding the illegal burning of imported waste comprising demolition timber as well as scrap metal collection remain under scrutiny.

- 11 **Land at Long Meadow Farm, Brickhouse Lane, Blindley Heath** – Following a long and tortuous route through the planning system that has taken 7-years to date, the landowner failed to obtain planning permission for waste development at the site and has been prosecuted by both SCC and the EA, and compliance is now sought with the steps of an extant EN that was issued by SCC.

The landowner's daughter now runs the family businesses and is seeking to comply with the extant EN, although progress has been slow, as the cost of compliance such makes it very onerous and she has been trying to gain EA acceptance to screen

waste materials to reduce the cost, but to date such an allowance has not been given and the forced sale of the land remains a possibility.

- 12 **Bugle Nursery, Upper Halliford Road, Shepperton** – A submission to obtain a CLEUD was refused in March 2012. The landowners were given a short time to resubmit further evidence and it appears that a CLUD is likely to be issued as the balance of probability requirement now appears to have been met following additional responses from Spelthorne BC Officers.
- 13 **Epsom Chalk Pit, Epsom** – The unauthorised small scale transfer of waste by several operators on The Rim has been monitored and addressed with the EA who are now prosecuting various operators for waste offences. In addition, two of the operators within the pit itself are now processing waste, which Officers believe to be unauthorised. Given the circumstances at the site officers have encouraged retrospective applications to be made, although to date they have not been forthcoming. Enforcement action remains a possibility if no submissions are received.
- 14 **Paygate Wood Equestrian Centre, West Park Road, Newchapel** – The unauthorised importation, deposit and spreading of inert waste was stopped in September 2011 and the site owners are now awaiting the EA's views in terms of the suitability of the imported soils and environmental issues are being considered prior to the possible submission of a retrospective planning application. If circumstances dictate, the landowner has stated that remediation of the land will be undertaken through the use of the imported soils in an appropriate agricultural land improvement scheme.
- 15 **Flint Hall Farm, Flower Lane, Godstone** - The unauthorised importation, deposit and spreading of inert waste was found to have taken place, with the landowner claiming Agricultural Permitted Development rights and operating under an EA exemption certificate. Investigations are ongoing, although the EA has issued an exemption for waste soils to be imported for agricultural improvement and Tandridge District Council appear to have accepted the development. Nevertheless, SCC Officers consider the material is waste and that retrospective planning permission is required if it is to remain in situ. As such enforcement remains a possible option.

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BACKGROUND PAPERS:
