

TO: PLANNING & REGULATORY COMMITTEE

DATE: 26 FEBRUARY 2014

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 1st January 2013 to 31st January 2014

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MONITORING AT AUTHORISED MINERAL & WASTE SITES

- 1.1 Site monitoring visits remain on target with 100% of scheduled visits undertaken in the last 13-months, which maintains our records on activity undertaken on mineral and landfill sites including: operational and built development; changes of use; the monitoring of operations undertaken including problems experienced by operators. The ongoing reviews of extant planning permissions and associated conditions provide the mechanism to identify, address and pursue matters as necessary.
- 1.2 In addition, 73 visits have been undertaken on unauthorised sites, both new and existing, investigating and monitoring development regarding waste. Retrospective planning applications are encouraged if expedient and cessation of breaches are sought where development is considered unlikely to obtain planning permission.
- 1.3 Sites with complex planning and environmental permit backgrounds where issues arise that are subject to public concern continue to absorb significant Officer time. Significant resources are directed to: communicating with the public; logging and addressing public concern; partnership working with other regulatory authorities; liaising with elected members; responding to press inquiries as appropriate.
- 1.4 The following list of ten sites involve Monitoring and Enforcement Officers working closely with Planning Officers, operators and their planning advisors with the objective of bringing about positive change. The ongoing recession has continued to have an adverse impact on sites as operational budgets are cut, although over the last 6-months several waste haulage companies have indicated that they are extremely busy and that their haulage fleets are in full use again.

ACTION AT AUTHORISED SITES

- 2.1 **Clay Hall Lane, Copthorne** – An Enforcement Notice was issued in November 2013, to ensure that waste stockpiles beyond the consented site are removed by

September 2014: no appeal has been made. The site remains dormant as the previous operator is in the hands of receivers and the landowners are expected to address the requirements of the EN and are also seeking new operators for the site, but the yard has a large volume of waste on site and the completion of development with respect to perimeter bunds, fencing and landscaping, plus a new access will be encouraged prior to further importation of waste.

- 2.2 20/20 Recycling, Aldershot Road, Normandy** – A planning application to address breaches of planning control identified through site monitoring, involving the unauthorised use of areas of the yard instead of a building for waste storage, plus the use of an additional area of adjacent land, was refused against Officer recommendation and this led to an appeal being made. A Local Hearing took place in January 2014 at which the appeal was subsequently upheld and a costs application was awarded against SCC.
- 2.3 Jury Farm lagoon, Ripley Lane, West Horsley** – The infilling of a slurry commenced before pre-commencement conditions had been approved. Practical difficulties emerged as a result of the lagoons not being drained before tipping ensued, resulting in an excess of materials having been tipped and stockpiled on adjacent land.

Excess material has been spread on land adjoining the permitted area and consequently the development increased in area and height. However, in light of the fact that the change in landform would not cause harm, and that the removal of the excess waste soils would be likely to cause traffic and other problems, it was decided that it was expedient to accept the changes as de minimis.

The grading of the final landform has been delayed due to the weather, and such works will resume in the spring, prior to the required tree planting taking place in late autumn 2014.

ACTION AT UNAUTHORISED SITES

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 targets.

- 3.1 Tillingdown Farm, Caterham** – Following the death of the late landowner the sale of the land has not been straightforward, and more than one potential purchaser has paid deposits without then completing. Meeting with prospective purchasers and their representatives has resulted in them being advised of precisely the same thing, namely that the removal of waste soils, without processing taking place, will be required from several areas of the site: subject to the agreement of an acceptable scheme of works. The aspiration for the site from those interested appears to concentrate on the development of a small number of houses, which they have discussed with Ta DC as the LPA.
- 3.2 Brookwood Cemetery, Cemetery Pales, Brookwood** – Following the unauthorised import, deposit and disposal of waste soils to create two large bunds on the northern boundary of the site several years ago, the Environment Agency were unsuccessful in securing a prosecution against the developers. The CPA has maintained pressure to achieve either the removal of the waste or the submission of an application to seek to regularise the development.

Following a much publicised legal dispute over the site's ownership which followed the death of the former owner, the CPA are now working closely with the new owners and assisting them to arrange for soil samples to be taken before quotes are made by 3 waste haulage contractors to have the waste removed from the cemetery to a licensed site.

- 3.3 Land north of Rydons Grange, Limecroft Road, Knaphill** – Unauthorised waste development involving the use of imported soils and concrete to engineer a new landform was stopped, following joint working with enforcement officers at Woking BC, through the service of a Temporary Stop Notice on 8th October 2012. The tenant of the land is responsible for having organised the works and despite indicating to Officers that he intended engaging a waste planning consultant to submit a retrospective planning application, the landowner requires the waste to be removed. Following a further meeting with the tenant, plus the landowner (members of a trust), plus the EA, a survey of the land and soil testing have now been carried out and plans for the removal of the waste in the spring of 2014 are underway. If the removal is not completed by the summer, an EN may be considered to ensure compliance this year and will be issued if works have not begun.

UPDATES ON SITES WHERE ENFORCEMENT ACTION WAS PREVIOUSLY TAKEN

- 4.1 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 by the landowner's son. In order to achieve proper planning control a County Court Injunction (CCI) was sought and obtained by the CPA at 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 the 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 and he was subsequently found guilty of waste offences in a prosecution by the Environment Agency and was sentenced to 6-months in jail: to serve at least 3-months.

The landowner's family undertook the removal of waste stockpiles from the land and also reduced the level of 2 areas where waste soils had been tipped. Following the death of the landowner, and the period of probate, the daughter and son-in-law then purchased the land. Following delays caused by a near fatal accident to one of the landowners, it has now been arranged for English Heritage to oversee the removal of waste from the area of an Ancient Monument in spring 2014; the completion of these works will achieve compliance with the EN.

- 4.2 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 which was refused after a planning inspector considered written representations.

A meeting has taken place with the trustees of the land who have referred to a Court decision following their attempt to secure possession that decreed that the occupier had a right to be on the site, which is relevant if a prosecution is sought. The elderly occupier, who has been jailed before for criminal planning breaches, has expressed his desire to have his day in Court.

Breaches of the EN continued during 2013, and are now subject to Environment Agency investigations, despite the occupier's protestations that he is doing nothing wrong in importing and burning green waste onto the site.

In December 2013 a County Court Injunction was applied for and in January 2014, the occupier was served by EO's with a bundle of Court papers advising him that a hearing would take place at the Magistrates Court in Kingston upon Thames on 20th February 2014.

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- 4.3 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 Certificate of Lawful Existing Use Development (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 in February 2013. An appeal is likely.

Due to changes on site that have resulted in unauthorised uses taking place that the County Council may not act against, the unauthorised mixed uses are now likely to be dealt with by R&B BC in the spring of 2014.

- 4.4 Conway Cottage, Lonesome Lane, Reigate** – Further to discussions 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 CLEUD was however refused in April 2012. An Enforcement Notice was issued on 31st October 2012 and appeals were lodged against both the refusal of the CLEUD and the EN. A Public Inquiry was programmed for March 2013, however further to Counsel visiting the site; the EN was re-issued in order to exclude the area of an authorised residential use: this was also appealed.

A Public Inquiry started in June 2103, and after the grounds of the notice had been amended by SCC and additional evidence supplied by the appellant, this resumed in October 2013 and the appeal was quickly dismissed by the Inspector. The DETR's appeal decision is now being challenged and the appeal will be heard later in the year at the Royal Courts of Justice.

- 4.5 Epsom Chalk Pit, Epsom** – The unauthorised small scale transfer of waste on The Rim was monitored and addressed with the EA who prosecuted one of the operators for waste offences. Despite this, waste sorting and transfer resumed and a PCN was issued. As a result of the HGV and skip storage uses not having either planning permission or a lawful use, E&E BC as the LPA will address the unauthorised mixed use development.

In addition, two of the operators within the pit itself are now processing waste, which Officers believe to be unauthorised. Given the current commercial and industrial use of the Chalk Pit, Officers have encouraged retrospective applications to be made. One operator has now agreed to submit a retrospective application, but another remains intransigent at this stage and enforcement action remains a possibility.

THE ENVIRONMENT AGENCY & PARTNERSHIP WORKING

- 5.1** County Enforcement Officers have noted a number of difficulties affecting the working relationship with Environment Agency staff over the last 5 years. Problems include the Environment Agency's constantly changing exemptions; an inconsistent approach to waste operations from different regional offices affecting Surrey; less weight put on joint initial investigations of new sites; a lack of experienced officers due to high staff turnover; a general decline in the support available to unauthorised waste development.

The above has resulted in EO's having to proactively report their investigations to the EA to promote awareness of waste development that is taking place and so encourage their future support on all unauthorised sites. The approach is time consuming and often does not result in the required support.

Officers have concerns over the continued working arrangements with the EA given the planned 15% cutbacks to the Agency's budget.

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BACKGROUND PAPERS: None

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