

TO: PLANNING & REGULATORY COMMITTEE

DATE: 30 JULY 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 February 2014 to 30th June 2014

MONITORING AT AUTHORISED MINERAL & WASTE SITES

- 1.1 Site monitoring visits remain on target with 100% of scheduled visits undertaken in the last 5-months, plus 73 visits to unauthorised sites.
- 1.2 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.
- 1.3 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** – Partial compliance with an Enforcement Notice issued in November 2013 has been achieved by the landowners, with the rest of the waste stockpiles beyond the consented site needing to be removed by September 2014. The site remains largely dormant as the receivers are still dealing with the former operator's liabilities, including the waste license.
- 2.2 **Jury Farm lagoon, Ripley Lane, West Horsley** – The volume of materials imported were less than that consented by the planning permission, but the volume of the void

was less than estimated, which led to an excess of materials on site. In order that further disruption to the local road network did not take place, it was agreed that the site would be restored to a slightly higher level as an informal planning arrangement.

The works to this site recommenced in June 2014, they are scheduled to be completed by 31st July 2014, with the required tree planting due to take place in the next available planting season.

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 **Brookwood Cemetery, Cemetery Pales, Brookwood** – Soil testing has been undertaken to ascertain the cost of removing the formerly imported waste soils, but has revealed the presence of a fraction of asbestos in one sample. As a result, extensive testing will be required to determine the appropriate method of disposal. A legal dispute over land ownership is further delaying progress on this site.
- 3.2 **Land north of Rydons Grange, Limecroft Road, Knaphill** – Further soil testing in association with remedial works has been undertaken. The tenant who is wholly responsible for the unauthorised waste development has indicated that he is unable to pay for all the works to be achieved in 1-year and so an Enforcement Notice is likely to be issued, with staged compliance periods.

UPDATES ON SITES WHERE ENFORCEMENT ACTION WAS PREVIOUSLY TAKEN

- 4.1 **Barnfield, War Coppice Road, Caterham** – English Heritage have overseen the removal of waste from the area of an Ancient Monument and the waste soil has been stockpiled for either use in an engineering bund subject to the grant of planning permission or removed off site to achieve full compliance with the extant EN.
- 4.2 **Land at New Pond Farm at the junction of Furze Lane & New Pond Road, Compton** – A County Court Injunction was secured on 16th April 2014 against the 83 year old longstanding tenant and uncle to one of the trustees, who despite giving his personal assurances to the judge that he would comply subsequently advised Enforcement Officers within 24 hours that he would not.

Due to his disregard for the planning system and the courts, and further to counsel having considered our evidence, in the short term Officers will pursue a prosecution for contempt of court, which could result in a short penal sentence.

The long-term solution is less clear. There are already charges on the land from former Guildford Borough Council enforcement action and these exceed £80K. Consequently, SCC would be unlikely to recoup waste clearance costs if direct action to remove is pursued.

- 4.3 Ridgeways Farm, Lonesome Lane**, – Following the issue of a Planning Contravention Notice in December 2008 regarding 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, but refused in May 2011. An Enforcement Notice was to be issued in February 2013, however the question of unauthorised ‘mixed uses’ arose which undermined the CPA’s ability to enforce. Reigate & Banstead Borough Council has now invited a retrospective planning application in for the infill of a pond located adjacent to the land in question, so the matter of an EN will have to be reviewed further before finalisation.
- 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 and has subsequently been 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 was challenged at the Royal Courts of Justice in July, but the challenge was dismissed. The landowner has now initiated a further appeal.
- 4.5 Epsom Chalk Pit, Epsom** – Of the two operators within the pit that were processing waste, one has now gained planning permission, but stopped processing at the current time. The other has stopped altogether.

EXAMPLES OF CLEARANCE OF WASTE MATERIALS FROM SITES THROUGH NEGOTIATION OR COMPLIANCE WITH EXTANT ENFORCEMENT NOTICES

- 5.1** The complete clearance of waste from land is an increasingly difficult thing to achieve as the potential value of land is often considerably less than the waste removal costs. Attached photographs illustrate progress at the following sites.
- 5.2 Field Common South** – The extant EN has now been fully complied with after a great deal of work by the landowners to address unauthorised development on various areas of the landholding. A willow copse adjacent to a lake has been restored and although some trees have died as a result of the land raising that had taken place, regeneration is likely to occur.
- 5.3 Hurtmore Golf Course** – Continued pressure and negotiation backed up by partnership working with the EA led to the company spending more than £1M to remove completely unsuitable waste materials that had been imported and deposited on the course with the intention of re-moulding the course.

The company have subsequently worked with the EA in supplying them with statements to support ongoing investigations of those associated with the waste that had been supplied to the golf course at their request.

- 5.4 Barnfield** – The removal of deposited waste has been overseen by English Heritage. The waste has been stored on site, and protection of an ancient monument pending removal or incorporation into the existing landform.
- 5.5 Adams Bristow Yard** – Negotiation and working with the landowner’s solicitors who undertook an injunction against their own tenant has achieved complete clearance of all imported waste from this yard.
- 5.6** Officers primary aim remains stopping unauthorised development from taking place. Blatant breaches are generally easier to identify. However, stealth and concealment are often tactics, which are employed.

THE ENVIRONMENT AGENCY & PARTNERSHIP WORKING

- 6.1** County Enforcement Officers continue to work closely with Environment Agency staff. Problems that have been addressed include: exemptions; coordinating the approach to waste operations between different regional offices affecting Surrey; a reduction in joint initial investigations of new sites; a lack of experienced officers due to high staff turnover; a decline in the level of support available to combat unauthorised waste development.

The above has resulted in Planning Staff 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.

The EA’s Environmental Crime Team based at Alice Holt, which is already overstretched and serves the western ½ of Surrey as well as parts of northern Hampshire and Berkshire, is to be merged with the team at Wallingford which addresses the West Thames area. This will result in teams that have already been severely reduced being reduced again from 6 officers to 2 by 31st March 2015. Meanwhile, posts that are self funding through the provision of inspection charges, such as monitoring Officers, will largely be maintained at current levels. News is awaited on the teams at Abbey Wood and Tonbridge that cover the north east and east of the county respectively.

Unscrupulous operators continue to seek to avoid the increasing cost of waste disposal and treatment, County Officers continue to pursue joint partnership and ‘improved ways of working’.

CONTACT: Ian Gray or Alan Stones

TEL. NO: 020 8541 9423 or 020 8541 9426

BACKGROUND PAPERS:

This page is intentionally left blank