

**ENFORCEMENT UPDATE REPORT
1 APRIL - 31 JULY 2014**

To: **Planning Committee**

Date: **4th September 2014**

From: **Head of Growth and Economy**

Electoral division(s): **N/A**

Purpose: **To consider the following report**

Recommendation: **The Planning Committee is requested to note the content of this report.**

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1. INTRODUCTION

- 1.1 The purpose of this report is to brief the Planning Committee members on the planning enforcement and monitoring work being undertaken by the County Planning, Minerals and Waste team within the Growth and Economy service.
- 1.2 The requirement to produce the report is set out in section 15, Monitoring Performance, of the Local Enforcement Plan for Minerals and Waste Development in Cambridgeshire - Version 2 July 2013. Unless otherwise stated the report covers the period 1 April to 31 July 2014 and summarises the following information.
- Complaints received and their current status
 - New enforcement cases
 - Ongoing enforcement cases
 - Ombudsman complaints received
 - Site monitoring visits completed

2. COMPLAINTS RECEIVED

- 2.1 Ten new complaints were received. Table 1 summarises their status at the time of writing.

Table 1 - Complaint Status

Complaint Type	Number
Not expedient to pursue	1
No breach established	3
Breach established and resolved	1
Breach established. Investigation on going.	3
Not a county matter	2
Total	10

3. NEW ENFORCEMENT CASES

- 3.1 One new Breach of Condition Notice (BCN) was served. A summary of the requirements of the notice is set out in **Appendix 1**.

4. ONGOING ENFORCEMENT CASES

- 4.1 Ten enforcement cases are on-going. A summary of each case is set out in **Appendix 2**. The Milton Park Golf Course case, which was included in the previous Enforcement Update Report (dated 24 April 2014) has been removed as the landowner has completed the majority of the works required by the EN and the WPA will not be taking further enforcement action at this time. However, the EN will remain in place.

5. OMBUDSMAN COMPLAINTS

- 5.1 No Local Government Ombudsman complaints were received.

6. SITE MONITORING VISITS 1 APRIL – 31 JULY 2014

- 6.1 The Authority also carries out proactive monitoring visits. The Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012 enable the Authority to levy specified fees for inspecting quarries and landfill sites for compliance with the conditions set out in the grant of planning permission. The fees are intended to cover the cost of conducting the visits and are set out below.
- Actives sites £331
 - Inactive or dormant sites £110
- 6.2 Other waste activities such as waste transfer stations, waste recycling sites and scrap yards are also visited to assess compliance with the conditions set out in the grant of planning permission. However, the cost is borne by the Authority. A summary of the number and type of monitoring visits carried out during the monitoring year is set out in Table 2.

Table 2 - Site visits by type 1 April- 31 July 2014

Site Type	Visits
*Landfill	10
*Quarries	16
Composting and inert recycling	1
Wood recycling	2
Non-hazardous waste transfer and recycling	1
Hazardous waste transfer and recycling	1
Total	31

* Chargeable site visits

7. MUST FARM TIMBER PLATFORM SITE UPDATE

- 7.1 At the meeting held on 12th June 2014 the Committee requested that officers provided an update on the progress Hanson have made in preparing an alternative scheme for the long term preservation of the Must Farm Timber Platform Site (TPS).
- 7.2 Hanson advised the MPA on 22 August that a detailed draft Project Design for excavation of the TPS is currently being revised prior to submission to English Heritage (EH) later this month (August) and that it is their intention to pursue excavation subject to approval from EH and the MPA. The company confirmed that:
- the overall project costs are expected to be in excess of £1 million;
 - a well-planned, robust project design and accurate cost estimate is crucially important; and
 - issues with programme implementation and budget management are also under negotiation.
- 7.3 EH usually allow 2 to 3 months to review the submitted Project Design and to respond with requests for clarification or amendments. This process ensures compliance with the EH policy Management of Research Projects in the Historic Environment (MoRPHE). Hanson hope to conclude discussions with the MPA and EH by the end of September.
- 7.4 In the meantime Hanson will continue to monitor the TPS on a regular basis. An interim report will be produced in the autumn to record how preservation conditions have been affected over the six month period since the last interim report (SLR interim report No. 9 for the period November 2013 – April 2014).
- 7.5 The MPA welcomes this indication that the Project Design for excavation of the TPS is progressing and will be asking Hanson to provide a copy of the draft Project Design at the same time it is sent to EH.

APPENDIX 1 - NEW ENFORCEMENT CASES

Description of Alleged Breach	Location	Date Notice Issued	Comments
<p>1. RED</p> <p>Failure to comply with condition 3, hours of operation, of planning permission S/00795/11/CW.</p> <p><u>Condition 3</u></p> <p>Unless otherwise previously approved in writing with the Mineral and Waste Planning Authority operations authorised by this permission, including vehicles entering or leaving the site, shall be restricted to the following durations;</p> <p>07:00 to 18:00 hours Monday to Friday 07:00 to 13:00 hours Saturday,</p> <p>and shall not take place on Sundays or Bank or Public Holidays, unless previously agreed in writing with the Mineral and Waste Planning Authority.</p>	<p>254a Cottenham Rd Cottenham Cambridge</p>	<p>15/07/14</p>	<p>The notice was served in response to a complaint from a local resident alleging that vehicles have been regularly leaving and entering the site outside of the permitted hours over a period of several months. The complaint was supported by extensive written and photographic evidence. The notice takes effect on 13 August 2014. Out of hours monitoring of the site will commence if the Waste Planning Authority (WPA) receives any reports alleging the site is operating outside of the permitted hours.</p>

APPENDIX 2 - ON GOING ENFORCEMENT CASES

Description of Alleged Breach	Location	Date Notice Issued	Comments
<p>1. RED</p> <p>Without planning permission, the material change of use of the land from agriculture to a use for the importation, deposit and storage of inert waste and aggregate.</p>	Land adjacent to Mepal Airfield Mepal	18/03/14	<p>An estimated 20,000 tonnes of inert waste and aggregate has been deposited on the land. The notice was served on 19 March 2014 and took effect on 22 April 2014. The landowner has six months from the effective date to remove the waste and aggregate and restore the land to its former condition prior to the breach of planning control i.e. a state fit for the former agricultural use.</p> <p>The waste is currently being removed and should be cleared before the 23 October deadline.</p>
<p>2. RED</p> <p>Failure to comply with condition 6 of planning permission F/02017/08/CM and E/03008/08/CM.</p> <p><u>Condition 6</u></p> <p>No development shall commence until a scheme for the phased improvement of the public highway known as Block Fen Drove from its junction with the A142 to its junction with the private haul road referred to in condition 4 has been submitted to and approved in writing by the MWPA in consultation with the local highway authority. The submitted scheme shall include a programme of implementation and shall be fully completed by 5 August 2012.</p>	Mepal Quarry Block Fen Drove Mepal	06/01/14	<p>Planning permission F/02017/08/CM and E/03008/08/CM permit an extension to Mepal Quarry. The operator of the quarry has failed to implement the scheme approved by the Council on 3 March 2011. The BCN requires that the scheme is implemented in full by 14 March 2014.</p> <p>Before work on Block Fen Drove can commence the Local Highways Authority (LHA), and the site operator must enter into a legal agreement under section 278 of the Highways Act 1980. The operator advised the Mineral Planning Authority (MPA) on 9 April 2014 that so far as they were concerned the Council now has the information needed complete the section 278 agreement. However, the LHA later asked the operator to provide a revised engineering drawing based on a survey plan of Block Fen Drove. The drawings will be included in the agreement. It is understood that the survey has been completed and the revised engineering drawing is expected shortly. It is also understood that the developer and the Council have agreed a figure for the bond and the fee for drafting the agreement.</p>

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			<p>Once the section 278 agreement has been signed a start date for the work will be confirmed following booking of the road space for the works. Any further progress will be reported to the Committee at the meeting.</p> <p>The MPA has increased the number of chargeable site monitoring visits to the site to three for the year 1 April 2014 to 31 March 2015 (the site received two chargeable visits for the same period last year). The increase accords with national guidance which states that in deciding the appropriate number of site visits, mineral and waste planning authorities should consider a range of factors, including whether breaches of planning have been observed.</p>
<p>3. RED</p> <p>Failure to comply with condition 9 of planning permission F/02013/07/CW.</p> <p><u>Condition 9</u></p> <p>Within 3 months of the date of this permission a scheme for the phased improvement of the public highway known as Block Fen Drove from its junction with the A142 to its junction with the private haul road referred to in condition 4 shall be submitted to the Waste Planning Authority for approval. The submitted scheme shall include a programme of implementation and shall be fully completed within 2 years of the date of this permission.</p>	<p>Witcham Meadlands Quarry Block Fen Drove Mepal</p>	<p>16/12/13</p>	<p>Planning permission F/02013/07/CW permits the use of part of the land at Witcham Meadlands Quarry as a waste transfer station and a skip storage area and associated traffic. The operator failed to submit and implement the scheme required under condition 9.</p> <p>The BCN requires that within 30 days of service the operator submits for approval a scheme for the phased improvement of the public highway known as Block Fen Drove from its junction with the A142 to its junction with the private haul road. The scheme will achieve the same specifications as the highway scheme submitted by Aggregate Industries on Drawing No. 1 dated February 2011.</p> <p>The operator advised the WPA on 8 April 2014 that they are unable to predict when the works will be completed until there is an indication as to when the section 278 agreement is likely to be finalised. At the time of writing the scheme had not been submitted.</p>

Description of Alleged Breach	Location	Date Notice Issued	Comments
			The previous Enforcement Update Report of 24 April 2014 stated that the number of chargeable site visits to this part of the site would be increased as a result of this breach. This statement was incorrect because the planning permission permits the development of a waste transfer station and a skip storage area and associated traffic. Whilst the number of visits to this area of the site can be increased, the WPA cannot charge the prescribed fee for the visits.
<p>4. RED</p> <p>Failure to comply with condition 7 of planning permission S/01556/10/CW - Extension to existing waste transfer station including; rear stockyard and screening area; change of use of stables to office, toilet, rest room and store; plastic and cardboard storage area within existing building; tree planting at rear paddock.</p> <p><u>Condition 7 - Surfacing of Site</u></p> <p>Within 2 months of the date of this permission details shall be submitted to the Waste Planning Authority, for approval in writing, of the hard surfacing of the rear yard/working area. No operations are to take place until the concrete surfacing has been completed. The finished level of the new concreted area is to be constructed no higher than 4.90 metres above ordnance datum as detailed in the addendum to the flood risk assessment dated February 2010 unless otherwise agreed in writing with the Waste Planning Authority. A topographical survey of the completed concreted area is to be provided to</p>	Long Acre Farm Fen Road Chesterton Cambridge	08/10/13	<p>The site is a waste transfer station located at the north western end of Fen Road. The operator has been using the rear yard to process a mixture of inert and non-hazardous waste and to store processed inert waste.</p> <p>The Breach of Condition Notice (BCN) requires that:</p> <ul style="list-style-type: none"> - The importation, storage and processing of waste material, and all other operations within the rear yard, cease; - A scheme for the surfacing of the yard is submitted for the written approval of the waste planning authority; and - All the deposited waste is removed from the rear yard until such time as this area has been concreted in accordance with the scheme approved by the Waste Planning Authority. <p>The deadline for compliance was 31 May 2014. The landowner has recently confirmed that he has rented the site out to a third party in the short term and that he will not be concreting the rear yard as he intends to redevelop the site. The site will be formally inspected on 26 September 2014.</p>

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the Waste Planning Authority within 1 month of the completion of the concreting.			
<p>5. RED</p> <p>Failure to comply with Condition 4 of planning permission S/00060/10/CW - Variation of Conditions 2, 7, 8, and 9 of planning permission S/0203/05/CW to extend the period of land filling until 30 September 2011 and be consistent with planning permission S/2073/07/CW; deletion of conditions 4 (approved drawings) and 5 (phasing); and discharge of Conditions 10 (restoration) and 13 (wheel cleaning)</p> <p><u>Condition 4</u></p> <p>4) The site shall be restored to the pre-settlement contours shown on drawings no WIS/MSE/2740-12A dated 30-11-09 and WIS/MSE/2740-13 dated 20-07-07 by 30 September 2011.</p>	Wilbraham Quarry Mill Lane Great Wilbraham	01/05/12	<p>This site is a chalk quarry which also has a series of planning permissions permitting the restoration of the land by landfilling with inert waste. Approximately half the site is still an active chalk quarry whilst the remainder has been landfilled. The active chalk quarry and the landfill are under separate ownership.</p> <p>It is understood the landfill owners had attempted to purchase the active quarry to gain access to additional void space whilst continuing to deposit waste on the landfill under planning permission S/0060/10/CW.</p> <p>Topographical survey data obtained from the Environment Agency showed that the waste deposited in the landfill was over 20 metres above the final restoration levels at the highest point. The resulting mound is visually intrusive and is having a significant detrimental impact on the amenity of the area.</p> <p>Two BCN's were served on the landfill owners on 2 June 2011 (see items 7 and 8 of this appendix) which required them to reduce the height of the waste stockpiles on the landfill and to submit a scheme for wheel cleaning. However, a more serious breach occurred when the deadline for achieving the final restoration levels for the landfill expired on 30 September 2011.</p> <p>After careful consideration the WPA issued an EN on 1 May 2012 which requires the landfill owners to cease the importation of waste and to remove a specific amount of the deposited waste each month until the approved restoration levels are achieved. The notice was not appealed and became effective on 4 June 2012.</p>

Description of Alleged Breach	Location	Date Notice Issued	Comments
			<p>On 4 October 2012 officers from the WPA met with the landfill owners and their representatives to discuss a proposed timetable for compliance. The proposal was reviewed and amended by officers before being approved by the Development Control Committee on 8 November 2012.</p> <p>Waste transfer notes supplied by the landfill owners, show some waste has been removed from the site and taken to several suitably permitted sites. However, the waste removal process has ceased.</p> <p>The WPA has completed the investigation into the alleged breach and the case file has been passed to legal. The defendants were summons to appear before Cambridge Magistrates Court on 6 June 2014 but the case was adjourned until 17 July 2014 to allow the defendants further time to consider the evidence against them.</p> <p>The defendants appeared at Cambridge Magistrates' Court on 17 July 2014 but chose not to enter a plea against any of the charges laid before the court. Having listened to the facts the judge decided that the alleged offence was so serious that it should be passed to Cambridge Crown Court.</p> <p>The next hearing will therefore be a Plea and Case Management Hearing at Cambridge Crown Court on 3 October 2014. At this hearing the indictments will be read out to the defendants and they will have to indicate whether they plead guilty or not guilty to each count. If one or both of the defendants pleads not guilty then the matter will be set down for trial and the judge will give directions as to what happens next. One of these directions will normally involve setting a timetable for the proceedings. Before the timetable can be set the defence and the prosecution parties will confirm which</p>

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			witnesses will give evidence and how long the trial is likely to last. If both defendants plead guilty on 3 October sentence could be passed the same day.
<p>6. RED</p> <p>Without planning permission, the change of use of the land from agricultural land to a mixed use comprising of agricultural and the importation and disposal of waste material and raising the level of part of the land by the depositing of waste materials.</p>	First Drove Little Downham Ely	17/01/12	<p>In 2005 a prior notification application (PNA), for a steel framed agricultural building, was submitted by the landowner to East Cambridgeshire District Council under planning reference 05/00014/AGN. The application was approved but the building has not been completed.</p> <p>The landowner excavated a series of holes in the land adjacent to the building footprint and spread the resulting material across a nearby field. The holes were then back filled with imported inert waste to create a raised area. The WPA took the view that the importation and deposit of waste required planning permission and that a breach of planning control had occurred.</p> <p>Despite repeated attempts to resolve the matter by negotiation the landowner continued to fill the excavated holes with inert waste. An EN requiring the landowner to cease the importation of waste, remove all deposited waste and restore the land to agricultural use was issued on 17 January 2012.</p> <p>The landowner appealed the EN on the following grounds:</p> <p>(b) - that the breach of planning control alleged in the EN has not occurred,</p> <p>(c) - that there has not been a breach of planning control,</p> <p>(d) - that at the time the EN was issued it was too late to take enforcement action against the matters stated in the notice,</p>

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			<p>(e) - that the EN was not properly served on everyone with an interest in the land,</p> <p>(f) - the steps required to comply with the EN are excessive, and lesser steps would overcome the objections,</p> <p>(g) - that the time given to comply with the EN is too short,</p> <p>The appeal was heard by a planning inspector at a Public Inquiry held in Ely. The Inquiry sat for six days in July 2012. The decision notice was issued on 7 September and confirmed the appeal was dismissed and the EN, as corrected and varied by the planning inspector, was upheld. The corrected and varied notice required the landowner to remove all the waste from land to the level of the adjoining field by 7 November 2012 and to return the land to its former condition (i.e. fit for agriculture) by 7 September 2013.</p> <p>Officers from the WPA visited the site on 6 December 2012 to determine whether the land had been reduced to the level of the adjoining field. A topographical survey of the land was undertaken during the visit and a series of trial pits were excavated. The results of the survey and the trial pits confirmed the level of the land had not been reduced in accordance with the requirements of the varied EN.</p> <p>Another site visit was undertaken on 7 September 2013 during which officers established that:</p> <ul style="list-style-type: none"> - all the waste had still not been removed; and - the land had not been ben restored to a condition suitable for agriculture.

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			It appears the landowner may have committed a criminal offence. The WPA is has reviewed the evidence and is considering preparing a prosecution case file. A further site visit was scheduled for 13 August 2014. However, the landowner has written to the WPA and requested a meeting with the Head of Service and a representative from legal. The WPA has agreed to the request and the site visit has been put on hold until the outcome of the meeting is known.
<p>7. RED</p> <p>Breach of Condition 5 of planning permission S/00060/10/CW - Variation of Conditions 2, 7, 8, and 9 of planning permission S/0203/05/CW to extend the period of land filling until 30 September 2011 and be consistent with planning permission S/2073/07/CW; deletion of conditions 4 (approved drawings) and 5 (phasing); and discharge of Conditions 10 (restoration) and 13 (wheel cleaning)</p> <p><u>Condition 5</u></p> <p>Temporary stockpiles shall not exceed 2 metres in height.</p>	Wilbraham Quarry Mill Road Great Wilbraham	02/06/11	<p>Officers visited the site on 24 February and 25 May 2011. During the visits it was again noted that the heights of the stockpiles of waste, which had been deposited on the landfill site, were considerably in excess of the maximum permitted height of 2 meters and were several meters above the height of the surrounding land. The deposited waste was visually intrusive and was hindering the restoration of the landfill site. There was no void space within the red line of planning permission S/0060/10/CW into which the additional waste could be deposited.</p> <p>The landowner was advised on 1 April 2011 that they had until 1 June 2011 to comply with condition 5 or a BCN would be served. As the height of the stockpiles was not reduced by the deadline the WPA had no option but to serve the notice.</p> <p>The landowner had until 30 September 2011 to comply with the notice. At the time of writing the landowner remains in breach of condition 5. However, the WPA is now taking further enforcement action to reduce the height of the waste deposited on the land via the EN referenced under item 5.</p>

Description of Alleged Breach	Location	Date Notice Issued	Comments
<p>8. RED</p> <p>Breach of Condition 12 of planning permission S/00060/10/CW - Variation of Conditions 2, 7, 8, and 9 of planning permission S/0203/05/CW to extend the period of land filling until 30 September 2011 and be consistent with planning permission S/2073/07/CW; deletion of conditions 4 (approved drawings) and 5 (phasing); and discharge of Conditions 10 (restoration) and 13 (wheel cleaning)</p> <p><u>Condition 12</u></p> <p>12) Within 1 month of the date of this permission a scheme for the improvement of vehicle wheel cleaning facilities shall be submitted to and approved in writing by the Waste Planning Authority. The submitted scheme shall make provision for the following matters:</p> <ul style="list-style-type: none"> - The pressure washing of vehicle wheels before they leave the site. - Provision for the supply and storage of adequate volumes of water for use in the cleaning of vehicle wheels. - Provision of a hard surfaced roadway capable of being mechanically swept between the wheel cleaning facility and the public highway. - Arrangements on site to ensure that all HCV vehicles leaving the site pass through the wheel 	<p>Wilbraham Quarry Mill Road Great Wilbraham</p>	<p>02/06/11</p>	<p>Officers visited the site on 24 February and 25 May 2011. During the visits it was noted that the wheel wash was not operational and that it had not been installed in accordance with the requirements of the planning permission.</p> <p>The landowner was advised on 1 April 2011 that they had until 1 June 2011 to comply with condition 12 or a BCN would be served. As the required scheme was not submitted by the deadline the WPA had no option but to serve the notice.</p> <p>The required scheme was not submitted by the 11 July deadline. At the time of writing the landowner remains in breach of condition. However, the approved timetable for compliance with the Enforcement Notice, issued on 1 May 2012 (see item 5), includes a section which requires the landowner to keep Mill Road free of mud and debris whilst the waste is removed.</p>

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<p>cleaning facility before entering the public highway.</p> <ul style="list-style-type: none"> - A maintenance scheme for the wheel cleaning facilities. - The provision for under chassis cleaning. - The approved scheme shall be implemented in full and thereafter maintained in an operational condition for the duration of the landfill development. 			
<p>9. AMBER</p> <p>Without planning permission, the material change of use of the land from agricultural land to a mixed use comprising of agriculture and the importation, deposit, and storage of non-agricultural waste wood materials and processed wood materials.</p>	<p>Dottrell Hall Farm Newmarket Road Fowlmere</p>	<p>24/01/13</p>	<p>A significant quantity of waste timber has been deposited on the land by a third party. It is understood the wood was going to be shredded at the farm before being transported to a power station in the midlands where it would be used as a fuel. The farm buildings are surrounded by a number of residential properties.</p> <p>This unauthorised use of the land is considered to be unsightly and detrimental to the amenities of the area. It is also not necessary for agriculture and is not required for any other lawful use of the land. Shredding the waste wood had the potential to generate very significant levels of noise which would disturb the local residents.</p> <p>The landowners were repeatedly advised that the waste wood should be removed from the land and taken to a suitably permitted waste management facility. As none of the waste was removed and further waste continued to be deposited the WPA had no option but to commence enforcement action.</p> <p>On 24 January 2013 an EN was served on all the parties who</p>

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			<p>have a material interest in the land. The EN was not appealed and took effect on 24 February 2013. The EN requires that:</p> <ul style="list-style-type: none"> - the use of the land for the importation, deposit and any processing of waste wood materials and the storage of any processed or unprocessed waste wood materials ceases. - all the deposited wood waste is removed from the land by 24 May 2013. - the land is returned to its former condition prior to the breach of planning control, namely a state fit for agriculture, by 24 June 2013. <p>No further waste was deposited on the land after the EN took effect but less than one third of the wood was removed before the 24 May deadline. The landowners therefore appeared to have committed a criminal offence. A criminal investigation into the breach was completed and the case file was passed to legal with the recommendation that the landowners were prosecuted for failing to comply with the EN.</p> <p>The landowners appeared at Cambridge Magistrates Court on 17 April 2014 before a district judge and pleaded guilty to failing to comply with the EN. The WPA advised the judge that the estimated cost of removing the waste wood was approximately £97,000 and that as the landowners had failed to remove the waste they had gained a financial benefit of the same value. The WPA also advised the judge that an application would be made to confiscate this benefit under the terms of the Proceeds of Crime Act 2002. The judge took the view that the case was serious and should be referred to Cambridge Crown Court for sentencing, irrespective of the POCA confiscation application.</p>

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			<p>The waste was removed in July 2014 by a contractor acting on behalf of the landowners. The reported cost of removing the waste was £160,000 plus VAT. The land has now been returned to its previous agricultural use. However, the EN will remain in place.</p> <p>The date of the next hearing at Cambridge Crown Court has yet to be confirmed.</p>
<p>10. AMBER</p> <p>Without planning permission, the importation and deposit of waste materials.</p>	<p>Block Fen Drove Chatteris</p>	<p>21/01/03</p>	<p>An EN was served on the landowner on 21 March 2003 requiring that waste ceased to be deposited on the land. Since then waste has been intermittently deposited. However, no further tipping appears to have taken place since May 2010. The site continues to be monitored on an occasional basis.</p>