

Enforcement and Monitoring Update Report 2024

To: Planning Committee

Date: 17th July 2024

From: Head of Planning and Sustainable Growth

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 and formal action undertaken by the County Planning, Minerals and Waste (CPMW) team within the Planning, Growth and Environment service.
- 1.2 The Council's Scheme of Authorisation to Officers authorises officers to issue planning contravention notices, enforcement notices, stop / temporary stop notices and breach of condition notices in both urgent and non-urgent cases, relating to breaches of planning control for mineral/waste development, in Consultation with the Service Director of Legal and Governance, provided that any action taken is reported to the Planning Committee thereafter. The Scheme of Authorisation can be found on the Council's webpages: <https://www.cambridgeshire.gov.uk/asset-library/Place-and-Sustainability-Scheme-of-Authorisation-April-2024.pdf>
- 1.3 The last full Enforcement and Monitoring update report was presented to members was on 20 March 2024. The full update report is usually prepared and presented to Planning Committee on a quarterly basis, unless there are no items on the Committee agenda in which case the Chair can approve postponing the update report until the Committee next convenes. This update report only covers the formal enforcement action taken since the last report, as required by the scheme of delegations and does not detail the wider work of the Enforcement and Monitoring team.
- 1.4 For the purposes of the Town and Country Planning Act 1990 the issue of an Enforcement Notice (EN) or the service of a Breach of Condition Notice (BCN) constitutes taking formal enforcement action.
- 1.5 Sections 2, 3 and 4 of the report summarise the number of formal Notices served and provide details on appeals submitted to the Planning Inspectorate and sections 5 to 6 of the report provide updates on some key enforcement investigations.

2 Notices Served

- 2.1 Since the last update report to members two formal notices have been served:
 - An Enforcement Notice (EN) has been served, in relation to the importation and processing of waste on Land at Mill Road, Fen Drayton and details of the formal action (and appeal) are set out in section 3 of this report.
 - A Breach of Condition Notice (BCN) has been served in relation to the former Allen Skip Hire site at Ten mile bank, Littleport. Further details of the breaches and the formal action are set out in section 4 of this report.

3 Appeals

Mill Road, Fen Drayton

- 3.1 As set out in the previous enforcement update report, an appeal against the council's refusal to issue a certificate of lawfulness relating to waste uses on land at

Mill Road, Fen Drayton was submitted to the Planning Inspectorate in March 2023 and to date, the Inspectorate have failed to provide a start date for the Appeal.

- 3.2 The background to the appeal is that in February 2023, a Certificate of Lawful Development application was refused by the Council relating to an 'existing use for storage of inert building site waste and occasional processing incidental thereto' at Mill Road, Fen Drayton. This was the fourth application for a certificate of lawfulness for waste uses on the land and it was refused because the Council considered that there was insufficient documentary evidence to confirm, upon the balance of probability, that use described had subsisted without material interruption for a period of 10 years. On 23 March 2023, the Planning Inspectorate (PINS) confirmed that a valid appeal had been lodged with them against the refusal to grant the Certificate and the chosen appeal procedure would be written representations. No start date has been given for the appeal.
- 3.3 Following on from the refusal of the Certificate of Lawfulness, a Delegated Enforcement Report seeking authorisation to serve an Enforcement Notice (EN) for the unauthorised material change of use of the land was drafted. Owing to the number of certificate applications that have been submitted, and the complexity of assessing the evidence, officers had delayed the service of such a notice until the result of the appeal. However, noting the length of time that PINS has taken to start the appeal, officers recently reviewed that decision and concluded that formal enforcement action was now necessary and expedient. The service of such a Notice was needed to ensure that the waste uses that were not considered to be immune from enforcement action at the time of the application for a Certificate of Lawfulness did not become so.
- 3.4 On the 5 June 2024 Enforcement Notices were served on the owners and occupiers of the land at Mill Road, Fen Drayton. On 11 June 2024 PINS notified the Council that a valid appeal being lodged in relation to the EN and that the appeal procedure would be written representations. No start date has been given for the appeal. Officers have written to PINS to suggest that the appeals in respect of the refusal to issue the Certificate and the service of the EN are linked and should be determined at the same time.

The Pig Unit, Harthay Farm, Thrapston Road, Ellington

- 3.5 Following an investigation by the Waste Planning Authority (WPA) and the Environment Agency, on 5 October 2023, an EN was served on the owners of the land, in respect of the use of the land for the importation, storage, processing and exportation of inert waste materials, and the deposit of waste in an engineering operation to raise the land, without the necessary planning permission.
- 3.6 On 4 November 2023, PINS confirmed that an appeal had been lodged in respect of the EN, and on 9 January 2024 PINS confirmed that the appeal was valid and would follow the written representations procedure. Officers have submitted all relevant information required in relation to the appeal and await further information from PINS on the appointment of an Inspector and the next steps.

Land behind Corkers Crisps, Willow Farm, Pymoor

- 3.7 Following an extensive investigation, on 16 November 2023 an EN was served on the owners of the land in relation to without planning permission: The importation, depositing, processing and exporting of inert waste materials and the raising of the land with waste.
- 3.8 On the 13 November 2023, the WPA were notified by PINS that an appeal had been lodged in respect of the service of the EN, and on 14 February 2024 PINS confirmed the start date of the appeal and that the written representation procedure would be followed. Officers have submitted all relevant information required in relation to the appeal and await further information from PINS on the appointment of an Inspector and the next steps.

4 Allen Skip Hire, Willow Row, Ten Mile Bank, Ely, Littleport.

- 4.1 In December 2022, the WPA began corresponding with the landowner regarding outstanding breaches of planning condition at the authorised waste site, including condition 8 of planning permission E/3005/05/CW on opening hours.
- 4.2 Officers liaised with the landowner to try to regularise the ongoing breaches and he advised that he was looking to have the site cleared. In April 2023, the WPA received confirmation that the previous manager was no longer working at the site and the site was no longer operational.
- 4.3 The planning permission for waste uses at the site remains extant and from 3 January 2024 Ely Skip Hire started operating a waste business from the site. On 23 January 2024, the WPA received a complaint alleging that the site was operating early in the morning, in breach of the working hours set out in condition 8. On 19 February 2024, the WPA wrote to the owner and operator of the site regarding this breach of planning control and advised that the formal enforcement action was being considered.
- 4.4 The WPA undertook their own early morning monitoring of the site which confirmed the site was operating in breach of condition 8. On 29 February 2024, a letter was sent to the land owner advising him that there was clear evidence confirming that a breach of condition had taken place, that there had been continued complaints about early opening of the site and that the associated noise nuisance (from the use of the site by Ely Skip hire) was affecting neighbouring properties. The landowner was advised that a Breach of Condition Notice would be served to address the breach of condition 8, and also condition 2 of the same permission which restricts the bringing of waste onto the site to vehicles operated by Allen's Skip Hire or successor companies in title.
- 4.5 On the 25 June 2024 a Breach of Condition Notice (BCN) was served on both the owner and the operator of the site, in relation to breaches of planning conditions 2 and 8 of E/3005/05/CW.

5 Moat Farm, Castle Camps

- 5.1 Following an investigation by the WPA, on 4 October 2023, a PCN was served on the owner of the land regarding the importation and deposit of waste at the above site. The creation of a reservoir at the site had also been investigated by Greater Cambridge Shared Planning (GCSP) who refused an application for prior approval (under permitted development) of the reservoir and served an Enforcement Notice. The land owner has lodged an appeal against GCSP's refusal of prior approval with PINS.
- 5.2 As a result of the information provided about the importation of waste in the PCN response, a letter was sent to the landowner informing him that the WPA would await the outcome of the appeal in respect of the development of and prior approval for the reservoirs. However, the WPA advised the landowner that he must remove and lawfully dispose of the waste material stored along the farm track at the site.
- 5.3 A site visit on 25 April 2024 confirmed that waste material was still stored in two areas of the site. It has been decided to await the decision of this appeal, as much of the enforcement action relates to the use of the imported waste material.

6 Five Acres, Staughton Moor, Great Staughton

- 6.1 In early 2021 the WPA began a joint investigation with Huntingdonshire District Council (HDC) planning enforcement regarding the erection of a new building, the extension of a building and the creation of hardstanding at the site. The investigation also considered a query regarding the possible change of use of the site which operates under waste planning permissions for End of Life Vehicle (ELV) / scrapyards from the 1960s.
- 6.2 Following contact with the land owner, on 16 April 2021 a request for pre application advice was made to County Planning, Minerals and Waste for an extension and change of waste uses at the site. Further information and clarification was needed from the landowner and his planning agent, which significantly delayed the provision of the advice.
- 6.3 On 21 December 2021, the pre-application advice response letter confirmed that although ELV uses were authorised at the site, the proposed expansion and processing of additional waste streams would conflict with Policy 4 of the Cambridgeshire and Peterborough Mineral and Waste Local Plan and that the proposed new waste uses could not be supported.
- 6.4 In October 2022, the use of the site for ELV recommenced and a site visit was undertaken to assess compliance with the conditions attached to the planning permissions for the site. Following the visit, the landowner was asked to provide an update on regularising the breaches of planning control on site (the erection of a new building, the extension of a building and the creation of hardstanding at the site).
- 6.5 On 5 February 2023 a further request for pre-application advice was submitted to County Planning relating to the expansion of the car dismantling business on site by

demolishing the existing buildings and infrastructure and replacing them with 10 buildings and staff and visitor car parks, whilst retaining the existing vehicle crushing area. On 24 March 2023, the pre application advice letter was issued, and it confirmed that subject to appropriate information and mitigation being provided, an application for new buildings on the site could be supported by officers.

- 6.6 The landowner and his planning agent continued to provide regular assurances that a planning application was being prepared, and that specialist consultants had been appointed to ensure that all the necessary supporting documents are provided and contain consistent information. The unauthorised development (buildings and hardstanding) constitutes a breach of planning control that remained outstanding. Noting the length of time that the breaches of planning control had been outstanding, a planning contravention notice (PCN) was served in January 2024 to gather formal, legal confirmation of the landowner's intentions and likely timescales for the submission of the application.
- 6.7 The response to the PCN again confirmed that a planning application and supporting technical information and reports were being prepared and but that in the meantime the unauthorised building would be dismantled. A site visit undertaken on 7 February 2024 confirmed that the dismantling of the building had commenced and a further visit on the 14 May 2024 revealed that most of the roofing and wall cladding had been removed but the frame of the building still remained.
- 6.8 At the time of writing this report, no new planning application has been submitted, however the main breach of planning control on site will be resolved with the removal of the building. An application is still expected, and the owners were contacted on 10 May 2024 and again on the 27 June 2024, and reminded of the requirement to submit such an application in a timely manner.