

**ENFORCEMENT UPDATE REPORT
1 April 2016 – 31 July 2016**

To: **Planning Committee**

Date: **1 September 2016**

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 17, Monitoring Performance, of the Local Enforcement Plan for Minerals, Waste and County Development in Cambridgeshire - Version 3 December 2014.
- 1.3 The Enforcement update report is usually prepared and presented to members quarterly. However, the presentation of this report was postponed from the July Planning Committee with the agreement of the Chairman, owing to a full agenda.
- 1.4 This report covers the work of the team in the period 1 April 2016 to 31 July 2016. Paragraphs 2 to 4 of the report summarise the following information:
- Complaints received and their current status;
 - Number of ongoing investigations;
 - New enforcement cases;
 - Ombudsman complaints received.
- 1.5 Paragraph 5 of this report details site monitoring visits undertaken in the first third of the financial year 1 April 2016 to 31 July 2016.
- 1.6 Paragraphs 6 to 11 of this report provide updates on a number of key ongoing Enforcement investigations.

2 COMPLAINTS RECEIVED

- 2.1 21 new complaints have been received between 1 April and 31 July 2016. Table 1 summarises the status of these complaints at the time of writing.

Table 1 - Complaint Status

Complaint Type	Number
Under investigation	6
No breach established	3
Breach established and resolved	2
Breach established. Investigation on-going.	6
Not a county matter	4
Total	21

- 2.2 Of the 21 complaints received between April and July 2016:
- 9 cases have been investigated and closed;

- 12 cases remain open and under investigation;
- 10 pre existing complaints (received before 1 April 2016) also remain under investigation.

3 NOTICES SERVED

- 3.1 No new Enforcement Notices (EN), Breach of Condition Notices (BCN) or Temporary Stop Notices (TSN) have been served between April and July 2016.
- 3.2 One Planning Contravention Notice (PCN) requesting further information on a possible breach of planning control has been served (see paragraph 9), and one Notice requesting information on land ownership was served under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976.

4 OMBUDSMAN COMPLAINTS

- 4.1 No Local Government Ombudsman complaints were received.

5 SITE MONITORING VISITS 1 APRIL 2016 – 31 JULY 2016

- 5.1 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

- 5.2 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 chargeable monitoring visits carried out during the monitoring year is set out in Table 2.

Table 2 – Chargeable Site visits by type 1 April 2016 – 31 July 2016

Site Type	Visits
Landfill	9
Quarries	7
Non chargeable sites	9
Total	25

- 5.3 Chargeable site visits have priority as they generate a small but significant income stream for the Council. The estimated income from chargeable visits for the period 1 April 2016 to 31 July 2016 is £4,412.00.

- 5.4 The Enforcement and Monitoring team is now fully staffed and undertaking regular visits to both chargeable and non chargeable waste and landfill sites to monitor compliance with conditions.

6 ENFORCEMENT CASES

- 6.1 There are currently 5 active enforcement cases where formal enforcement action has been taken and investigation and monitoring is on-going. A summary of each case is set out in Appendix 1.
- 6.2 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.
- 6.3 Appendix 2 contains a list of enforcement investigations where formal action has been taken and the notices remain extant. Unless there are other issues or reports of development on these sites then no further investigation or action will be required.

7 WILBRAHAM LANDFILL

- 7.1 Great Wilbraham quarry is an active chalk quarry which has planning permission to be restored by landfilling with inert waste. The Waste Planning Authority (WPA) issued an Enforcement Notice on 1 May 2012 because the landfill owners and operators, Holeworks (Management) Limited (HML), had exceeded the restoration levels permitted by condition 4 of planning permission S/0060/10/CW by over 20 metres. The notice required that HML ceased the importation of waste and removed a specific amount of waste each month until the approved restoration levels were achieved.
- 7.2 The WPA conducted a criminal investigation into the offence of failing to comply with the Notice and in June 2014 HML and one of the company directors, Daniel Meads, were summonsed to appear before Cambridge Magistrates' Court. The case was adjourned until 17 July 2014 when the judge decided that the alleged offence was so serious that it should be passed to Cambridge Crown Court. A Plea and Case Management Hearing was scheduled at Cambridge Crown Court for 3 October 2014 and then adjourned until 10 November 2014 to allow the defendant's further time to consider their basis of plea.
- 7.3 At the Crown Court hearing on 10 November 2014, HML and Daniel Meads pleaded guilty to failing to comply with the notice. Sentencing was adjourned a number of times. However, on 27 May 2016 HML and Daniel Meads were each fined £1,500.00 and were given 12 months to pay the full Council costs of £23,969.00.
- 7.4 The defendants advised the court that they would undertake the remaining work necessary to fully comply with the notice within 3 to 4 months.
- 7.5 Officers have been visiting the site regularly to check progress and are working with the Environment Agency (EA) to ensure a co-ordinated approach.

8 LAND ADJACENT TO ROYSTON RECYCLING CENTRE

- 8.1 In February 2015 the Environment Agency (EA) advised that approximately 20,000 bales of refuse derived fuel (RDF) waste had been deposited on the above land. A multi-agency approach produced an emergency plan which took account of the sites proximity to the Cambridgeshire and Hertfordshire county border, the fire risk associated with the stored waste and the possible implications that the amount and type of waste had on the presence of an aquifer.
- 8.2 In March and October 2015 the EA issued notices under section 59 of the Environmental Protection Act 1990 requiring the operators, Winters Haulage Limited (WHL), to remove all the RDF waste. The RDF waste was removed from the site by 16 October 2015.
- 8.3 A topographic survey completed on behalf of the landowners, Anglian Water Land Holdings Limited (AW) showed that approximately 13,952 tonnes of what was believed to be waste soils, had been deposited on the land, raising the levels by over a metre across approximately two thirds of the site. A condition survey, commissioned by AW, took place in November 2015 to establish the type of waste deposited and any likely contamination of the land.
- 8.4 Consultants for the landowner and for the occupier have drilled boreholes and undertaken preparatory modelling work which will inform the standard of clean up required by the EA to minimise the risk to groundwater. The EA does not currently have a start date for remediation work on site or an estimated timeframe for its completion. However, the EA has advised that aside from the remediation, their investigation into potential environmental offences at the site is progressing and drawing towards a conclusion.
- 8.5 The WPA is therefore still supporting the EA with their investigations in relation to this site, and further updates will be provided once more information is known.

9 LAND KNOWN AS 'ASGARD', LITTLE DOWNHAM

- 9.1 On 13 July 2015 the County Council received a complaint alleging that the excavation of clay and the importation of waste materials were taking place on this parcel of land. Officers visited the site and confirmed that clay was being extracted from the land and then spread to raise the land levels and that waste materials were being imported onto the land to infill the excavations.
- 9.2 A topographical survey was commissioned to assess the land levels and officers have liaised with the EA and the District Authority to ensure a co-ordinated approach.
- 9.4 The District Council confirmed that planning consents exist for this site and that they do not intend to pursue allegations that an engineering operation to raise the level of the land has taken place.
- 9.5 In April 2016 officers served a Planning Contravention Notice on the landowner to gather further information on the quantity, source and composition of the waste imported onto the land. The information provided by the landowners in their

response to the Notice was that the importation of the waste was covered by the EA waste exemption and their permitted development rights under part 6 of the General Permitted Development Order.

- 9.6 The EA has confirmed that there are exemptions in place for the importation of waste onto the land in question.
- 9.7 Officers met with the EA Enforcement Team leader on 13 July 2016 to discuss the extent of the exemptions and the details on the waste transfer notes provided as part of the PCN responses.
- 9.8 The complainant and the local Member have been informed that the importation of waste onto the land has now ceased.
- 9.9 Officers are now reviewing the amount and type of waste imported onto the land, alongside the EA exemption for the importation of waste, the information provided by the waste operator, the permitted development rights for agriculture and the existing District planning permissions to determine whether they consider that a change of use of the land that would require planning permission has taken place.

10 BLOCK FEN

- 10.1 Aggregate Industries (AI) commenced work to upgrade the first half of Block Fen Drove in accordance with their approved scheme in August 2015. Work has been carried out on Friday, Saturday and Sunday nights only, to minimise disruption to the users of the highway. Works have progressed up to the Tarmac quarry access.
- 10.2 In February 2016 a meeting took place with the mineral and waste operators at Block Fen to discuss the upgrade of the second half of Block Fen Drove. A proposed scheme for the second half of the Drove upgrade was presented by agents on behalf of Mick George Ltd (MGL) at this meeting. The scheme was to follow on from the works already undertaken by AI on the first section and it relied on the understanding that all the operators contributed to its cost, as they felt the proposal went beyond what was required for MGL's planning permissions alone. Additional information has been submitted to the Highway Authority and discussions with the operators are still being undertaken by officers.
- 10.3 Since February's meeting, officers have been assessing the highway scheme submitted by MGL on behalf of the operators, and held a meeting with the Highway Authority to discuss initial thoughts. As a result of this meeting officers provided initial feedback on the proposed scheme but stated that a formal Section 278 (S278) agreement needs to be sought from the Highway Authority. On the basis of this advice MGL has confirmed that the scheme is ready to submit to the Highway Authority as a formal S278 agreement application. However, as the application needs to be accompanied by 50% of the application fee (which equates to £14,025 of the full £28,050 fee) MGL has asked that the Council considers waiving this whilst sign up from the other operators is obtained – especially as MGL has paid for the technical work to date with no other input from the other operators. Officers have clarified that it is not possible to waive the fee and have instead sent an e-mail to all the operators asking for the fee to be split

four ways. This commitment has been sought by officers ahead of the next meeting currently planned for mid-September 2016. When this meeting takes place it will be attended by both the Chairman and Vice Chair of Planning Committee and Members will therefore be updated on the progress of these discussions in due course.

11 LAND AT WARBOYS AIRFIELD INDUSTRIAL ESTATE

- 11.1 The land at Warboys Airfield Industrial Estate has planning permission for the storage and processing of waste electrical and electronic equipment (WEEE) with a condition restricting the location and amount of waste stored outside the buildings. However, following a visit by officers in January 2015 we were informed that the waste operator had been put into administration and several thousand tonnes of cathode ray tube (CRT) waste needed to be removed from the land, raising concerns that the CRT waste could be abandoned.
- 11.2 The landowner took over responsibility for the removal of the waste but the rate had been unacceptably slow and so a BCN was served on 2 October 2015 requiring removal of all of the remaining waste by 1 November 2015.
- 11.3 The notice was not complied with. However, the EA advised that the removal of waste from the site had been hampered by the rate that the CRT waste could be taken by the specialist permitted waste site.
- 11.4 Officers have visited the site following discussions with the EA in March, May, June, July and August 2016 to monitor progress with the removal of the outstanding waste and have noted that significant progress has been made. Officers are also liaising with Huntingdonshire District Council regarding the use of some of the units on site from waste storage and processing to District planning uses.
- 11.5 Officers will continue to monitor the site and update members on progress towards full compliance with the BCN.

APPENDIX 1 - ENFORCEMENT CASES WHERE ACTION HAS BEEN TAKEN AND MONITORING IS ONGOING

KEY: RED = HIGH PRIORITY AMBER = MEDIUM PRIORITY GREEN = LOW PRIORITY

Description of Alleged Breach	Location	Notice Issued	Comments
<p>1. 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>	<p>Mepal Quarry Block Fen Drove Mepal</p>	<p>BCN 06/01/14</p>	<p>Planning permission F/02017/08/CM and E/03008/08/CM permit an extension to Mepal Quarry.</p> <p>A BCN was served on the site operator for failing to implement the approved scheme to improve the public highway</p> <p>At the July 2014 meeting Planning Committee authorised officers to employ Counsel to explore the courses of action available to the Authority to secure compliance with the planning conditions.</p> <p>Officers are working with the operators to move the implementation of the scheme forward.</p> <p>See Paragraph 10 in the main body of the report for a further update.</p>
<p>2. 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</p>	<p>Witcham Meadlands Quarry Block Fen Drove Mepal</p>	<p>BCN 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. A BCN was served 16 December 2013 requiring the submission of a scheme for the phased improvement of Block Fen Drove, from its junction with the A142 to its junction with the private haul road, within 30 days.</p> <p>In April 2014 the operator submitted a scheme which was incomplete and was refused. A revised scheme was submitted in November 2014 and was accepted in part but it did not relate to all of the relevant parts of Block Fen Drove. A scheme that addressed the remaining part of Block Fen Drove was therefore requested at the time.</p>

Description of Alleged Breach	Location	Notice Issued	Comments
programme of implementation and shall be fully completed within 2 years of the date of this permission.			See Paragraph 10 in the main body of the report for a further update on the draft Section 278 road agreement produced by the operator.
<p>3. 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	BCN 02/06/11	<p>Officers visited the site in May 2011 and noted that the heights of the stockpiles of waste deposited on the landfill site were well in excess of the maximum permitted height of 2 metres. The height of the deposited waste was several metres above the height of the surrounding land and was therefore visually intrusive and hindering the restoration of the landfill site.</p> <p>The landowner was given until 1 June 2011 to reduce the height of the stockpiles, this deadline was not met and the WPA served a BCN with the compliance date of 30 September 2011.</p> <p>At the time of writing, the landowner remains in breach of condition 5. However, the successful prosecution for failing to comply with the EN (see paragraph 7) supersedes this notice in addressing this issue.</p>
<p>4. AMBER</p> <p>Failure to comply with condition 8 of planning permission F/2019/02/CW</p> <p><u>Condition 8 – Environmental Protection</u></p> <p>No processing or storage of waste including plastic materials whether in a raw or processed form shall be permitted at the site unless within the confines of the approved buildings shown as Unit 1 and Unit 2 on the approved Site layout Plan Drawing Ref 261/03A.</p>	Land off Bridge Lane Wimblington March	BCN 13/02/2015	<p>A BCN was served on each of the two operators (operating under one planning permission) in response to complaints alleging that waste was being stored outside contrary to condition 8. The notices required that the storage of waste outside ceased by 27 March 2015.</p> <p>Both operators have now submitted applications to address the issue of outside storage of waste and these applications are currently being considered by the WPA and are likely to be presented to Planning Committee in October 2016 as one planning application.</p>

Description of Alleged Breach	Location	Notice Issued	Comments
<p>5. GREEN</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.</p>	<p>Wilbraham Quarry Mill Road Great Wilbraham</p>	<p>BCN 02/06/11</p>	<p>Officers visited the site in 2011 and noted that the wheel wash had not been installed in accordance with the planning condition.</p> <p>The landowner was given until 1 June 2011 to submit a scheme, this deadline was not met and so the WPA served a BCN. At the time of writing the landowner remains in breach of this condition. However, the steps for compliance with the EN issued on 1 May 2012 include a requirement to keep Mill Road free of mud and debris.</p> <p>During recent visits to the site, officers have not witnessed any vehicles leaving the site and noted that there was no mud or debris on the road.</p>

APPENDIX 2 – EXTANT NOTICES

This appendix contains information on formal notices which have been served and remain in force.

Description of Breach	Location	Notice Issued	Current position
Failure to comply with condition 6 of planning permission F/02001/13/CW regarding hours of operation.	Land at Yard 1, 35 Benwick Road Whittlesey	BCN 19/08/15	Since the Breach of Condition Notice (BCN) was served on 19 August 2015 in relation to Condition 6 of planning permission F/02001/13/CW we have undertaken out of hours site visits and have not found the operator to be working outside of hours.
Failure to comply with condition 7 of planning permission S/01556/10/CW regarding surfacing of the site.	Long Acre Farm Fen Road Chesterton Cambridge	BCN 08/10/13	A joint visit with the EA on 26 May 2015 confirmed that the majority of the waste has now been removed. Some hardcore and soils remain on site but they do not represent a pollution risk.
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.	First Drove Little Downham Ely	EN 17/01/12	<p>An EN for unauthorised change of use was served on 17 January 2012. The EN was upheld but varied at appeal. The amended notice required the removal all the waste from land to the level of the adjoining field and to return the land to its former condition.</p> <p>Topographical surveys of the land confirmed that the level of the land had not been reduced and the EN had not been complied with. However, Counsel advised that the case did not meet the public interest test for a prosecution. Therefore, although the enforcement case remains open and subject to review, no further action is proposed at this time.</p>
Without planning permission, the importation and deposit of waste materials.	Block Fen Drove Chatteris	EN 21/01/03	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.