

DERBYSHIRE COUNTY COUNCIL
REGULATORY – PLANNING COMMITTEE

7 September 2015

Report of the Strategic Director – Economy, Transport and Environment

Item for the Committee's Information

2 CURRENT ENFORCEMENT ACTION

1. Enforcement Action

Site	Breach	Action Taken	Comment
Vital Earth Compost Plant, Ashbourne. 3.2.85	Unauthorised use of land for storage and processing of composted material.	Enforcement Notice issued 15 September 2010, requiring removal of all material and plant/machinery by 1 September 2012 and full remediation of land by December 2012, as varied on appeal.	Under the terms of the notice, final restoration works to allow the resumption of agricultural operations were required to be complete by December 2012. Weather conditions have not allowed this and final restoration will be carried out when weather and ground conditions allow. Site inspection carried out 22 May 2013. Final clearance and cultivation to be carried out. Inspection to be undertaken to monitor for compliance.
Waterswallows, Buxton. 1.1235.1	Non-compliance with Condition 2 (Scheme of Restoration) of permission HPK/029807.	Enforcement Notice issued on 4 November 2008 required the submission of a restoration scheme by 9 April 2009.	Enforcement Notice was issued on 4 November 2008 for the removal of unauthorised stored waste, which was eventually removed following a successful prosecution of the former operator in April 2010. The Notice required the submission of a restoration scheme which, in effect, would deal with the removal of the concrete wall and floor of the former waste bay. On 24 October 2014, a planning permission (HPK/2014/0440) was

			issued by High Peak Borough Council for the re-development of that part of the site for a 14mw flexible electricity generation Short Term Operational Reserve (STOR) proposal. If that proposal goes ahead then the works required to put the land into a usable state for that development would obviate the need for a restoration scheme to be submitted. Discussions with the landowner's agent are continuing and confirmation that the STOR proposal is to go ahead is awaited.
Rotherham Road, Bolsover Moor. 5.1162	Non-compliance with conditions 2 and 16 of planning permission CW5/1104/157.	Enforcement Notice issued 20 June 2008. The notice required the completion of the restoration of the site.	The Notice has been substantially complied with. A small amount of planting is outstanding which the operator has been requested to complete. Site inspection carried out March 2013. To consider expediency of seeking full compliance.
BM Tech, Foston. 9.1564.4	Non-compliance with conditions 2 and 3 of planning permission CW9/1110/115.	Two Breach of Condition Notices served in 2012.	Waste plastic has been imported, stored and processed in the open. Condition 2 - Breach of Condition Notice set 9 April 2012 for cessation of importation and depositing of waste outside. Condition 3 - Breach of Condition Notice set 1 May 2012 for cessation of use of processing plant outside. Building required for operation under permission has been part constructed. Some improvements noted on-site inspections in 2014, however, breaches in condition remain. A Section 73 Application was received on 20 May 2014 to vary conditions 2,3,6,11,13 and 20, however, that has now been withdrawn. Meetings have previously been held with Planning officers on 9 June 2014 and 6 February 2015. On 6 March 2015, a site meeting involving BM Tech's planning advisor was held to discuss options and set out a timescale for moving the site towards compliance. Works have recently taken place within the building to improve the secondary processing and drying elements of the process. Progress is now being made with clean processed plastic being sold and removed from site, along with soil which is removed during the process and stockpiled outside. Confidence is growing amongst those involved that the outside piles of raw plastic will start to reduce during April 2015 with the site moving towards compliance during the Summer. Officer monitoring continuing with expected compliance late summer.

Trent Farm, Long Eaton. 8.185.11	Non-compliance with Condition 34 of planning permission CM8/0307/184. Unauthorised trafficking over top soil and subsoil.	Breach of Condition Notice served 21 March 2012.	Monitoring on-going. A Section 73 Application in respect of the permission, first received in March 2012, remains to be determined. All conditions under permission including Condition 34 potentially subject to review under determination of a Section 73 Application.
Rainbow Waste, Swadlincote.	Storage of waste outside the building.	Breach of Condition Notice served on 17 November 2012 for cessation of storage and removal of external waste and concrete "A" frames by 17 December 2012.	Site inspection on 18 December 2012 identified that storage of waste materials had been removed from the rear and sides of the building in compliance with the Breach of Condition. Site inspection on 15 May 2014 confirmed breach in condition remains in the form of on-going waste operations to the front of the building. Legal advice currently being considered. Joint site visit with the Environment Agency arranged for May 2015. No breaches, identified planting taking well at site fence boundary.
MXG, Mansfield Road, Corbriggs	Unauthorised storage and processing of inert waste.	Enforcement Notice issued 27 June 2013 requiring removal of all waste material before 1 August 2014.	On 28 July 2014, an agent on behalf of the company responded to the Council with a request in writing for an extension in the time for compliance. Strategy for further enforcement was reported to the Committee meeting on 6 October 2014. Topographical survey undertaken 15 October 2014. Options include variation under Section 173A of the Town and Country Planning Act 1990 to extend timescales for requirements under Enforcement Notice. The survey clarified scale of waste material subject to the notice. The agent for MXG disputed its accuracy, but did not respond to officer requests to him to provide further information to assist them (the final time limit allowed for this is 9 January 2015). It is anticipated that by 1 March 2015 the Strategic Director will have selected and taken the next action within delegated powers towards achieving the full removal. In consultation with the Director of Legal Services, it has been considered expedient to provide a further reasonable opportunity for the operator to achieve the removal of waste and other requirements by varying the existing enforcement

			notice. The variation will extend the period for compliance for the processing and removal of waste by 10 months. A Notice of Relaxation of the requirements of an Enforcement Notice was issued on 23 March 2015. This notice extends the period of compliance for the sorting, crushing, screening and removal of waste to 31 January 2016, and the seeding of the exposed perimeter banks by 31 July 2016. Officers monitoring site.
Stancliffe Quarry. 3.696R	Condition 43 relating to stability of land adjacent to quarry face. Non – compliance relating to requirement to provide appropriate remediation scheme for stabilisation.	Breach of Condition Notice served 9 October 2013 requiring the submission of a relevant scheme by end of January 2014 (extended date).	No scheme submitted to date. Operator company has been warned that further action may follow without prior notice. The Director of Legal Services is expecting further communication from the solicitor on behalf of company directors. Draft method statement for quarry stabilisation at top of face being considered by operator's solicitors and owner of Stancliffe Hall. No evidence of further significant slippage at last site monitoring visit.
CP Environmental Ltd M1 Commerce Park. 2.660	Unauthorised Storage of waste outside the sorting building.	Breach of Condition Notice issued 4 June 2014 requiring removal of waste material outside building by 1 September 2014.	The Breach of Condition Notice, issued on 4 June 2014, has been complied with. Planning application CW2/0215/144 to ' <i>demolish the existing building and construct a new building and external material handling bays for use as a waste transfer station</i> ' is under consideration. The existing building has been demolished and part of the proposed new building has been constructed. While such development is in breach of planning control, it is not proposed to consider formal action pending the determination of the application currently under consideration. Application granted planning permission. Breaches of planning control evident. Discussions taking place with operator to remedy breaches. Site being monitored by officers.

2. Other sites (where formal enforcement action has not been taken to date)

Site	Breach	Action Taken	Comment
Eckington Drift Mine Rotherside Road, Eckington 4.478.18	<p>Unauthorised development (schemes not submitted and approved in advance as required by conditions 9, 20, 27, 33, 39, 40, 48 and 54).</p> <p>Condition 1: layout of site not in accordance with approved details</p> <p>Condition 24: unnecessary stocking of Coal in yard Area</p> <p>Condition 41: discharge of contaminated water from yard</p>	Communications with operator and with complainant	<p>Following the grant of permission on 25 March 2013, to extend the life of the permission to 2023, schemes relating to visual improvement, traffic management, noise management, dust management, mine water drainage, contamination and flood mitigation, soil storage survey, and mining and subsidence programme were to have been submitted within 2 and 3 months of the date of the grant of permission. Although operations commenced in late 2013, there had been no submission of various schemes which were required by conditions under the permission to be submitted and approved in advance of commencement.</p> <p>On 22 January 2014, a complaint was received regarding traffic management, dust issues and hours of operation.</p> <p>Reminders were sent to the company on 24 January 2014 requesting submission of the outstanding schemes.</p> <p>At a site inspection on 12 February 2014, several issues were raised with the operator including unapproved changes to the yard layout, contaminated drainage issues and the unnecessary stocking of coal on the yard.</p> <p>Submissions for schemes were made on 31 March 2014, but were found insufficient; further details were requested on 14 April 2014. In subsequent communication with the operators, they referred to encountering financial difficulties preventing them from producing the further details required under the permission.</p> <p>Due to the expiry of a Coal Licence in June 2014, the mine is currently not operational and finances are not available to address many of the breaches.</p> <p>The operator has promised that the yard layout is to be amended so as to remove bays which obstruct the entrance of HGVs and that the coal stocks on the yard area are to be removed by the end of August 2014.</p> <p>A Passing inspection, made on 28 August 2014, saw the site was</p>

			<p>inactive and a quantity of stocks remained on site. Correspondence (12 September 2014) with the operator has confirmed that a new owner has been found for the mine and that funds should become available shortly to start to address the issues and that a schedule is to be provided.</p> <p>Expediency of formal enforcement action being considered by officers. Further information in support of the schemes submitted is under consideration by officers. Section 73 planning application submitted regarding some of the conditions. Officers monitoring.</p>
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3. Items featuring in previous report where no further action is required at this time

Site	Breach	Action Taken	Comment
Hayfield Quarry 1.405.R	Working beyond permitted working areas.	Enforcement Notice issued December 2008 against working beyond permitted working areas.	There are long-standing concerns relating to the quarry which the conditions attached to the current planning permission have sought to limit and mitigate. Although previous site monitoring identified a breach of the Enforcement Notice, there is little, if any, activity currently associated with the quarry and no evidence of any recent working beyond permitted areas. There has been a change in ownership of the quarry since service of the notice. The new owner has cooperated by making condition compliance submissions to Derbyshire County Council, which have been approved. Site being monitored by Enforcement officers. Section 73 planning application submitted to vary conditions of planning permission. Planning permission approved and issued.

Mike Ashworth
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