

Agenda Item No. 3.5

DERBYSHIRE COUNTY COUNCIL

REGULATORY – PLANNING COMMITTEE

9 February 2015

Report of the Strategic Director – Economy, Transport and Environment

Item for the Committee's Information

5 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. Agent for the new owners of site has been requested to provide the scheme. A planning application (HPK/2014/0440) has recently been submitted to 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. The Planning Service has been consulted and has concluded that, if the Borough Council grants permission with such conditions as it considers appropriate to ensure that the land is in a usable state for the development, then that would obviate the need for a restoration scheme to be submitted.
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 has been received on 20 May 2014 to vary conditions 2,3,6,11,13 and 20. Meeting held with Planning Officer and operator on 9 June 2014 to discuss options.
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	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

			external waste and concrete "A" frames by 17 December 2012.	currently being considered.
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.	<p>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.</p> <p>Since there was a failure in compliance with the Enforcement Notice from 1 August 2014, an inspection was carried out to note the condition of the site on that day.</p> <p>Strategy for further enforcement was reported to the Committee meeting on 6 October 2014. Topographical survey undertaken 15 October 2014.</p> <p>Strategy for further enforcement was reported to the Committee meeting on 6 October 2014. Options include variation under Section 173A of the Town and Country Planning Act 1990 to extend timescales for requirements under Enforcement Notice.</p> <p>The survey clarified scale of waste material subject to the notice.</p> <p>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.</p>
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).	<p>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.</p>
CP Environmental	Unauthorised Storage of waste outside the		Breach of Condition Notice issued 4 June	Site inspection carried out on 18 July 2014: progress being made with the removal of the waste as required.

Ltd M1 Commerce Park. 2.660	sorting building.	2014 requiring removal of waste material outside building by 1 September 2014.	Site inspection carried out on 26 September. With the exception of approximately 100 tonnes, all waste material stockpiled outside the building had been removed. The operator has since clarified that all waste material has been removed. A planning application to demolish the existing building and construct a new building for waste operations, together with external storage bays, has been submitted (October 2014).
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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	Unauthorised development (schemes not submitted and approved in advance as required by conditions 9, 20, 27, 33, 39, 40, 48 and 54).	Communications with operator and with complainant	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. On 22 January 2014, a complaint was received regarding traffic management, dust issues and hours of operation. Reminders were sent to the company on 24 January 2014 requesting submission of the outstanding schemes. 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. 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
	Condition 1: layout of site not in accordance with approved details Condition 24: unnecessary stocking of Coal in yard Area Condition 41: discharge of contaminated water from yard		

			<p>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 inactive and a quantity of stocks remained on site.</p> <p>Recent 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.</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.
Land at Coach Road, Golden	Mining operation	Temporary Stop Notice served on	Temporary Stop Notice in force until 8 November 2013. Site visit undertaken on 21 May 2014 following complaints of vehicles

Valley, Riddings		11 October 2013.	entering and leaving the site late at night. No County Council breaches identified at this visit. For Members information - Appeal by Informal Hearing was held on 21 and 22 October 2014 regarding refusal of planning permission for and Equestrian Centre and against enforcement notices served by Amber Valley Borough Council. The Inspectors decision has been received and the appeal has been allowed. The Decision Letter includes conditions relating to the protected trees along Coach Road.
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Mike Ashworth

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