



20 May 2014

Agenda Item:9

**REPORT OF CORPORATE DIRECTOR POLICY, PLANNING AND
CORPORATE SERVICES**

**ANNUAL REPORT ON PLANNING MONITORING AND ENFORCEMENT
WORK – 1 APRIL 2013 TO 31 MARCH 2014**

Purpose of Report

1. To update Members on the monitoring and enforcement work carried out during the financial year 2013/14 and to provide updates regarding notices served.

Enforcement and Monitoring Work 1 April 2013 – 31 March 2014

2. Details of the enforcement and monitoring work for the report period are set out in Appendix 1 and details of notices served in Appendix 2. The number of inspections carried out during the report period (previous years figures in brackets) was **436** (490), of which **423** (459) related to 'County Matter' development (minerals and waste) and **13** (31) were related to County Council Development sites. Of the County Matter development monitoring visits **159** (167) were undertaken to mineral and waste sites and charged under the Town and Country Planning (Fees for Applications and Deemed Applications) (Amendment) (England) Regulations 2006. The fees generated from these inspections was **£52,462**. This compares with figures of £49,765 for 2012/13, £48,118 for 2011/12 and £47,328 for 2010/11. It should be noted that the nationally set fee for site inspections was increased from £288 to £331 per inspection for active sites part way through 2012.
3. The drop in the overall number of inspections reflects the reduction in capacity arising from the loss of a post within the monitoring and enforcement team and also monitoring staff being directed to specific problem sites and also assisting with planning applications, amendments and submissions made under condition to ensure that statutory timescales are met.
3. In the last year a total of **73** complaints were received alleging breaches of planning control. **99%** (72) of these were acknowledged within 3 working days, in line with the local performance indicator of 95%. **96%** (70) of these complaints were the subject of a site inspection within 3 days (where necessary), in line with the local indicator of 90% and **77%** (56) of complainants were notified of progress relating to their complaints within 15 working days. Of the **73** complaints received during the report period **66** related to County Matter

development and **7** related to the County Council's own development. A breakdown of the distribution of complaints by District is set out in Appendix 1. The elevated number of complaints in Bassetlaw stems from Nottinghamshire Recycling Limited's operation of a materials recycling facility in Worksop and also, in part due to the commencement of a coal bed methane exploratory borehole in Lound. The increase in number of complaints within Rushcliffe stem from complaints relating to the operation of the Johnsons Aggregates Recycling facility at Bunny. The issues relating to these sites are detailed below.

Notices Served During Report Period 1 April 2012 – 31 March 2014

4. Details of the various statutory notices served during the report period are set out in the appendices. In summary **four** enforcement notices, **two** breach of condition notices and **eight** Planning Contravention Notices were served during the report period. Details of the enforcement and breach of condition notices are detailed below and a resume of all notices is contained in Appendix 2.

Enforcement Notices

Worksop Recycling Centre, Shireoaks Road, Worksop

5. The Worksop recycling centre is operated by Nottinghamshire Recycling Limited (NRL). The site operates under a number of inter-linked permissions but the primary control is under a planning permission granted in 2006 which permits the erection of offices and buildings and the creation of the waste transfer/recycling facility at the site. A string of complaints have been received about the development and its impacts since 2012 and these relate to odours, dust, noise, hours of operation, smoke and stockpile heights. In April 2013 a breach of condition notice was served on NRL for breaching its permitted operational hours (further details can be found under the review of breach of condition notices below).
6. Complaints continued to be made in 2013 and these were now focused on odours, flies, smoke and dust. Complaints relating to smoke were traced to a diesel generator on site which was not subject to controls under planning. Investigations confirmed that the NRL site was the likely source of the fly, odour and dust issues and this was attributed to the external storage and processing of a considerable amount of non-inert waste materials outside the main transfer building in breach of the permitted site layout. The problem was also potentially related to the types of material brought to the main transfer building.
7. These issues were raised with NRL and despite some progress being made to remedy these issues the problems did not improve and complaints continued to be made. As a result it was considered expedient to serve an enforcement notice requiring the removal of the externally stored non-inert waste, the relocation of the processing operations to that shown on the approved plans, the introduction of dust and litter control measures and also whilst this was ongoing the provision of odour management equipment. An enforcement notice was issued on 23 July 2013 and served on NRL.

8. In early August there was a major fire on the site within the main waste transfer building which resulted in significant quantities of smoke being spread over Worksop for a sustained period. The fire was eventually extinguished, but the building and much of the processing plant and machinery was badly damaged. This had a knock on effect on NRL's ongoing operations.
9. A few weeks later a further major fire occurred at the site, this time in the non-inert heaps outside the building. This fire was deep seated in the externally stored waste and took well in excess of a week to bring under control and eventually extinguish with smoke again spreading over much of Worksop.
10. The externally stored waste was not removed within the time permitted in the enforcement notice. A request was made by NRL for an extension of time to complete these works citing the fires and associated impacts as the cause for the delay. An extension of time was granted from the original deadline of 27 January 2014 until 27 May 2014.
11. More recently there has been a further fire within the building at the rear of the site which was erected to house a bioflame plant (which was never built) and this has resulted in this building being partially demolished. A further fire also occurred in the front building, but was smaller and brought under control.
12. The requirements of the enforcement notice have not been met to date and following the recent fires the Environment Agency suspended the site's waste permit which has effectively stopped NRL trading. It would appear that given the events to date that it is extremely unlikely that the enforcement notice will be complied with within the permitted timescales and the future of NRL in financial terms is also in the balance bringing further concerns to securing compliance with the notice.
13. Officers will continue to liaise with NRL, its advisors and the Environment Agency to seek to secure compliance with the enforcement notice as quickly as is possible and also to control any off site impacts pending compliance with the notice. It is intended to update Members on progress in subsequent reports.

Sandy Lane Waste Transfer Facility, Sandy Lane, Worksop

14. The Sandy Lane waste transfer facility was operated by Worksop Waste Services Limited. The site is effectively split into two separate halves, the western half contains a materials recycling building with internal processing plant and associated external storage and offices and the eastern half an inert waste transfer operation. The two halves are subject to independent planning permissions.
15. There have been issues with the operation of the site for some time, but some progress was made to bring matters back into compliance. However, through 2013 it appears that the operator of the site had been importing more waste than it could reasonably handle at the facility and as a result excess material was stockpiled on both sites and the efficient operation of the site had been severely restricted and various conditions breached. The site has generated complaints in terms of visual impact and dust.

16. The site continued to operate, but no steps were taken to address the ongoing breaches of planning control. As a result two enforcement notices were issued on 5 November 2013 requiring compliance with various conditions attached to each of the two planning permissions. That relating to the materials recycling site required the deposit of waste materials outside the building to cease, the processing of material outside the building to cease, the storage of waste materials outside the building to cease, for waste to be stored in designated bays and for measures to be employed to control litter and dust. The second notice related to the inert recycling area and required the import of non-inert waste to this land to cease, for all non-inert waste to be removed, for waste to be stored in the approved area, for waste to be removed from adjacent to the railway boundary, for various surface and drainage features to be provided, for the construction and seeding of a screening bund and reduction of the stockpile heights.
17. Since the service of the enforcement notices it has been confirmed that Worksop Waste Services Limited has gone into administration. However, the assets of the company have been bought back by those previously involved in the operation of the site and this is now operating under the new name of Worksop Waste Limited. Negotiations have been ongoing with the new company (same individuals) to secure compliance with the enforcement notices. Whilst some progress has been made the primary requirements of the notices have not been met within the specified timescales.
18. A decision will now need to be made on how to proceed with this development and secure compliance with the enforcement notices. Progress will be reported to Members in subsequent reports.

Land at Henning Lane, Sutton in Ashfield

19. Complaints were received about the unauthorised use of land situated off Henning Lane, Sutton in Ashfield for the importation, storage, processing, breaking, treatment and dismantling of vehicles and vehicle parts. The land lies immediately adjacent to a public right of way off an unsurfaced track which then links to the drive running past Mapplewells School. The land is owned by the County Council, but is included within the land which is leased to FCC Environment Limited as part of the nearby closed Sutton Landfill site. The activity has been carried out by an individual without the approval of either the Council as landowner or FCC as holder of the lease for the land. It is understood that this activity has been ongoing for a number of years and has increased in scale over the last 2 years.
20. This breach of planning control was raised with Mr Marriott and assurances were given that the vehicles and their parts would be removed within an agreed timescale. The land was not cleared within the agreed timescale and as such an enforcement notice was served in December 2013 requiring the importation of vehicles and vehicle parts to cease, for the treatment and dismantling of the vehicles to cease and for the vehicles and the associated vehicle parts to be cleared from the land.

21. The enforcement notice has taken effect and to date no evidence of further vehicles having been brought to the site has been collected. The period to stop dismantling and clear the site has not yet expired and progress on this matter will be reported in subsequent reports.

Breach of Condition Notices

Workshop Recycling Centre, Shireoaks Road, Worksop

22. This is the same site as that operated by Nottinghamshire Recycling Limited which was subject to the enforcement notice referred to above. Complaints were received alleging that the site was operating outside the permitted hours. These matters were investigated and some evidence was collected which supported the allegations and the breach of planning control. As a consequence these matters were brought to the attention of the operator both on site and in correspondence and warnings given that the development should be carried out within the permitted hours or enforcement action may be commenced. The company advised that steps had been introduced to address this issue.
23. Further complaints were received alleging that the use of the site outside the permitted hours had resumed, particularly at night. Investigations confirmed these subsequent allegations to be correct and that the site was operating well beyond its permitted hours. In light of the previous warnings not being heeded, it was considered expedient to serve a breach of condition notice requiring the permitted hours to be complied with.
24. The notice has taken effect. The operations were reviewed out of hours and the permitted hours appear to be being complied with. Equally, no further complaints alleging out of hours operations at the site have been received. It is hoped that the above course of action has successfully addressed this issue and that further action will not be necessary in relation to this particular issue.

Materials Recycling Facility, Loughborough Road, Bunny

25. The site is operated by Johnson Aggregates Limited. The operations at the site have changed over the past few years from primarily recycling construction and demolition waste to a focus on recycling incinerator bottom ash (IBA). During the report period a number of complaints were received about the operation of the site including issues relating to odours, dust, stockpile heights, noise and hours. These issues have been brought to the attention of the operator and some changes to working practices have been made to tackle these issues, although the issues are not yet fully resolved and remain under review.
26. The site operates under a number of interlinked planning permissions but the storage of raw feed IBA in a designated bay is subject to a separate permission which limits the stockpile heights of IBA to 4m, or the top of the retaining wall. Over the Christmas and New Year period the site continued to receive IBA, but did not continue processing which resulted in the stockpile heights exceeding those permitted by 250% and thereby increasing the potential for adverse impacts. In light of the ongoing concerns about the operation of the site, and in particular the IBA element of the process and previous warnings about stockpile

heights, it was considered expedient to serve a breach of condition notice requiring the stockpile height to be reduced to that permitted and thereafter kept at or below this level.

27. The operator of the site had already completed remedial works to reduce the stockpile heights before the notice took effect and has advised that they have had a complete review of procedures to ensure that there is no recurrence of this issue. Members will also recall approving an application at February's Committee meeting to temporarily allow use of the adjoining land and a relaxation of the operating hours to address the issue of over-stocked IBA.

UPDATE ON PREVIOUS ENFORCEMENT NOTICES

28. Various enforcement and breach of condition notices which were served prior to the current period remain active and the following outlines the current status of these notices where not concluded at the time of the last report.

Former Rufford Landfill Site, Rufford Colliery Tipping Complex, Rainworth

29. The former Rufford Tip site was leased by the County Council from the Coal Authority and operated under a sub-lease by Mansfield Skip Limited. The importation of waste ceased at the end of 1994 and Mansfield Skip Ltd went into liquidation shortly afterwards. Various options to re-open the tip were subsequently explored. However, after a period of time and in the absence of progress an alternative restoration scheme was requested from the County Council in light of its interest in the land. After much discussion an alternative restoration scheme was submitted in 2002 and this was approved in March 2003.
30. The implementation of the alternative scheme was delayed whilst alternative development proposals for the Rufford Colliery site generally were explored. In 2012 this land was sold on to UK Coal Mining Limited, who also owned all the surrounding land. The land is now owned by Harworth Estates. As no progress had been made, and to ensure that the capability to enforce the restoration of the land was not lost an enforcement notice was served in February 2013 requiring the approved alternative scheme to be implemented within two years.
31. During the summer of 2013 the former landfill site was regraded and sand replaced to complete the restoration of the site. The site has now been seeded down and the requirements of the enforcement notice have been met.

Land at Twitch Farm, Hollowdyke Lane, Balderton

32. The enforcement notices relating to the above land were upheld on appeal in 2009 and required the use of the land as a scrapyards to cease. The requirements of the enforcement notice were not met within the compliance period. This matter was being pursued with the company owning the land but they went into administration in 2011. The land was subsequently bought from the liquidators by another company, Jojo Properties in June 2012. Contact was made with the new owner who has given a commitment to comply with the

requirements of the enforcement notice. Whilst some progress has been made to clear the site, including the removal of the majority of the complete vehicles, the notice has not yet been complied with. More recently complaints have been received alleging that the site is being brought back into use. Efforts have again been made to contact the owner but they have not responded to any correspondence. In light of the lack of response and progress and the more recent concerns a decision will need to be made shortly on how best to take matters forward to finally secure compliance with the enforcement notice.

Land at Sunnyside, Barnby Road, Balderton, Newark

33. The site has a long history, but in summary an enforcement notice was upheld on appeal and not complied with. The landowner was successfully prosecuted for failing to comply with the enforcement notice and thereafter gave a commitment to comply with the steps specified in the enforcement notice. This was done. Further complaints were received alleging that the use had recommenced and an inspection of the site with a warrant confirmed this. The site was subsequently cleared again. However, recently further concerns have been raised that the use has again recommenced. This matter is under investigation and depending on the outcome of these investigations a decision will again need to be made on how to bring this matter to conclusion. Progress on these developments will be reported to Members in subsequent reports.

Update on recent development at Daneshill Energy Forest, Lound

34. As referred to above, a significant number of complaints have been received about a development in Bassetlaw involving the drilling of an exploratory borehole to assess strata for its suitability for coal bed methane production. Many of the concerns relate to the principle of unconventional gas and associated activities and the development has come under a considerable degree of scrutiny with issues being raised about each element of the development and has attracted a number of protestors to the site. The development has now largely been completed and the site is due to be reinstated to its former condition shortly. The development has been carried out broadly as permitted, although there were some problems when the development commenced in breach of planning control. Where issues have arisen these have been reviewed and addressed as considered expedient. The development has, however, highlighted that should any future development proposals of this nature be submitted they are likely to attract a considerable amount of public attention and will require large amounts of officer time to take matters forward in terms of responding to concerns, determining the planning application and monitoring the development should planning permission be granted.

Statutory and Policy Implications

35. This report has been compiled after consideration of implications in respect of finance, the public sector equality duty, human resources, crime and disorder, human rights, the safeguarding of children, sustainability and the environment, and those using the service and where such implications are material they are

described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

RECOMMENDATIONS

36. It is RECOMMENDED that the report and accompanying appendices be noted.

JAYNE FRANCIS-WARD

Corporate Director Policy, Planning and Corporate Services

Constitutional Comments

This report is for noting only. SLB 30/04/2014

Comments of the Service Director - Finance (SEM 01/05/14)

There are no specific financial implications arising directly from this report

Background Papers Available for Inspection

None

Electoral Division(s) and Member(s) Affected

All

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For any enquiries about this report, please contact the report author.

28 April 2014

ENFORCEMENT AND MONITORING

SUMMARY OF STATUTORY NOTICES SERVED AND ENVIRONMENTAL COMPLAINTS RECEIVED 01/04/13 - 31/03/14

<u>Statutory Notices</u>		<u>Environmental Complaints received within the report period</u>	
Planning Contravention Notices served in report period	8	Bassetlaw	24
Breach of Condition Notices served in report period	2	Mansfield	5
Enforcement Notices served in report period	4	Newark and Sherwood	13
Stop Notices served in report period	0	Ashfield	10
Temporary Stop Notices served in report period	0	Broxtowe	3
		Gedling	2
		Rushcliffe	16
		Total:	73

ENFORCEMENT NOTICES SERVED 01/04/13 – 31/03/14

Site	Summary of Alleged Breach	Date of Issue	Summary of Steps
Land at waste recycling centre, Shireoaks Road, Worksop	Non-compliance with conditions relating to site layout, location of crushing and screening operations, waste and litter control and dust control	23 July 2013	The notice requires externally stored non-inert waste to be removed from the site , layout to be provided as approved and for adequate dust, waste and litter control measures to be put in place.
Land at waste transfer station at Sandy Lane, Worksop (MRF site)	Non-compliance with conditions relating to site layout, external storage and processing of non-inert materials, windblown litter control and dust suppression	5 November 2013	Stop the processing and sorting of non-inert materials outside the building, stop the open storage of non-inert waste, layout site as approved and introduce approved dusty control measures
Land at waste transfer station at Sandy Lane, Worksop (Inert site)	Non-compliance with conditions relating to site layout, provision of drainage and impermeable storage bays, stocking too close to railway boundary, stockpile heights in excess of that permitted and also storing non-inert material on site	5 November 2013	Cease importation of non-inert waste, remove all non-inert waste, store waste in designated area, layout site as approved, reduce stockpile heights, not store material adjacent to railway boundary, provide impermeable surfaces, provide and seed acoustic/screening bund and provide dust control measures.
Land off Henning Lane, Huthwaite, Sutton in Ashfield	Without planning permission making a material change of use of the land from an agricultural use to a mixed use of agriculture and importing and breaking of end of life vehicles	5 December 2013	Cease importation of vehicles and vehicle parts, stop treatment and dismantling of vehicles and remove end of life vehicles their constituent parts from the land

APPENDIX 2**BREACH OF CONDITION NOTICES SERVED 01/04/13 – 31/03/14**

Site	Summary of Alleged Breach	Date of Issue	Summary of Steps
Land at waste recycling centre, Shireoaks Road, Worksop	Non-compliance with Condition relating to hours of operation	25 April 2014	The notices require the site to be operated within the approved hours only.
Land at materials recycling facility, Loughborough Road, Bunny	Non-compliance with Condition relating to stockpile heights	22 January 2014	Stock materials at or below the permitted stockpile height.

PLANNING CONTRAVENTION NOTICES SERVED 01/04/13 – 31/03/14

Site	Summary of Alleged Breach	Date of Issue	Summary of Steps
Rotherham Sand and Gravel, land at Serlby Quarry, Snape Lane, Serlby	Failure to submit revised restoration scheme	2 May 2013	The notice was returned by the recipient. Options to restore the site are currently being drawn up.

John Brooke Sawmills, Fosseway, Widmerpool	Unauthorised engineering operations and construction of bund	5 June 2013	The notice was returned by the recipient. Planning application which seeks to regularise this amongst other proposed development.
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APPENDIX 2

PLANNING CONTRAVENTION NOTICES SERVED 01/04/13 – 31/03/14 (CONT.)

Site	Summary of Alleged Breach	Date of Issue	Summary of Steps
Worksop Waste Limited, land at recycling centre Sandy Lane, Worksop	Non-compliance with restoration conditions attached to planning permission 1/02/10/00326	15 July 2013	The notice was returned by the recipient. Enforcement notice has now been served.
Worksop Waste Limited land at recycling centre, Sandy Lane, Worksop	On-compliance with operational conditions attached to planning permission 1/02/09/0388	15 July 2013	The notice was returned by the recipient. Enforcement notice has now been served.
Kirkby Skip Hire Limted, Plots 8 & 9 Wigwam Lane, Hucknall	Non-compliance with operational conditions attached to planning permission 4/2002/0844.	4 December 2013	The notice was returned by the recipient. Enforcement action is being prepared, but it is understood that the site has been sold on recently.
Newton Energy Limited, Harlequin Borehole, Radcliffe on Trent	Non-compliance with restoration conditions attached to planning permission 8/10/00358/CMA	10 December 2013	The notice was returned by the recipient. Operator has committed to restoring the site by 31 May 2014, if not completed enforcement action will be commenced.
Misson Sand and Gravel, Bawtry Road Quarry, Misson	Without planning permission carrying out mining operations	19 December 2013	The notice was returned by the recipient. Operator denies alleged breach has occurred. Area of land affected has now been restored back to agricultural use.

Dewicks, Plot Farm, Thorney, Newark	Without planning permission making a material change of use of land to one for the importation, processing and transfer of sand and gravel.	20 March 2014	The notice was returned by the recipient and they have ceased the unauthorised use.
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Appendix 2