



## **REPORT OF CORPORATE DIRECTOR - PLACE**

### **REPORT ON PLANNING MONITORING AND ENFORCEMENT WORK FOR THE PERIODS 1 APRIL 2020 TO 31 MARCH 2021 AND 1 APRIL 2021 TO 31 MARCH 2022**

#### **Purpose of Report**

1. To update Members on the monitoring and enforcement work carried out during the financial years 2020/2021 and 2021/2022 and to provide updates regarding notices served.

#### **Enforcement and Monitoring Work 1 April 2020 – 31 March 2021**

2. Details of the enforcement and monitoring work for the report period 2020/2021 are set out in Appendix 1 and details of notices served in the report period are contained in Appendix 2.
3. The restrictions imposed as a result of the Covid-19 pandemic during the report period have affected the monitoring and enforcement work to some degree. However, during this period the waste industry continued to operate as a key sector industry and the minerals industry operated for a large proportion of the time. Routine site monitoring and enforcement work continued as far as possible during this period but naturally had to be scaled back. The following paragraph details the visits undertaken during the report period with those from the period 2019/2020 in brackets for comparison.
4. The number of inspections carried out during in the 2020/2021 report period was **368** (401), of which **350** (394) related to 'County Matter' development (minerals and waste) and **18** (7) were related to County Council Development sites. Of the County Matter development monitoring visits **121** (170) were undertaken to mineral and waste sites and charged under the Town and Country Planning (Fees for Applications and Deemed Applications) (Amendment) (England) Regulations 2012 as amended. The fees generated from these inspections was **£48,307** (£67,490).

#### **Complaints**

5. The County Council's Local Enforcement Plan was updated during this report period and the revised version adopted in January 2021 following approval by Members. The Enforcement Plan details the procedure undertaken by officers when complaints are received regarding alleged breaches of planning control. The procedure includes acknowledging complaints and undertaking an initial

investigation within three working days of receipt and providing the complainant with a written update within 15 working days.

6. In the year 2020/21 a total of **76** complaints were received alleging breaches of planning control all of which were acknowledged within 3 working days, **75** of these complaints were the subject of a site inspection within 3 working days (where necessary) and **70** (92%) of complainants were notified of progress relating to their complaints within 15 working days (this being above the local performance indicator of 80%). Of the **76** complaints received during the report period **68** related to County Matter development and **8** related to the County Council's own development. A breakdown of the distribution of complaints by District is set out in Appendix 1.

### **Notices Served During Report Period 1 April 2020 – 31 March 2021**

7. Details of the various statutory notices served during the 2020/2021 report period are set out in Appendix 2. In summary during the period 2020/21 **seven** enforcement notices and **eleven** planning contravention notices were served. No temporary stop notices or breach of condition notices were served. Details of the enforcement notices are outlined below..

### **Enforcement and Monitoring Work 1 April 2021 – 31 March 2022**

8. Details of the enforcement and monitoring work for the report period 2021/2022 are set out in Appendix 3 and details of notices served in this report period are contained in Appendix 4.
9. The number of inspections for the report period 2020/2021 are contained in brackets for comparison. The number of inspections carried out during in the report period was **379** (368), of which **340** (350) related to 'County Matter' development (minerals and waste) and **39** (18) were related to County Council Development sites. Of the County Matter development monitoring visits **138** (121) were undertaken to mineral and waste sites and charged under the Town and Country Planning (Fees for Applications and Deemed Applications) (Amendment) (England) Regulations 2012 as amended. The fees generated from these inspections was **£54,786** (£48,307).

### **Complaints**

10. In the year 2021/22 a total of **53** complaints were received alleging breaches of planning control all of which were acknowledged within 3 working days, **51** of these complaints were the subject of a site inspection within 3 working days (where necessary) and **47** (89%) of complainants were notified of progress relating to their complaints within 15 working days (this being above the local performance indicator of 80%). Of the **53** complaints received during the report period **48** related to County Matter development and **5** related to the County Council's own development. A breakdown of the distribution of complaints by District is set out in Appendix 3.

## **Notices Served During Report Period 1 April 2021 – 31 March 2022**

11. Details of the various statutory notices served during the report period are set out in the Appendix 4. In summary during the period 2021/22 **1** enforcement notice and **14** planning contravention notices were served. No temporary stop notices or breach of condition notices were served. Details of the enforcement notice is outlined.

## **Summary of Enforcement Notices Served 1 April 2020 to 31 March 2022**

### **Enforcement Action - Land at Barn Farm, Kinoulton Lane, Kinoulton**

12. Sections of land at Barn Farm were subject to enforcement action relating to unauthorised waste deposit in 2005. Following the service of four enforcement notices at this time which related to very specific areas of land the unauthorised importation of waste appeared to cease. However, in early 2020 the Council received further complaints alleging that waste materials were being taken to the land at Barn Farm and being disposed of. This included the alleged burying of mixed waste and also resulted in issues with mud on the highway around the farm which were also reported to the Council as Highways Authority.
13. Investigations revealed that waste materials were again being taken to the farm, but no evidence to support mixed waste burial was found. Extensive underdrainage works were taking place on parts of the farm. The landowner claimed that waste was being imported for use on the farm as part of its normal operation, including the underdrainage works and that no permission was required.
14. Having reviewed the land as a whole and the waste which had been imported it was not considered that the waste importation taking place fell exclusively within those works which were reasonably necessary for agriculture on the planning unit and therefore permitted under Part 6 of the Town and Country Planning General Permitted Development Order (GPDO). After various communications with the landowner, the continued importation of waste and a lack of progress it was considered expedient to serve enforcement notices to cover the farm as a whole to restrict any importation and deposit of waste onto the land to that which was permitted under the GPDO and remove that which had been imported in excess of this. Due to the size of the landholding this was done in a series of five separate enforcement notices. The notices were not appealed and have now taken effect.
15. Further complaints have been made about the development taking place on the farm and it is subject to ongoing routine monitoring to review any ongoing waste material brought to the land. It appears the waste activity has been scaled back, if not stopped, but concerns remain about the ongoing management of the waste on the land as part of the purported agricultural use and also the trafficking of material onto the public highway.

## **Enforcement Action - Land off the Great North Road, A57 and A638 junction, Markham Moor**

16. It was brought to the Council's attention that waste materials were being imported to the land in breach of planning control and that the ground levels were being changed. At the time of investigation the majority of waste import had been completed and it was claimed that the importation was part of the agricultural use of the land, to reduce the risk of flooding and that the necessary approval had been obtained from the Environment Agency.
17. The waste material had been deposited in two distinct areas, one immediately adjacent to the highway where the levels had been raised and the second to form a large bund around the edge of an agricultural field. The land adjacent to the highway is identified as land subject to surface water flooding and was needed to act as a holding area to prevent flooding of other land adjoining the site. The field where the bund of waste material was located is also identified as being subject to surface water flooding in part.
18. The reasons for the deposit were raised and discussed with the landowner but it was not considered that these works could be justified in terms of being reasonably necessary for agriculture under Part 6 of the GPDO and were considered to have potential adverse flood implications. As a result an enforcement notice was served requiring the importation of waste to cease and for the imported waste materials to be removed. The enforcement notice has taken effect. Works to remove the waste did commence to comply with the requirements of the enforcement notice but ceased. Reasons for the halt in works have been provided and we have been told the works will recommence shortly.

## **Land off Oxton Road, Southwell**

19. Information was brought to the Council's attention alleging that land off Oxton Road was being used for bringing in and burning waste materials. An inspection of the site revealed that a series of pits had been excavated. Some were empty, some contained waste and others had burnt or burning waste within them. A building on the site was also full of other waste items such as fridges and freezers and waste collected from households.
20. The matter was raised with the landowners and other parties believed to be involved and the site kept under review. In view of the lack of response to requests for information about the ongoing development and parallel investigations an enforcement notice was served on interested parties requiring the importation of waste to stop, for the excavation of pits to stop, for the waste to be removed and the pits backfilled.
21. The notice has now taken effect. The importation of waste has ceased. The waste seen on the land has been removed but we were not afforded the opportunity to see the emptied pits prior to their backfilling. The excavated pits have all been backfilled and the land graded out. The requirements of the enforcement notice have largely been met but the site remains under review. At the time of the last visit the use of the land had been changed to one involving a dog training facility.

### **Land at Top Farm, Barton in Fabis**

22. The Council was approached about the alleged unauthorised use of the land for the deposit of waste materials. Visits to the site revealed that a considerable amount of waste material had been imported to the farm and used to raise the levels of the land over a defined area. It appeared that this had been going on for some time but there was evidence that the tipped area had been extended recently over the adjoining agricultural fields. A meeting was convened with the operator who claimed that the material was largely fly-tipped and that it was difficult to control access. Assurances were given that the site would be secured and material removed. No obvious progress was made and a Planning Contravention Notice was served on the operator. No response was received to this notice or steps put in place on the land to address the breach and an enforcement notice was subsequently served.
23. Active and constructive discussions have now taken place with the landowners and they have appointed a third party to manage the works to comply with the enforcement notice. Works are currently ongoing with some waste having been removed from the land and other suitable waste being used for agricultural operations on the land where appropriate and in accordance with planning control.

### **UPDATE ON PREVIOUS ENFORCEMENT NOTICES**

#### **Land at Dalestorth Nurseries, Cocketts Lane, Farnsfield**

24. Enforcement and stop notices were served in May 2018 and August 2019 in relation to the unauthorised use of land to the rear of Dalestorth Nurseries on Cockett Lane, Farnsfield for waste transfer and processing. The development was considered to result in unacceptable impacts on the neighbouring land and the site was located outside that which would be considered acceptable for such development in planning policy terms. An appeal was made against the first enforcement notice but this was subsequently withdrawn following the service of a second notice on the adjoining land and the use of the land changed to aggregate storage. The aggregate storage use was subject to separate enforcement action by Newark and Sherwood DC and their notice appealed. Following delays to the determination of the appeal arising from Covid-19 the appeal was dismissed and the requirements of the notice upheld.
25. Following the determination of the appeal the landowner ceased the unauthorised aggregate use and has now removed all remaining aggregate and waste and the land has been returned to an agricultural use. Further works are ongoing at present which have given rise to local concern but we have been told that these are to allow the recovery and replacement of additional soils from a screening bund with the intention of allowing the land to be grazed which inspections confirm.

#### **Sandy Lane Waste Transfer Facility, Sandy Lane, Worksop**

26. The former TVR waste transfer and materials recycling site at Sandy Lane was subject to enforcement action a number of years ago. The authorised waste transfer station on the land was filled with waste and abandoned and there have

subsequently been fires on the site. The company who owned the land went bust and the land has been disclaimed by the receivers and is now held by the Crown Estate. The Crown Estate have no management responsibilities and will not undertake any steps to comply with the notice. Efforts to secure the removal of the waste through discussions with the Treasury and DEFRA have unfortunately been unsuccessful to date. A limited number of enquiries have been made by parties to purchase the land but these have not been taken forward. Part of the land which was not within the ownership of TVR, but subject to the enforcement notice has now been developed for an asbestos waste transfer facility under a permission granted by Planning and Licensing Committee in September 2019.

### **Shireoaks Road Waste Transfer Station, Worksop**

27. The site was subject to enforcement action in 2013 which required the removal of externally stored non-inert waste and for the site to be laid out as approved in the planning permission. Shortly after the service of this notice there were a number of fires at the site including a major fire which destroyed a number of buildings and plant and machinery on the site. In early 2014 the operator, NRL, went into administration. The externally stored non-inert waste had not been removed as required by the enforcement notice.
28. The site was sold by the Administrators in 2015 to a company belonging to the Associated Waste Group. They have indicated that they will clear the site but issues with securing a suitable waste permit to allow the waste to be treated from the Environment Agency have delayed matters. These issues have been resolved and works to remove the waste have now commenced. Works have initially focused on removing the rear heap of mixed wood waste which has been the subject of deep seated fires. The excavation of this heap is now complete and the material is being treated prior to removal from site. It is anticipated that removal of the remaining waste material heaps will commence shortly to allow the land to be developed.

### **Statutory and Policy Implications**

29. This report has been compiled after consideration of implications in respect of crime and disorder, data protection and information governance, finance, human resources, human rights, the NHS Constitution (public health services), the public sector equality duty, the safeguarding of children and adults at risk, service users, smarter working, and sustainability and the environment, and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required. There are no human resources, the NHS Constitution (public health services), public sector equality duty, safeguarding of children and adults at risk, or smarter working implications.

### **Crime and Disorder Implications**

30. Enforcement and monitoring work takes into account issues relating to crime and disorder.

## **Data Protection and Information Governance**

31. Personal information relating to anyone contacting the County Council regarding alleged breaches of planning control is managed in accordance with the Development Management Team's Privacy Notice.

## **Financial Implications**

32. There are no direct financial implications arising from the report. However, to carry out the monitoring and enforcement service requires the retention of a Monitoring and Enforcement team.

## **Human Rights Implications**

33. The provisions of the European Convention on Human Rights such as Article 1 of the First Protocol (Protection of property), Article 6 (Right to a fair trial), Article 8 (Right to a private and family life) and Article 14 (Prohibition of discrimination) are relevant when considering enforcement action. Planning Practice Guidance advises that there is clear public interest in enforcing planning law and planning regulation in a proportionate way. In deciding whether to take enforcement action Nottinghamshire County Council will, where relevant, have regard to the potential impact on the health and welfare of those affected by the proposed action, and those who are affected by a breach of planning control.

## **Implication for Service Users**

34. It is considered that the proposed updated document will assist users by containing more current and accurate information.

## **Implications for Sustainability and the Environment**

35. Monitoring and enforcement duties undertaken by the County Council seek to protect the environment and public amenity from the adverse impacts of unauthorised development and breaches of planning control.

## **RECOMMENDATION**

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

**ADRIAN SMITH**

**Corporate Director - PLACE**

## **Constitutional Comments [RHC 04/05/2022]**

Planning & Rights of Way Committee is the appropriate body to consider the contents of this report by virtue of its terms of reference.

## **Financial Comments [RWK 28/04/2022]**

There are no specific financial implications arising directly from the report.

**Background Papers Available for Inspection**

None

**Electoral Division(s) and Member(s) Affected**

All

**For any enquiries about this report please contact:**

Report Author / Case Officer

Tim Turner

0115 993 2585

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

April 2022