

For: PLANNING & REGULATION COMMITTEE – 28 May 2012

By: DEPUTY DIRECTOR FOR ENVIRONMENT & ECONOMY (GROWTH & INFRASTRUCTURE)

Minerals and Waste Site Monitoring and Enforcement

Division Affected: All

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District Council Area: All

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Recommendation

The report recommends that the Schedule of Compliance Monitoring Visits in Annex 1 and the Schedule of Enforcement Cases in Annex 2 be noted.

Introduction

1. This report updates members on the regular monitoring of minerals and waste planning permissions and on the progress of enforcement cases for the period 1 October 11 and 31 March 12.

Compliance Monitoring Visits

2. County Council officers endeavour to pursue and foster good working relationships with operators following the grant of planning permission. The effective monitoring of sites can avoid problems developing and by acting in a proactive manner we can be a positive educator of good practice. This approach can avoid the necessity to act in a reactive way after problems emerge and can avoid the need for enforcement action. Through our efforts we seek to:
 - identify potential problems early and avoid them developing;
 - minimise the need to resort to enforcement or other action;
 - encourage good practice in the first instance thus reducing the need to apply sanctions against bad practice;
 - review planning decisions and agreements made with the County Council;
 - facilitate regular liaison and dialogue between operators, the public/local community representatives and the council officers.
3. All sites with planning permission are regularly visited on a formal basis. A written report is produced following each visit and shared with the site occupant. Where elements of non-compliance with a consent are identified this can result in subsequent compliance with matters that are outstanding or in a planning application being made to regularise unauthorised activities on site.
4. Annex 1 provides a schedule of all the sites we monitor. It includes two columns, one setting out target visits for the period 1 April 11 to 31 March 12. The second sets out the number of compliance monitoring visits carried out during the same period. For the year overall we completed 83.5% against target visits.
5. In order to try and achieve good environmental standards countywide, officers have committed to monitoring 312 planning permissions across all of the 145 mineral and waste related sites in Oxfordshire. However, you will see that some sites have a zero target, these are low risk, small scale or dormant sites (such as sewage treatment works) which we record but will only visit every other year.
6. Of all the sites, 54 fall within the remit of Government Regulations that allow the council to charge a fee for conditions monitoring, in that they relate directly to the winning and working of mineral permissions or directly to land filling permissions. The 54 sites are split as follows; 25

mineral sites, 21 land filling operations and 8 dormant mineral/landfill sites. These 'Chargeable Sites' are shaded grey at Annex 1.

7. The remaining non-chargeable sites include scrap yards, recycling operations, waste transfer stations, sewage works and composting operations.
8. The current 'full' charge is £288 for an active site and £96 for a dormant site where activity is not taking place.
9. Officers determine the target number of visits for each site on a "risk assessment" basis for each site drawing on the following points:
 - sensitivity of location
 - size and type of development
 - number and complexity of planning conditions
 - number of issues requiring monitoring input
 - the stage and pace of development
 - whether the operator carries ISO 14001 (recognised best practice)
 - breaches of planning control that are or have been observed
 - complaints received for the site
10. There is an opportunity for operators to enter into discussions on how the Council has reached its decision for the number of visits scheduled per year. Having set a target for the number of visits per annum, officers keep the frequency of actual visits under review and adjust the frequency particularly taking account of IV, VII and VIII above.

Enforcement

11. Annex 2 to this report sets out alleged breaches of planning control and the progress toward remedying those breaches of substance.
12. All operators are made aware of an allegation of a breach in planning control that has been made against them.
13. Annex 2 includes all cases which are currently being investigated regardless of when they were received. When a case is closed it will appear on the progress report as 'Case Closed' with a summary of the outcome.
14. Unless the case is a proven breach and formal enforcement action taken then no inference on the character of the operator should be drawn from an allegation.
15. A glossary of terms used is attached at Annex 3. The Senior Planning Enforcement Officer can be contacted for further information in respect of any of these cases if necessary.

Monitoring and Enforcement Service

16. The routine monitoring programme continues to pay dividends by increasing compliance with planning conditions and in identifying and rectifying matters where conditions are not being complied with on all mineral and waste planning permissions.
17. The service is generally well received by householders, liaison committees, parish and town councils with access to compliance reports providing a basis for discussions with operators on the progress on sites in their locality. It seeks to provide a timely response to the concerns of local people and serves to pre-empt issues which are likely to affect the amenities of an area. There are, nevertheless, occasions when local people have expectations about the actions that can be taken and are frustrated by the time it can take to resolve disputes. It is not always appreciated, for instance, that whilst the carrying out of development without a planning permission might be unauthorised, it is not illegal in the first instance.
18. Officers in the team also provide key support in ensuring that details pursuant to permissions are submitted where these are required by planning conditions before a development starts. They often co-ordinate action between Development Control planners, Highways, Ecology and other County services and the operator. The aim is to ensure pre-commencement works are completed in a timely manner and before the main development is started.
19. There are a couple of themes of the team's work over the last few months illustrated by the examples below:
 - A planning condition which centred on controlling smell from the in-vessel composting facility at Ashgrove Farm, Ardley has been found to be imprecise and duplicating the controls of the Environment Agency. The consequence in this case is that it is unenforceable. In any case, the responsibility for odour control at waste sites like this properly lies with the Agency.
 - The Monitoring & Enforcement Team is reviewing its own processes and procedures including Enforcement Policy. The team is supporting the wider review of all planning conditions the county council use so as to ensure that conditions we apply meet government guidance. Planning conditions should be necessary; relevant to planning; relevant to the development permitted; enforceable; precise and reasonable in all other respects. Sound conditions strengthen the ability of the team to enforce the planning regime and protect public amenity.
 - The continuing presence of the team on site raises the profile and importance of the planning regime with operators. Sometimes enforcement is necessary, but there are occasions where it is quite

reasonable to seek to bring an activity under proper planning control. A number of planning applications have been submitted recently as a result of the work (and visits) of the enforcement and monitoring team. An example is at Horton Grounds Quarry where the team's work led to a consolidating planning application for the cutting yard, which was granted planning permission under delegated authority. The site now has new planning conditions which reflect the activities at the site and protect amenity.

Recommendation

20. **It is RECOMMENDED that the Schedule of Compliance Monitoring Visits at Annex 1 to this report and the Schedule of Enforcement Cases at Annex 2 be noted.**

MARTIN TUGWELL

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Background Papers. - Files in Minerals and Waste Development Control Section, Speedwell House, Oxford.

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