

**DR/28/23****Report to:** DEVELOPMENT & REGULATION (28 July 2023)**Information Item:** Enforcement of Planning Control Update**Report author:** Chief Planning Officer (County Planning and Major Development)**Enquiries to:** Shaun Long (Planning Enforcement Officer) – Telephone: 03330 322837**1. PURPOSE OF THE ITEM**

To update members of enforcement matters for the period 01 April to 30 June 2023.

**2. DISCUSSION**

Appendix 1 provides an update on cases which remained open from the previous period and outlines details of new cases investigated in this period.

**A. Outstanding Cases**

As at 30 June 2023 there were 17 outstanding cases.

**B. Closed Cases**

7 cases were either resolved or closed during this period.

**Local Member notification**

Countywide

**District:** Basildon

**Location:** Heard Environmental, Terminus Drive, Pitsea Hall Lane, Pitsea, SS16 4UH

**Nature of problem:** Stockpile heights

**Remarks:** Condition 17 of planning permission ESS/13/15/BAS states that no material is to be stockpiled at a height greater than 4 metres. Stockpile heights were found to be exceeding this limitation and a Breach of Condition Notice was served on 22/09/2023 requiring compliance with the relevant condition. Compliance due by 22/09/2023. Ongoing monitoring.

**District:** Basildon

**Location:** Mackers Metals, Wrexham Road, Laindon, SS16 6PX

**Nature of problem:** New building constructed

**Remarks:** Erection of a new building without the benefit of planning permission. Retrospective application was submitted to the CPA for consideration to retain new building, ESS/08/23/BAS was approved. On investigation the CPA considered the site is no longer waste use, BBC notified and acknowledged potential change of use. Essex Highways are investigating and considering options re: potential encroachment onto Highways land. No further action, case closed.

**District:** Braintree

**Location:** Straits Mill, Bocking, Braintree, CM7 9RP

**Nature of problem:** A material change of use of the land to a waste transfer facility, waste importation specifically wood, textiles, soils and other similar waste materials

**Remarks:** The importation and processing of the waste has ceased however the waste remains. The WPA served an Enforcement Notice on the 07/01/2020. An appeal was lodged against the EN served, in respect of the timeframe allowed to remove the waste. Following discussions with the landowner's agent, revised terms of compliance were agreed to the effect that the previous Enforcement Notice issued by the Council and the subsequent appeal were withdrawn and a replacement Notice issued. The new Notice took effect on 29/07/2020 and required the importation of waste to cease; the removal of all waste materials and machinery within 18 months; and the restoration of the land within 24 months. Removal of all waste was accordingly required by January 2022. A site visit has confirmed that the EN has not been complied with and statements have been prepared and are with Essex Legal Services for consideration of a prosecution in the Magistrates Court. ELS have confirmed summons have been drafted for prosecution. The Environment Agency prosecuted the operators at the Crown Court in April 2023, sentencing included fines and an order requiring the land to be cleared within 6 months. ECC's plea hearing against the landowners, originally scheduled for June 2023, has been adjourned until after the compliance date set within the order made against the operators.

**District:** Brentwood

**Location:** Ashwells Road, Pilgrims Hatch

**Nature of problem:** Waste operations

**Remarks:** Without the benefit of planning permission a material change of use of land to the use for importation, deposition and spreading of waste materials (including soils, rubble, trommel fines and other similar waste materials). An Enforcement Notice was served and this took effect 05/07/2022. The EN required all imported material to be removed and the site restored to its former condition by 05/11/2022. A visit in December 2022 confirmed that whilst the use had ceased and some of the waste removed, waste still remained on the land. A letter was sent to landowner seeking to confirm EN needs to be complied with and requesting an update within 28 days. Another site visit was conducted 18th January 2023 which found no further progress with regard to compliance with the EN. Discussions subsequently took place

with the landowner and a new deadline of 31/03/2023 was set. A subsequent site visit was carried out on the 06/04/2023 and this confirmed the EN still had not been complied with. The Enforcement Notice has still not been complied with and a separate update provided to members for consideration.

**District:** Chelmsford

**Location:** Dunmow Group, Regiment Business Park, Eagle Way, Chelmsford, CM3 3FY

**Nature of problem:** Operating hours

**Remarks:** Investigations ongoing following reports of early morning working and noise. Meeting held with operator to discuss next steps.

**District:** Chelmsford

**Location:** Land at Hollow Lane, Hollow Lane, Broomfield, Chelmsford, Essex, CM1 7HG

**Nature of problem:** Waste activities- unauthorised importation, deposition and spreading of waste

**Remarks:** Case remains open, but no further action at the current time as approved by members. In the event the case status changes a separate update will be provided.

**District:** Colchester

**Location:** Agri-Mix Site, Land lying west of Ipswich Road, Langham, Colchester, CO4 5LZ

**Nature of problem:** Waste Activities- Waste Recycling, namely waste road materials

**Remarks:** Without the benefit of planning permission a material change of use of land for waste recycling, namely waste road materials involving the importation, deposit, storage and treatment of waste. Following discussions, the operator intends to submit a retrospective application in an attempt to regularise the unauthorised development. Without prejudice, the CPA are content to currently withhold formal enforcement action subject to the aforementioned application being submitted within a timely manner.

**District:** Colchester

**Location:** ATS Mini-Skips, Oyster Haven Business Park, Haven Road, Colchester, CO2 8HT

**Nature of problem:** Operating outside of permitted hours

**Remarks:** Report received alleging breach of planning conditions namely operating at night. Following investigation, the CPA have no evidence of a breach of planning control and the case has been closed. If in the future further reports are received a new case will be opened and investigated.

**District:** Colchester

**Location:** Gean Trees, The Causeway, Great Horkesley, Colchester, CO6 4EJ

**Nature of problem:** Waste activities- use of the land for importation, deposition, storing, processing and spreading of waste materials, subsequently raising the levels of the land.

**Remarks:** Case remains open, but no further action at the current time as approved by members. In the event the case status changes a separate update will be provided.

**District:** Colchester

**Location:** Wormingford Airfield, Fordham Road, Colchester, CO6 3AQ

**Nature of problem:** Wood and metal recycling operation

**Remarks:** Without the benefit of planning permission a change of use of the land to a green waste composting facility. Application ESS/30/22/COL for the change of use for a composting facility to process green waste to include the provision of a weighbridge, and hardstanding for windrows and associated landscaping was submitted to the WPA for consideration. This application was refused by members in April 2023 with the approved recommendation enforcement action is taken to remedy the breach of planning control. Following investigation and site visit an Enforcement Notice was issued on the 19<sup>th</sup> May 2023 which takes effect on the

25<sup>th</sup> June 2023 unless an appeal is lodged against the notice prior to this date. An appeal against the Enforcement Notice was lodged with the Planning Inspectorate, and further enforcement action will be held in abeyance pending the outcome of the appeal.

**District:** Epping Forest

**Location:** Ashlyns Farm, Epping Road, Ongar CM16 6RZ

**Nature of problem:** Odour and Breach of Condition

**Remarks:** Non-material amendment ref: ESS/09/20/EPF/NMA1 was approved to allow one windrow height to be increased on a temporary basis to 4-metres. The temporary permission expired at the end October 2022 at which time the approved height of the windrow was to revert to the 3-metre limitation. An application was submitted for consideration by the WPA for the permanent retention of the 4-metre windrow height. ESS/09/20/EPF was granted to allow continued operation without compliance with condition 8 attached to permission ref: ESS/09/20/EPF – permitting windrow heights at 4-metres for a period of 12 months. Case closed.

**District:** Epping Forest

**Location:** Bliss Heights, 140 London Road, Abridge RM4 1XX

**Nature of problem:** Alleged illegal deposit of waste

**Remarks:** Without the benefit of planning permission a material change of use of the land to the use for importation, deposition, and spreading of waste materials (including soils, rubble, trommel fines and other similar waste materials). An Enforcement Notice was issued by the WPA, dated the 08/04/2022. The Enforcement Notice was appealed. However, on 02/11/2022 the WPA received notification, from the Planning Inspectorate that the appeal had been withdrawn. Therefore, the Enforcement Notice immediately took effect and full compliance was due by 18/12/2022. In November 2022 the WPA were informed that the land was to be sold and the new owner would be responsible for compliance with the EN. As the material imported is still on the land, and the EN not complied with, a site meeting was conducted in January 2023. Following discussions ECC have agreed a new deadline of September 2023 for compliance. In line with joint working protocol ECC and EA are conducting site monitoring to check progress is being made.

**District:** Epping Forest

**Location:** Land adjacent to Harvey Automobile Engineering, Paynes Lane, Nazeing, EN9 2EX

**Nature of problem:** Noise, dust and concrete crushing

**Remarks:** Without the benefit of planning permission the importation, deposit and storage of material outside the lawful certificate (ref: APP/Z1585/X/06/2013096). The area to the south of the approved CLEUD area appeared to have been used intermittently for soils storage for a period of more than 10 years. The CPA subsequently conducted a further review of available information as detailed within the report to members in June 2023. Although, the CPA considered a breach of planning control, the use of this area is considered likely to have commenced more than 10 years ago and as such the time limit in which to take enforcement action has expired. The recommendation was approved by members for no further action, in respect of the storage of material within the red line area shown in the report. Case closed.

**District:** Epping Forest

**Location:** Norton Field Farm, Norton Lane, High Ongar, Ingatestone, Essex, CM4 0LN

**Nature of problem:** Use of land for waste recycling

**Remarks:** Part of the land at Norton Field Farm is currently being used as an inert transfer/recycling facility. It would appear that construction and demolition waste are imported, processed/screened/crushed on-site and exported. The landowners have a demolition/groundworkers company and consider that the use of the land for recycling is lawful. A CLEUD application (ESS/94/21/EPF) was submitted to the WPA. The application was

considered and was refused. An appeal has been lodged with the Planning Inspectorate, against the refusal and further enforcement action will be held in abeyance until the outcome of the appeal.

**District:** Tendring

**Location:** Dunmow Group-Morses Lane, Brightlingsea, Colchester, CO7 0SD

**Nature of problem:** Operation outside of permitted hours

**Remarks:** Report received alleging breach of planning conditions namely operating at night. In addition, the complaint raised concerns regarding odour and hazardous waste. In line with our joint working protocol the Environment Agency have investigated in relation to odour/hazardous waste, as they are the regulating body. Dunmow Group operate under two extant ECC planning permissions at the above site ref: ESS/04/11/TEN which covers the waste activities and ref: ESS/20/14/TEN which permits vehicle maintenance and servicing within the workshop/office. The permitted operating hours for the workshop/office is 24hrs. Following investigation, the CPA have no evidence of a breach of planning control and the case has been closed. If in the future further reports are received a new case will be opened and investigated.

**District:** Rochford

**Location:** Flowline Ltd, Rawreth Industrial Estate, Rayleigh, SS6 9RL

**Nature of problem:** Noise/Operation outside of permitted hours

**Remarks:** Report received alleging breach of planning conditions namely operating at night. Following investigation, the CPA have no evidence of a breach of planning control and the case has been closed. If in the future further reports are received a new case will be opened and investigated.

**District:** Uttlesford

**Location:** Boro Farm, Newmarket Rd, Great Chesterford, Saffron Walden CB10 1NU

**Nature of problem:** Waste soil and aggregate operation

**Remarks:** A planning application for the site at Boro Farm was submitted to the WPA. The application was considered and was refused on 22/07/2022 (ref: ESS/20/22/UTT). It was subsequently considered expedient to serve an Enforcement Notice requiring the removal of the unauthorised development and the reinstatement of the land. The operator has lodged two appeals with the Planning Inspectorate: one against the refusal and one against the EN. Two new applications were subsequently submitted to the WPA (refs: ESS/109/22/UTT and ESS/112/22/UTT) for consideration/determination. These applications were both refused, and the appeals previously lodged have accordingly been re-started by the Planning Inspectorate.

**District:** Uttlesford

**Location:** Crumps Farm, Stortford Road, Little Canfield

**Nature of problem:** Waste activities - unauthorised landfill and land raising

**Remarks:** Investigations on-going with EA as to potential unauthorised landfill and land raising. Together with breaches of extant planning permission conditions and legal agreement relating to built development, phasing and restoration. In line with our joint working protocol, the Environment Agency are currently leading investigations.

**District:** Uttlesford

**Location:** Fullers End Farm, Tye Green Road, Bishops Stortford, CM22 6EA

**Nature of problem:** Importation of waste

**Remarks:** Without the benefit of planning permission the importation and deposition of waste. The owner has ceased importation and spreading of the waste and the material will be removed from the land. Due to adverse weather conditions removal will commence in the drier months. The CPA confirmed no further activity and officers agreed a timescale for the imported materials to be removed from the land. The requirements of the CPA have now been met; all waste

materials have been removed from land. Case closed.

**District:** Uttlesford

**Location:** Highwoods Quarry

**Nature of problem:** Relocate the access track

**Remarks:** Issues with relocating the access track that cuts diagonally across the site and in particular through phase E. Following discussions with the operator, the CPA have now received confirmation an agreement has been reached to resolve the access issues, this should allow progressive working and restoration of the site in accordance with the extant planning permission. Case will remain open; the CPA will continue to monitor the site to ensure progress is being made.

**District:** Uttlesford

**Location:** Land at Armigers Farm, Thaxted, Great Dunmow CM6 2NN

**Nature of problem:** Working outside of CLUED and installation of new plant

**Remarks:** Without the benefit of planning permission the installation of a new wash plant. An application is to be submitted to the WPA for consideration.

**District:** Uttlesford

**Location:** Land on the South side of Mill Lane, Ickleton, Saffron Walden (part of Boro Farm, Newmarket Road, Great Chesterford, Saffron Walden CB10 1NU)

**Nature of problem:** Waste soil and aggregate operation

**Remarks:** Without the benefit of planning permission the deposition of waste, raising the levels of the land and the creation of bunds. On the 28/10/2022 the WPA served a Temporary Stop Notice to prevent further deposition which ceased to have effect on the 25/11/2022. Following the serving of the TSN works ceased. Planning Contravention Notices were subsequently served in an attempt to ascertain further information as to the activities occurring on the land. A site visit was conducted in March 2023 and this case remained ongoing. An update to members was provided in May 2023 to confirm the CPA issued an Enforcement Notice on the 26 April 2022 which took effect on the 31 May 2022 in respect of the unauthorised development. The CPA will continue to monitor the site in relation to the Enforcement Notice to ensure compliance with the Notice.

**District:** Uttlesford

**Location:** New Farm, Elsenham Road, Stansted, CM24 8SS

**Nature of problem:** Importation of waste

**Remarks:** Importation, depositing, storing and spreading of waste materials on the land. On the 05/10/2015 an Enforcement Notice was served by the WPA. The landowner and tenant appealed the Enforcement Notice. The Planning Inspectorate issued their decision in relation to the appeal on the 01/07/2016. The appeal against the Enforcement Notice was allowed on ground (g) such that 12 months was given for the removal of the waste and restore the land. The removal was required by the 01/07/2017. A site visit, after this date, confirmed that the Enforcement Notice had not been complied with. The case was passed to ELS for potential prosecution. However, due to COVID-19 all matters that were provisionally listed for prosecution were put back to a holding court. The land has now been sold. The EN remains on the land and the new owners will be responsible for compliance. A site meeting with some of the new landowners was conducted 22<sup>nd</sup> March 2023, and a subsequent letter was issued seeking to confirm the new owner's intents. Following further investigation, the CPA has obtained ownership information including the additional new landowner details. The CPA is attempting to open dialogue with all parties with an interest in the land. A further update will be provided to members in due course.

**District:** Uttlesford

**Location:** Timbers, Hallingbury Place, Great Hallingbury, Bishops Stortford, CM22 7UE

**Nature of problem:** Waste Activities: Waste importation, deposit, storage and treatment, including unauthorised landraising.

**Remarks:** Without the benefit of planning permission a material change of use namely operating a waste recycling facility involving the importation, storage and treatment of waste, namely inert materials. Including associated plant, equipment, machinery and storage containers on land with additional deposition of material/landraising. Following discussions, the landowner has stated he is willing to work with the CPA to remedy the breach of planning control. Without prejudice, the CPA have agreed to allow the landowner this opportunity and subsequently specified the requirements and deadlines which must be met. In context of the above, the CPA are content to withhold taking formal enforcement action. The CPA will continue to monitor the site to ensure sufficient progress is being made.