

Report to: DEVELOPMENT & REGULATION (28 February 2025)

Information Item: Enforcement of Planning Control Update

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1. PURPOSE OF THE ITEM

To update Members of enforcement matters for the period 1 October to 31 December 2024.

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 31 December 2024 there were 23 outstanding cases.

B. Closed Cases

3 cases were either resolved or closed during this period.

Local Member notification

Countywide

District: Basildon

Location: Chapel Hill Primary School, George St, Basildon, SS16 5NQ

Nature of problem: Breach of condition: Areas have been installed/laid with wet pour, contrary to extant permission ref: CC/BAS/11/23

Remarks: Two areas of wet pour have been installed/laid at Chapel Hill Primary School contrary to the approved soft and hard landscaping scheme of the planning permission for the school (ref: CC/BAS/11/23). The CPA have advised a S73 application would be needed to attempt to regularise the changes made. A deadline for submission of such an application has been set and if not received the expediency of formal action is to be considered.

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 CPA 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of compliance were agreed to the effect that the previous Enforcement Notice issued and the subsequent appeal were withdrawn and a replacement Notice issued.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 after this date confirmed that the EN has not been complied with and statements were prepared for consideration of a prosecution in the Magistrates Court. The Environment Agency however separately prosecuted the operators at the Crown Court in April 2023, with the sentence of this including fines and an Order to clear the land. The operators subsequently applied for extensions to the Order which were granted. The latest deadline for clearance agreed by the Court being 20 July 2024. The CPA have continued to liaise with EA, who have advised that significant progress with regard to waste removal has been made. However, some waste is still on-site and needs to be removed. ECC's plea hearing against the landowners has been adjourned until after the compliance date set within the Order made against the operators. The remaining waste has now been removed from site and the CPA are awaiting formal confirmation from the EA that the court order has been complied with.

District: Braintree

Location: Tile Kiln Farm, Hedingham Road, Sible Hedingham, Halstead, Essex, C09 3AN

Nature of problem: Waste activities: Unauthorised importation, deposit and disposal of waste, namely inert waste subsequently raising the levels of the land/landraising

Remarks: On 23 September 2024 the CPA conducted a joint visit with the Environment Agency, following information which alleged unauthorised activities were taking place. The visit confirmed a breach of planning control had occurred, namely inert waste had been imported/deposited subsequently raising the levels of the land, without the benefit of planning permission. Following discussions with the Environment Agency, it was agreed the CPA would initially lead investigations. In addition, inert waste has been imported for the infilling of the void and ditch, associated with planning permissions reference ESS/95/20/BTE and ESS/69/21/BTE. Following investigation, it was concluded that lawful commencement of the aforementioned permissions did not take place in October 2023 as originally recorded and both permissions lapsed given that the pre-development requirements were not formally discharged by the CPA and no material operation took place by 23 December 2023. A report on this case was duly presented to Members in November 2024, members agreed the two-fold resolution. Draft Notices, including the Enforcement Notice (EN) in respect of Land Adjoining Willow Tree House and Enforcement Warning Notice (EWN) in respect of Land Lying to the East of Tile Kiln Farm have been provided to ELS. Officers are awaiting finalised Notices, so these can be served.

District: Brentwood

Location: Ashwells Road, Pilgrims Hatch

Nature of problem: 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)

Remarks: The requirements of the Enforcement Notice served have not been met and, as per Members resolution, the CPA instructed ELS to seek prosecution. A report was nevertheless presented to Members in August 2024 providing an update on this. This case remains open but at the current time no further action is proposed. In the event the case status changes a separate update will be provided.

District: Chelmsford

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

Nature of problem: Operating hours and additional scrap metal facility

Remarks: The CPA consider there is a breach of planning control as the site has expanded and is operating outside the permitted hours specified within the extant planning permission. Dunmow Group indicated they would submit a planning application in an attempt to vary the permitted hours of operation, with it likely that this application would also propose further development/changes of the site (in comparison to that currently approved). Two applications have now been submitted to ECC as CPA for consideration/determination. Both applications submitted (refs: ESS/02/24/CHL and ESS/03/24/CHL) were granted/approved by Members of D&R in December 2024. The breaches have now been regularised and the case closed. In the event further complaints are received these will be investigated and a new enforcement case opened.

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: Chelmsford

Location: Land on south of Ivy Barn Lane, Margaretting, Ingatestone, CM4 0EW

Nature of problem: Waste activities - unauthorised importation, deposit, storage and spreading of waste, raising the levels of the land

Remarks: Without the benefit of planning permission, a material change of use of the land from agricultural to land used for the importation, deposit, storage and spreading of inert waste materials, trommel fines and soils, raising the levels of the land. Following initial site visit on 29 August 2023 the landowner requested a two-week period to remove the waste. The CPA allowed the landowner this opportunity. A subsequent visit on 13 September 2023 confirmed no progress had been made, with no material/waste being removed. In context of the nature of the breach and harm identified, the CPA considered it expedient to serve an Enforcement Notice which took effect on 3 November 2023. Full compliance was required by 3 March 2024. A visit in March 2024 confirmed that while importation had ceased, the waste remained in-situ and the land had not been remediated, such that the requirements of the EN had not been complied with in full. Following discussions, the landowner confirmed they remain committed to complying with the Notice. However, some personal circumstances and the wet weather, had restricted their ability to meet the deadlines. While the CPA consider the EN timeframes were reasonable, the CPA noted the personal circumstances which had been advanced and accepted that these may have impacted site progress. As such, the CPA allowed the landowner another opportunity to fully comply with the Enforcement Notice. Officers visited on 6 August 2024 and noted some progress had been made with respect to the removal of waste. A visit on the 4 September 2024 considered that further progress had been made, however some waste still required removal. A further visit on the 18 November 2024 considered further

progress had been made, with the majority of the waste now removed. Some waste does still require removal, though from observations this would appear minimal. Land levels have not been remediated to pre-unauthorised development taking place. It is not considered a further compliance visit is required to assess removal; landowner advised to contact the CPA when removal/remediation works are complete. Case to remain open pending notification/completion of remediation.

District: Chelmsford

Location: Land at Meadow Lane, Runwell, Essex, SS11

Nature of problem: The unauthorised importation and deposit of waste, subsequently raising the levels of the land

Remarks: A site visit was undertaken with Chelmsford City Council (CCC) and the Environment Agency (EA). The visit confirmed a breach of planning control, including the importation and deposition of waste, raising the levels of the land, namely soils and trommel fines, without the benefit of planning permission. A follow-up meeting was held to discuss next steps. In-line with our joint enforcement protocol, and in context of the site history and scale of operations, the Environment Agency have agreed to initially lead investigations, with CCC also picking up on some elements non-waste related. Investigations are ongoing and the CPA remain available for support if required. Case to remain open, pending update from the EA.

District: Colchester

Location: Gean Trees, The Causeway, Great Horkeley, 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: Fairfield's Farm, Fordham Road, Colchester, CO6 3AQ

Nature of problem: Wood and metal recycling operation

Remarks: Without the benefit of planning permission, a material 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 CPA for consideration. This application was refused in April 2023 with the resolution also being that enforcement action was taken to remedy the breach of planning control. An Enforcement Notice was issued on 19 May 2023, and this would have taken effect on 25 June 2023 had an appeal not been lodged against it. An appeal against the Enforcement Notice was lodged with the Planning Inspectorate, and further enforcement action was held in abeyance pending the outcome of the appeal. The Planning Inspectorate issued the Enforcement Notice appeal decision on 22 August 2024, which upheld the Notice in respect of operational development, requiring removal of the netting and supporting poles within 12 months. However, PINS considered the use of the site was materially different to that alleged within the Notice and did not consider it possible to correct the allegation without causing injustice. As such, a decision on next steps was held in abeyance pending the outcome of the appeal lodged against the refusal of ESS/30/22/COL. On the 22 November 2024, PINS dismissed the appeal against the refusal of ESS/30/22/COL. The CPA subsequently sought to engage with the operators to ascertain their intentions moving forward. The operators subsequently provided confirmation waste operations have now ceased on-site. A visit will be undertaken in January 2025 to assess the site and determine next steps.

District: Epping Forest

Location: 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 CPA, dated 08/04/2022. As per Members resolution the CPA allowed the landowner an additional period of time, beyond that outlined within the Enforcement Notice, until 11 September 2023 to make significant progress with regard to the requirements of the Enforcement Notice. If progress was not evidenced, Members resolved that the CPA should seek prosecution in view of the continued harm. A site visit 13/09/2023 confirmed no progress with the waste remaining in-situ. As such the CPA instructed ELS to seek prosecution. This case was scheduled for a hearing on 3 October 2024 however, the defendant requested an adjournment from the Court. The CPA have now received confirmation, that an administrative adjournment has been agreed with the case re-listed for 12 December 2024. On the 12 December 2024, the case was listed for plea-hearing at Basildon Magistrates Court, the case was again adjourned at the request of the defendant due to ill-health. The defendant was bailed and the case re-listed for hearing on the 23 January 2025.

District: Epping Forest

Location: Land to the north of Little West Hatch, High Road, Chigwell, Essex, IG7 5BS

Nature of problem: Unauthorised importation, deposit and spreading of inert material subsequently raising the levels of the land/landraising, and the engineering of earth bunds.

Remarks: EFDC informed the CPA of unauthorised importation, deposit and spreading of inert material and landraising, including engineering of earth bunds. EFDC served a Temporary Stop Notice on 8 November 2024 which was effective until 3 January 2025. EFDC have continued to initially lead investigations and monitored compliance with the TSN and consider the requirements of the Notice have been complied with. Following liaison with EFDC, the CPA have confirmed we will need to investigate to assess if this constitutes a County Matter. A joint visit has been arranged with EFDC and EA in January 2025 to assess the appropriate authority to lead going forward. Case to remain open, pending further investigations.

District: Epping Forest

Location: Normandy Nursey, Avey Lane, Waltham Abbey, EN9 3QH

Nature of problem: Unauthorised importation, deposit, storage and disposal of waste, namely mixed waste

Remarks: A joint site with the Environment Agency was conducted on 27 June 2024, following receipt of a complaint. The visit confirmed a breach of planning control with significant quantities of waste deposited on the land. Following discussions, it was agreed that in context of the scale and nature of the deposit, and operations on-going, that the Environment Agency would lead going forward. The CPA are available for support if required, case to remain pending update from the EA.

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 is 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 duly submitted to the CPA. The application was considered and refused. An appeal was lodged against the refusal. On 15 May 2024 PINS dismissed the appeal. The CPA subsequently sought to engage with the landowner, to ascertain their intentions moving forward. The landowner confirmed their intention was to submit a new lawful development certificate, and considered they could supply additional information to evidence the gaps identified by PINS. Following a site meeting on 25 July 2024, the CPA agreed to hold potential enforcement in abeyance, for a further period, subject to the new application being submitted within a timely manner. That application (ESS/54/24/EPF) was approved by Members of D&R in December 2024. The case has now been closed.

District: Rochford

Location: Baltic Wharf, Creeksea Ferry Road, Wallasea Island, Essex, SS4 2HA

Nature of problem: Waste Activities: Unauthorised scrap metal recycling, including the importation and storage of waste metal

Remarks: Initial investigations in respect of this site and use were led by Rochford District Council (RDC) with a Planning Contravention Notice (PCN) being issued by RDC. A meeting was subsequently held with RDC which resulted in the case being considered a County Matter. The CPA consider the land to be in a sui-generis (waste) use, namely the importation, storage, bulking and processing of scrap metal. The CPA engaged in discussions and the landowner requested an opportunity to submit a planning application in an attempt to regularise the breach identified. In context that (waste) operations have been on-going for some time, and the nature of the site, the CPA, without prejudice, agreed to withhold formal enforcement action, subject to an application being submitted within a timely manner. An application was submitted in September 2024. The CPA requested additional information to validate this application which was expected shortly. On the 11 December 2024, the CPA however received formal confirmation the application was not going to be progressed. The use has now ceased and the site cleared. The breach has duly been resolved and the case closed.

District: Tendring

Location: Allens Farm, Wivenhoe Rd, Colchester, CO7 7BN

Nature of problem: Unauthorised temporary storage and processing of materials, associated with the construction of permission ref: CC/TEN/31/21

Remarks: Temporary storage and processing of materials outside the red-line boundary of extant permission ref: CC/TEN/31/21. Following discussions, CPA have agreed to allow landowner opportunity to remedy breach informally by the end of January 2025, subject to no further importation and/or processing. A follow-up visit will be conducted to check compliance after the agreed deadline.

District: Tendring

Location: Brightlingsea Quarry, Moverons Lane, Brightlingsea, CO7 0SB

Nature of problem: Breach of condition

Remarks: Erection of floodlight without the benefit of planning permission and contrary to condition 11 of extant permission ref: ESS/39/13/TEN, which required lighting scheme to be submitted and approved. Officers are currently investigating and liaising with the operator to remedy the breach.

District: Tendring

Location: Martells Quarry, Slough Lane, Ardleigh, Essex, CO7 7RU

Nature of problem: Breach of planning control: namely development not in accordance with extant planning permission

Remarks: A visit in May 2024 confirmed works associated with the extant permission (ESS/42/22/TEN) had commenced without compliance with the associated conditions. The permission has attached conditions, including pre-commencement schemes which are required to be submitted and determined prior to commencement. Works undertaken were also not in accordance with the approved plans. The CPA requested works on-site cease while discussions to resolve took place. Following review, the CPA considered the extant permission had lapsed, and as such the previously required schemes were unable to be discharged. The CPA advised a new application would need to be submitted. A new application (ESS/34/24/TEN) was submitted and the CPA are currently content to withhold potential enforcement action while the aforementioned application is determined.

District: Tendring

Location: Spring Farm, Frating Road, Gt Bromley, CO7 7JW

Nature of problem: Alleged unauthorised waste activities, the importation, storage and processing of green waste/recycling for composting

Remarks: Following liaison with Tendring District Council (TDC) and the Environment Agency the CPA were informed of potential waste operations, involving the importation, storage and

processing of green waste, without the benefit of planning permission. Given the nature of the alleged activities, the CPA agreed to lead investigations from a planning perspective, as such operations are likely to constitute a waste use/County Matter. Joint investigations with the EA are currently ongoing, a further update will be provided in due course.

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 this site was submitted to the CPA. However, this was subsequently refused on 22/07/2022 (ref: ESS/20/22/UTT). At this point it was also considered expedient to serve an Enforcement Notice requiring the removal of the unauthorised development and to reinstate the land. The operator lodged two appeals with the Planning Inspectorate: one against the refusal and one against the EN. Two new applications were then submitted to the CPA (refs: ESS/109/22/UTT and ESS/112/22/UTT) for consideration/determination. These applications were both refused, and the appeals previously lodged re-started by the Planning Inspectorate. The appeals lodged were considered by way of a Hearing in February and March 2024. On 27 August 2024 PINS dismissed the appeals and upheld the Notice (albeit varied). A report on this case was duly presented to Members on the 22 November 2024, the recommendation was approved. The CPA will continue to monitor the site to ensure compliance with the Enforcement Notice.

District: Uttlesford

Location: Crumps Farm, Stortford Road, Little Canfield

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

Remarks: As approved by Members, the CPA continues to assist the Environment Agency with its investigation regarding the unauthorised landfill and land raising. While the CPA consider there are breaches of extant planning permission conditions and legal agreement relating to built development, phasing and restoration, it is considered inappropriate to attempt to tackle these issues whilst the aforementioned investigations are on-going. The Environment Agency are leading investigations regarding the illegal importation and deposition of material/waste.

District: Uttlesford

Location: Home Farm Yard, Gaunts End, Elsenham, Essex, CM22 6DR

Nature of problem: Alleged breach of planning control namely expansion of site/operations outside the extant permission, in addition to the creation of earth bunds

Remarks: The CPA conducted a site visit in March 2024 following complaint. It was suggested by the landowner/operator that a permission (UTT/15/3107/FUL) issued by Uttlesford District Council (UDC) suitably covered the use/operations on-going. However, the CPA considered the use of the land materially different to that allowed. The CPA considered the land to be used as part of a sui-generis (waste) use. It is also the CPA's view that the associated use of the land to the east for the storage and maintenance of commercial vehicles and plant, and the creation of the earth bund was unauthorised in that this land does not benefit from planning permission. UDC agreed with this interpretation and it was agreed the CPA would lead going forward. Following discussions with the landowner, they requested an opportunity to submit a planning application in an attempt to regularise the breaches of planning control identified. The CPA agreed to allow the landowner this opportunity and withhold potential formal enforcement action, subject to this application being submitted within 3 months. An application was submitted on 15 July 2024, and following receipt of further information that application has now been validated (ESS/41/24/UTT). The CPA are content to hold potential enforcement action in abeyance, while this application is determined.

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. The CPA received a second request for pre-application advice and attended a site meeting with

Essex Highways in March 2024 as part of discussions for more site-wide changes. An application is expected to be submitted within the coming months which will (amongst other things) attempt to regularise the wash plant which has been installed. An application has now been submitted and following receipt of further information that application has now been validated (ESS/53/24/UTT). The CPA are content to hold potential enforcement action in abeyance, while this application is determined.

District: Uttlesford

Location: Land to east of M11, Howe Green Road, Great Hallingbury, Bishop's Stortford

Nature of problem: Unauthorised importation and deposit of waste

Remarks: Without the benefit of planning permission the importation and deposition of waste, namely mixed waste and trommel fines. Following joint site visit with UDC it was agreed ECC were best placed to lead. Investigation and land registry searches confirmed the landowner is a registered limited company, with information held on companies' house stating the status of this company as in 'administration'. The CPA subsequently issued letters to landowner/administrator(s) requiring a response and information to be provided. The joint administrators have since confirmed they are aware of the illegally deposited waste, with person(s) responsible unknown. The administrators are in the process of trying to remove the waste and secure the land.

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 CPA 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 26 April 2023 which took effect on 31 May 2023. The CPA conducted a visit on 2 November 2023 to check compliance with the requirements of the EN, which confirmed the EN had not been fully complied with. In context of this, the CPA instructed ELS to seek prosecution. The CPA have continued to liaise with the landowner and individuals associated with the land. A number of proposals have been presented to the CPA for consideration, in respect of whether such works would represent compliance with the Enforcement Notice. To date, no acceptable proposal has been submitted. A visit on the 25 September 2024 nevertheless noted that some works, towards compliance, had been completed. In context, the CPA have currently paused prosecution while discussions are on-going. Further visits in November and December 2024 noted some further progress, though this was considered minimal. The CPA will continue to monitor the site, to ensure progress towards compliance continues. If this is not the case, the CPA will refer to ELS to determine if prosecution is in the public interest.

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 CPA. 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 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 held on 22 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 attempted to open dialogue with all parties with an interest in the land. A monitoring visit in February 2024, considered no changes or further development of the land, and the Enforcement Notice has still not been complied with. Following investigation, it appears the land may have been sold again, with pending applications registered against the land. The CPA will seek to ascertain landowner details, with view of opening communication in respect of compliance with the extant Enforcement Notice. An unannounced visit in December 2024, considered no changes on the land and compliance with the Enforcement Notice remains outstanding. The CPA will continue to monitor the site.