




# Development Management Charter



**Guidance on the processing and determining of minerals, waste and County Council developments in Hampshire**



***A guide for elected members, local communities, other local planning authorities, developers and other interested parties***



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## 1. Introduction

- 1.1 Hampshire County Council (HCC) determine planning application for mineral and waste management developments (as Minerals and Waste Planning Authority) and County Council proposals such as schools and libraries (as Local Planning Authority for Regulation 3 developments).
- 1.2 HCC also monitors all permitted mineral and waste sites to ensure compliance with planning permissions granted. The authority also has enforcement powers to regularise permitted developments and control unauthorised minerals or waste developments.
- 1.3 The Development Management Charter (hereafter referred to as the Charter) sets out the type and standards of service that Hampshire County Council aims to provide when undertaking these duties.
- 1.4 The Charter covers the following areas:

- the development management service at HCC;
- the HCC pre-application service;
- how to submit a valid planning application;
- what consultation and publicity takes place for planning applications submitted to HCC;
- how decisions are made;
- planning appeals;
- complaints;
- enforcement;
- enforcement appeals; and
- land searches.

- 1.5 The Charter is for the benefit of:

- Applicants;
- Local communities - particularly those affected by proposals for development;
- District, Borough, Parish and Town Councils as well as surrounding authorities;
- Statutory Consultees (e.g. Natural England, Environment Agency and Historic England);
- Non governmental organisations and environmental interest groups; and
- Elected Members.

## 2. Development Management at Hampshire County Council

2.1 Development Management is the **regulation of the development and use of land**.

2.2 Development Management involves:

- **providing information and advice;**
- **processing and determining planning applications;**
- **monitoring development as it takes place; and**
- **taking enforcement action if breaches of planning control occur.**

2.3 The **planning policy framework for decision making in Hampshire** is provided by:

- Government advice – National Planning Policy Framework (NPPF) (2012)<sup>1</sup> and its associated National Planning Practice Guidance (NPPG)<sup>2</sup> (Live document) as well as the National Planning Policy for Waste (2014)<sup>3</sup> and its associated National Waste Planning Practice Guidance (Live document)<sup>4</sup>
- Hampshire Minerals and Waste Plan (2013)<sup>5</sup>(for minerals and waste proposals only); and
- District, Borough and City Council Local Plans.

2.4 Planning applications are **considered against the relevant policies** contained in these plans and guidance in conjunction with **other ‘material considerations’**<sup>6</sup>.

### 2.1. The service

2.1.1 Hampshire County Council deals with the **following types of planning applications**:

- **The County Council’s own developments (such as school developments, road schemes, social service proposals, etc.) under Regulation 3 of the Town and Country Planning General Regulations 1992<sup>7</sup>;**
- **Mineral extraction and waste management developments (known as County Matters);**
- **Lawful use applications for minerals and waste development; and**
- **Environment Act <sup>8</sup> applications for the review of ‘planning conditions’ at mineral sites that have been operating under their original permissions for more than 15 years.**

2.1.2 All other forms of development are the responsibility of District, Borough or Unitary Councils<sup>9</sup> or where relevant the New Forest or South Downs National

1.NPPF (2012): [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/6077/2116950.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/6077/2116950.pdf)

2.NPPG (Live): <http://planningguidance.communities.gov.uk/>

3.NPPW: <https://www.gov.uk/government/publications/national-planning-policy-for-waste>

4.NWPPG: <http://planningguidance.communities.gov.uk/blog/guidance/waste/>

5.<http://documents.hants.gov.uk/mineralsandwaste/HampshireMineralsWastePlanADOPTED.pdf>

6.Material considerations: <http://planningguidance.communities.gov.uk/blog/guidance/determining-a-planning-application/how-must-decisions-on-applications-for-planning-permission-be-made/>

7.Regulation 3 of the Town and Country Planning General Regulations 1992: <http://www.legislation.gov.uk/uksi/1992/1492/contents/made>

8.Environment Act 1995: <http://www.legislation.gov.uk/ukpga/1995/25/contents>

Park Authorities. However, the County Council is consulted on District, Borough, Unitary or National Park planning policy documents and may provide advice regarding waste, environmental or other general planning issues.

**2.1.3 District and Borough Councils should consult the Council on all non-minerals or non- waste development which impacts 'safeguarded' mineral resources or minerals and waste infrastructure** in line with policies 15, 16, 26 and 34 of the adopted Hampshire Minerals and Waste Plan (2013)<sup>10</sup>. Safeguarding relates to the method of protecting needed minerals or waste facilities or mineral resources and of preventing inappropriate development from affecting it. The Council has adopted a Supplementary Planning Document on minerals and waste safeguarding which provides more guidance on safeguarding issues in Hampshire<sup>11</sup>.

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9. Hampshire District and Borough Councils: <http://www3.hants.gov.uk/mineralsandwaste/district-authority-contacts.htm>]

10. Hampshire Minerals and Waste Plan (2013): <http://documents.hants.gov.uk/mineralsandwaste/HampshireMineralsWastePlanADOPTED.pdf>

11. Minerals and Waste Safeguarding SPD (2016): <http://documents.hants.gov.uk/planning-strategic/HMWPMineralsandWasteSafeguardinginHampshireSPDFinalFeb2016.pdf>

### 3. Pre-application discussions

- 3.1 Hampshire County Council **encourages engagement with applicants and their agents prior to any application being submitted**. This helps to ensure that all relevant information is submitted with a planning application, and that the application is dealt with as efficiently as possible. The County Council therefore encourages all prospective applicants to seek pre-application advice before submitting a planning application.
- 3.2 As part of this process, applicants will be allocated a case officer who will prepare a report advising on the following areas:

- **relevant planning policy<sup>12</sup>;**
- **any requirement to undertake an Environmental Impact Assessment;**
- **previous decisions;**
- **how to submit a planning application;**
- **the relevant application fee;**
- **how the decision is made;**
- **public rights to view information and documentation relating to an application;**  
and
- **potential planning application processing timetable including Regulatory Committee dates.**

- 3.3 Applicants are also strongly encouraged, before submitting an application, to **discuss their proposals with the local community and with any agency, organisation or body which would be a statutory consultee on the application**. This should ensure that there is an opportunity for the public and consultees to better understand the proposal, to make suggestions on how it may be improved and to identify the need for further information to allow the application to be properly assessed. Again this should significantly speed up the process after the application has been submitted.
- 3.4 The County Council has an adopted **Statement of Community Involvement (SCI)**. It explains how the County Council will consult the community on planning applications that it determines and explains the need for pre application consultation by the applicant. The SCI is available on the County Council's website<sup>13</sup>.
- 3.5 More information on the council's pre-application services can be found on the councils website<sup>14</sup>.

12. Hampshire Minerals and Waste Plan (2013) (minerals or waste policies only), relevant district or borough plan, national planning policy

13. Hampshire Statement of Community Involvement (2014): <http://documents.hants.gov.uk/HampshireSCIAdoptedFinalMay2014.pdf>

14. Pre application services at HCC: [www3.hants.gov.uk/mineralsandwaste/pre-application-2.htm](http://www3.hants.gov.uk/mineralsandwaste/pre-application-2.htm)

## 4. Submitting a planning application

- 4.1 More information on submitting a planning application, the relevant forms and a list of fees can be obtained from the County Council's Strategic Planning webpages<sup>15</sup>. More detailed advice on relevant fees and completing the application form is available on request. It is important to note that detailed advice may be subject to pre application advice (see [section 3 \[See page 7\]](#)) and an associated fee.
- 4.2 The Council has prepared guidance on what makes a valid planning application<sup>16</sup>. An application must include the following:

- **be submitted on a completed relevant form;**
- **include a completed Certificate about site ownership and/or notification to the landowners of the site;**
- **include sufficient information to identify the application site, e.g. a location plan; and**
- **be accompanied by the relevant fee<sup>17</sup>.**

- 4.3 Any planning application received which is lacking in any of the essential information identified in the validation list will be considered invalid.

- 4.4 The applicant will be notified within five working days of receipt of the application and notified of any changes or additional information necessary to make the application valid. On receipt of a valid application, Hampshire County Council will:

- **send a copy of the application to the relevant District or Borough Council<sup>18</sup> for registration within 3 working days;**
- **sends written acknowledgement of the application identifying the Case Officer (Planning Officer allocated to process the planning application) to the applicant within 3 working days; and**
- **advises the applicant of the registration number (Application No.) following registration with the relevant District or Borough Council.**

- 4.5 If applicants choose to use a professional adviser or agent, then all communication regarding the application will take place directly with the advisor or agent.

### 4.1. Environmental Impact Assessment

- 4.1.1 The Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999<sup>19</sup> states that if an application is likely to have a significant environmental effect based on the criteria set out in the Regulations, then an

15. Submitting a planning application: <http://www3.hants.gov.uk/mineralsandwaste/planning-application-information/make-an-application.htm>

16. Validation requirements: <http://www3.hants.gov.uk/planning-application-validation-requirements-2.pdf>

17. Fees: [https://ecab.planningportal.co.uk/uploads/english\\_application\\_fees.pdf](https://ecab.planningportal.co.uk/uploads/english_application_fees.pdf)

18. District and Borough Councils in Hampshire: <http://www3.hants.gov.uk/mineralsandwaste/district-authority-contacts.htm>

19. Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999: <http://www.legislation.gov.uk/uksi/1999/293/contents/made>

Environmental Statement must be submitted before the planning application can be determined. There are 5 main stages of Environmental Impact Assessment (EIA)<sup>20</sup>- screening, scoping, preparing an environmental statement, making the planning application and decision making.

- 4.1.2 The **Screening** of a proposal helps to determine whether it falls within the remit of the Regulations, whether it is likely to have a significant effect on the environment and therefore requires an assessment. The County Council will 'screen' every major county council, minerals or waste planning application received to determine whether it is an application covered by the Regulations and is required to be submitted with an Environmental Statement. The applicant will be informed if this is the case and technical advice on Environmental Impact Assessment procedures will be given if required;
- 4.1.3 **Scoping** helps to determine the extent of issues to be considered in the EIA and reported in the Environmental Statement. The applicant can ask the local planning authority for their opinion on what information needs to be included (which is called a 'scoping opinion').
- 4.1.4 Where it is decided that an assessment is required, the applicant must compile the information reasonably required to assess the likely significant environmental effects of the development. To help the applicant, public authorities must make available any relevant environmental information in their possession. The information finally compiled by the applicant is known as an **Environmental Statement**.
- 4.1.5 The **Environmental Statement** (and the application for development to which it relates) should be submitted and must be publicised (subject to consultation). The statutory 'Consultation Bodies' and the public must be given an opportunity to give their views about the proposed development and the Environmental Statement.
- 4.1.6 The proposal is **granted or refused** planning permission.

## 4.2. Habitat Regulations

- 4.2.1 Under the Conservation (Natural Habitats) Regulations 2010<sup>21</sup>, the County Council is required to undertake an 'appropriate assessment' of any planning application likely affect the integrity of a European Site or protected species designated under the 'European Birds and Habitats Directives'.
- 4.2.2 Every planning application received will be examined by the County Council to establish whether it is covered by the Regulations. Natural England will be consulted on appropriate cases and the County Council will decide if the planning application requires an appropriate assessment and subsequently notify the applicant what information the applicant need submit.

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20.NPPG (EIA): <http://planningguidance.communities.gov.uk/blog/guidance/environmental-impact-assessment/the-stages-of-environmental-impact-assessment/>]

21.Conservation (Natural Habitats) Regulations 2010: [http://www.legislation.gov.uk/uksi/2010/490/pdfs/uksi\\_20100490\\_en.pdf](http://www.legislation.gov.uk/uksi/2010/490/pdfs/uksi_20100490_en.pdf)

### 4.3. Additional Information

4.3.1 Sometimes further information is required to support a planning application. This may be requested in writing at any time during the processing of an application.

4.3.2 Requests for further information should state:

- **the reason that the information is required;**
- **the date by which the information must be received by Hampshire County Council; and**
- **the consequences of not supplying the requested information. Deadlines for receipt of information will depend on the information requested.**

### 4.4. Correspondances

4.4.1 When an application is submitted the applicant will be informed:

- **of the name of the Case Officer who will be the County Council's principal and first contact on all matters relating to the progress of the application;**
- **of the progress of the application (on request);**
- **of issues raised in responses to publicity and consultation as part of the planning process;**
- **if a legal agreement is required (at the earliest opportunity); and**
- **the applicant will be advised of the proposed decision date.**

4.4.2 All correspondances associated with the planning application will be kept on the file and will be available to view on the County Council website<sup>22</sup>. If a decision cannot be made by the proposed decision date the reason will be explained to the applicant by letter. All requests for time extensions to extend the determination period will explain why the extension is required.

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22.Planning application pages: <http://www3.hants.gov.uk/mineralsandwaste/applications-search.htm>

## 5. Consultation and publicity on planning applications

### 5.1. Publicity

- 5.1.1 Once a planning application has been registered as a valid planning application it will be **publicised**.
- 5.1.2 **All publicity will be undertaken in line with the adopted Hampshire Statement of Community Involvement<sup>23</sup>.**
- 5.1.3 The type of publicity varies depending upon the nature of the development proposed.
- All planning applications will be **published on the County Councils website<sup>24</sup>**
  - **Neighbourhood notification** of nearby residents and properties will take place in line with the SCI;
  - HCC will place a minimum of 1 **site notice<sup>25</sup>** on or near the land to which a planning application relates<sup>26</sup>. In some instances, depending on the size of the site and its location, more than one site notice will be posted on or near the application site within 10 working days;
  - The application is put on the **Public Notices Register** which is held by the relevant district or borough council<sup>27</sup>;
  - A **notice** is placed in a local press if the planning application is any of the following: a mineral and waste applications, a requirement to carry out an Environmental Statement, a formal 'departure' from the Development Plan, affects a Public Right of Way; if it is any other 'major' County Council development planning application or if the proposal affects the setting of a Listed Building and/or the character or appearance of a Conservation Area.
- 5.1.4 The appropriate District or Borough Council for the area maintains the **Statutory Planning Register**, which lists all planning applications and decisions<sup>28</sup>. The Planning Register includes County Matter and County Council applications and is available for public inspection during office hours. Additionally, copies of County Council and County Matter applications are available for inspection at the Economy, Transport and Environment Department at Hampshire County Council or on the County Council website<sup>29</sup>.
- 5.1.5 All publicity relating to the application states **where the application can be inspected**.

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23. Hampshire Statement of Community Involvement: <http://documents.hants.gov.uk/HampshireSCIAdoptedFinalMay2014.pdf>

24. Strategic Planning website: [http://www3.hants.gov.uk/mineralsandwaste/applications-search.htm.\];](http://www3.hants.gov.uk/mineralsandwaste/applications-search.htm.];)

25. A notice displayed close to or on the planning application site.

26. Town and Country Planning (Development Management Procedure) (England) Order 2010, section 13 (3) (b): [www.legislation.gov.uk/uksi/2010/567/contents/made](http://www.legislation.gov.uk/uksi/2010/567/contents/made)

27. Public Notices register: <http://www3.hants.gov.uk/publicnotices/pnalist/pnadetail.htm?noticeUID=1475>

28. The Public Planning Register is held by the relevant District or Borough Council

29. County Council application webpages: <http://www3.hants.gov.uk/mineralsandwaste/applications-search.htm>

5.1.6 Officers are available during office hours (by appointment) to provide information and advice on the application.

5.1.7 If **major changes are made to an application**, it will be re-advertised as soon as possible, allowing a further 14 days for comment on the revised proposal.

5.1.8 All **correspondence relating to an application are available**:

- for inspection at the Economy, Transport and Environment Department, Hampshire County Council during office hours (by appointment). This includes the application, all correspondence with the applicant, and all letters of representation.
- to view on the relevant planning applications webpages<sup>30</sup>.

## 5.2. Consultation

5.2.1 Consultation will be undertaken in line with the adopted Hampshire Statement of Community Involvement (2014)<sup>31</sup>. This sets out the length of time consultees and interested parties have to respond to the County Council.

5.2.2 The **County Council will**:

- **send out consultation emails (letter where email not available) to relevant statutory consultees (e.g. the Highways Authority, the Environment Agency, Natural England etc) within 5 working days of receipt of a valid application;**
- **consult District / Borough Councils at the time the application is sent to them for registration;**
- **consult appropriate adjoining District / Borough and County Councils and the relevant parish or town councils within 5 working days of receipt of the valid application; and**
- **consult other relevant bodies.**

5.2.3 If no response is received within that specified time period, or the reason for delay is considered unjustified it may be assumed the consultee has no comments.

5.2.4 All **consultation responses** received will be kept on the file and will be available to view on the County Council website<sup>32</sup>.

## 5.3. Representations

5.3.1 Any person wishing to comment on an application should write to or e-mail the relevant address detailed in the site notice, newspaper advertisement, consultation letter or neighbour notification letter.

5.3.2

30.Planning application webpages: <http://www3.hants.gov.uk/mineralsandwaste/applications-search.htm>

31.Hampshire Statement of Community Involvement: <http://documents.hants.gov.uk/HampshireSCIAAdoptedFinalMay2014.pdf>

32.Planning application pages: <http://www3.hants.gov.uk/mineralsandwaste/applications-search.htm>

All representations received will be **reviewed** and taken into account before a decision is made. **The principal issues that are material to the application will be reported.**

- 5.3.3 The length of time given for representations to be made is set out in the adopted Hampshire Statement of Community Involvement<sup>33</sup>.
- 5.3.4 All representations received will be kept on the file and will be available to view on the County Council website (personal details will be redacted)<sup>34</sup>.

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33. Hampshire Statement of Community Involvement: <http://documents.hants.gov.uk/HampshireSCIAdoptedFinalMay2014.pdf>

34. Planning application pages: <http://www3.hants.gov.uk/mineralsandwaste/applications-search.htm>

## 6. Decision making

6.1 All Local Planning Authority's are **required to determine planning applications within a specific timescale**, as set out in the Town and Country Planning (Development Management Procedure) (England) Order 2012<sup>35</sup> and the EIA Regulations<sup>36</sup>. This means Hampshire County Council (HCC) needs to determine planning applications within the following timescales:

- **'Minor' County Council developments - within 8 weeks;**
- **'Major' minerals, waste and County Council developments - within 13 weeks; and**
- **EIA applications - within 16 weeks.**

6.2 The Council has the ability to request an **extension to the time** to determine a planning application if agreed by the applicant. This will only be used if more time is needed to process the application (e.g. in the event that consultation has shown the need for further information).

6.3 HCC determines applications either through delegation (see [Decisions made under Delegated Powers](#)) [See page 14] (under a scheme of delegation) or by the Regulatory Committee (see [Decisions made by the Regulatory Committee](#)) [See page 15] and will be made on the following grounds:

- **conformity with the Development Plan; and**
- **other material considerations which include any matter relating to the development and the use of the land. This will not include consideration of issues such as impact on property values and details about the applicant as these are not considered to be material to decision making.**

### 6.1. Decisions made under Delegated Powers

6.1.1 Most planning applications are capable of being determined by the Director of Economy, Transport and Environment under HCC delegation arrangements in line with the Councils scheme of delegation. This normally involves applications where there are no substantive or irreconcilable planning objections.

6.1.2 For a delegated decision, a report will be written that will address the planning issues and material considerations. It will include a summary of the consultation responses and the decision (i.e. whether the proposal has been granted or refused planning permission).

6.1.3 The following persons / groups will be informed of any decision made under a scheme of delegation:

35. Town and Country Planning (Development Management Procedure) (England) Order 2012: [http://www.legislation.gov.uk/uksi/2015/595/pdfs/uksi\\_20150595\\_en.pdf](http://www.legislation.gov.uk/uksi/2015/595/pdfs/uksi_20150595_en.pdf)

36. EIA Regulations: [http://www.legislation.gov.uk/uksi/2011/1824/pdfs/uksi\\_20111824\\_en.pdf](http://www.legislation.gov.uk/uksi/2011/1824/pdfs/uksi_20111824_en.pdf)

- the applicant;
- the landowner or tenant of an agricultural holding in which a proposal is located in response to the issue of a Statutory Notice;
- statutory consultees; and
- any other consultee or interested party that has been recorded as having an interest in the proposed development.

6.1.4 All delegated reports and decisions notices will be available for public inspection on the HCC website<sup>37</sup> and at HCC offices in Winchester (by appointment and during normal office hours). All decisions notices will be placed on the Planning Public Register<sup>38</sup>.

## 6.2. Decisions made by the Regulatory Committee

6.2.1 Planning applications submitted to HCC cannot be determined by delegation where:

- County Councillor (elected member of HCC) requests that the decision be made by the Regulatory Committee;
- the Director of Economy, Transport and Environment (at HCC) considers that the planning application should be considered by the Regulatory Committee;
- the proposal involves HCC (either as land owner or applicant) and the scheme is not of a minor and/or temporary nature;
- the applicant is an officer of the County Council;
- the decision may result in a financial compensation claim being made against any Local Authority; and
- a representation is received requesting to make a 'deputation'.

6.2.2 The Regulatory Committee has **full delegated authority to determine planning applications on behalf of the County Council**. The Committee meet nine-ten times a year to consider planning applications.

6.2.3 **Agendas**, including **reports** on planning applications are published in advance of a committee meeting<sup>39</sup>.

6.2.4 Regulatory Committee agendas and **minutes** are also publicly available at Hampshire County Council information centres and on the website<sup>40</sup>.

6.2.5 When a planning application is referred to the Regulatory Committee, those who have made representations on a planning application will be informed and will also be informed of the County Council's **deputation procedure**. Regulatory Committee meetings are public meetings. Applicants and the members of the public have the right to make a deputation directly to the Regulatory Committee. A request to make a deputation at committee must be received at least three clear working days before the date of the meeting. These timescales are a corporate requirement and not set by the planning officers. Requests should be made to:

37.Strategic Planning website: <http://www3.hants.gov.uk/planning/mineralsandwaste.htm>

38.The Planning Public Register is held by the relevant District or Borough Council

39.Council meetings: <http://www3.hants.gov.uk/councilmeetings.htm>

40.Regulatory Committee: <http://www.hants.gov.uk/decisions/decisions-index/index-mtg-244.html>



[members.services@hants.gov.uk](mailto:members.services@hants.gov.uk),



Chief Executive, Hampshire County Council, The Castle, Winchester, Hampshire,  
SO23 8UJ

- 6.2.6 The Council has a Local Protocol for Members of the Regulatory Committee and Officers (2014)<sup>41</sup>.
- 6.2.7 The Committee may wish to **visit the application site** before a decision is made in order to gain a better understanding of the site and its location. Such visits are solely for the purpose of viewing by members of the committee and at no time during the visit will Committee members or Council officers discuss the merits of the proposal.
- 6.2.8 Where the Regulatory Committee determines an application, a **report from the Director of Economy, Transport and Environment** sets out the Development Plan policies and material considerations for each application with an officers recommendation.

### 6.3. Conditions

- 6.3.1 Some developments, especially those related to minerals and waste activities can be technically complex operations and raise specific matters that need detailed control. In some cases, concerns raised about an application by local residents or consultees (which need to be specifically addressed and are related directly to the application site) may be addressed by **planning conditions that control the development**.
- 6.3.2 The NPPF clearly states that 'local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions'<sup>42</sup>.
- 6.3.3 Any condition applied to a permission needs to meet the 6 tests outlined in the NPPF<sup>43</sup>.

### 6.4. Legal Agreements

- 6.4.1 Minerals and waste developments can have wide ranging impacts beyond the application site, which cannot necessarily be controlled by planning conditions. In order to address these off-site issues some planning permissions require associated legal agreements.

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41. Local Protocol on Planning, Rights of Way and Commons Registration for Members of Regulatory Committee, Substitute Members of Regulatory Committee and Officers: <http://documents.hants.gov.uk/LocalProtocolofPlanningRightsofWayandCommonsRegistrationFeb2014.pdf>

42. NPPF (2012), paragraph 2013: [http://planningguidance.communities.gov.uk/blog/policy/achieving-sustainable-development/decision-taking/#paragraph\\_203](http://planningguidance.communities.gov.uk/blog/policy/achieving-sustainable-development/decision-taking/#paragraph_203)

43. NPPF (2012), paragraph 2016: [http://planningguidance.communities.gov.uk/blog/policy/achieving-sustainable-development/decision-taking/#paragraph\\_206](http://planningguidance.communities.gov.uk/blog/policy/achieving-sustainable-development/decision-taking/#paragraph_206)

- 6.4.2 The applicant should be aware of the need and requirements for a legal agreement in advance of any decision being made, through the pre-application process. The applicant should address this requirement through the submission of the planning application which should include a draft Heads of Terms.
- 6.4.3 If permission is granted it will be subject to completion of an agreement between the County Council, the applicant and other land interest (if appropriate). A timescale will be included in the recommendation for the completion of this process in any decision made. However, if the applicant fails to progress the legal agreement within timescales set in the the resolution to grant permission, it will be assumed there is no intention to proceed with the application and the application will be determined on the basis of there being no agreement in place or will be treated as withdrawn.

## 6.5. Issuing a decision

- 6.5.1 Following the decision the County Council will issue the '**decision notice**' to the applicant within three working days of the decision being authorised. The notice will provide reasons for the decision with reference to the Development Plan and set out any conditions in the case of permission. In the case of a refusal, reasons for refusal in line with the development plan will be included.
- 6.5.2 Copies of reports and decision notices will be kept on the file and will be available to view on the County Council website<sup>44</sup>. Copies can also be obtained from the Economy, Transport and Environment Department, subject to a fee.

## 6.6. Planning appeals

- 6.6.1 HCC has a includes information on all planning appeals which have taken place in the county<sup>45</sup>. These are set out on the relevant planning application pages which the appeal relates to.
- 6.6.2 Guidelines on how to appeal a planning decision are available on the Planning Inspectorates website<sup>46</sup>.
- 6.6.3 The Planning Inspectorate or the Secretary of State are the determining authority for planning appeals, and so we will normally only publish Hampshire County Council and the appellants' appeal statements.

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44.Planning application pages: <http://www3.hants.gov.uk/mineralsandwaste/applications-search.htm>

45.HCC website on appeals: <http://www3.hants.gov.uk/mineralsandwaste/appeals-search.htm>

46.Planning Inspectorate: <https://www.gov.uk/appeal-planning-decision>

## 7. Development Monitoring

- 7.1 Mineral and landfill sites involve continuous activity sometimes over many years.
- 7.2 Planning permissions are subject to technical planning conditions to help mitigate the environmental impact of mineral and waste working. In 2006 regulations came into force in England to allow the Council to charge a fee to mineral and waste operators for site inspections to monitor compliance with the planning permissions<sup>47</sup>. All existing minerals and waste sites in Hampshire are subject to monitoring.
- 7.3 The Councils Enforcement and Site Monitoring Plan (2016) sets out HCC's approach to planning enforcement and the monitoring of existing minerals and waste development.
- 7.4 An Annual Report is produced for minerals and waste planning<sup>48</sup>. The report contains information on the progress of the development of minerals and waste sites. It also includes information on complaints received and enforcement. The annual report contains information in such a format as to enable year-on-year comparisons to be made.



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47. Monitoring Fees: <http://www.legislation.gov.uk/ukxi/2012/2920/regulation/15/made>

48. Annual Monitoring Report: <http://www3.hants.gov.uk/mineralsandwaste/pd-facts-and-figures.htm>

## 8. Complaints

8.1 The County Council cannot have staff present at sites all the time, and so local communities reporting concerns about mineral and waste management sites is very important.

8.2 If received, all complaints are logged in a Complaints Register containing:

- the date and time the query is received;
- the nature of the query;
- the name, address, telephone number and email address of the queries (including any special circumstances notified, e.g., disability, age etc);
- details of the action taken and the outcome.

8.3 The appropriate officer will explain the situation and discuss remedial or corrective action to complainants. A meeting will be arranged if sought by the complainant.

8.4 The Councils Enforcement and Site Monitoring Plan (2016) sets out HCC's approach to planning enforcement and dealing with complaints for minerals and waste developments.

8.5 All complaints about services provided by the County Council are investigated fully and promptly in accordance with a complaints procedure. Contact should be made with the relevant member of staff or the department manager in the first instance, who will endeavour to resolve the problem. However, if the issue is not satisfactorily resolved, it can be reported to the Chief Executive<sup>49</sup> who will arrange for the complaint to be investigated. Alternatively complaints can be made by filling in an on-line complaints form<sup>50</sup>.

8.6 Finally if the issue is not satisfactorily resolved the complaint maybe referred to the Local Government Ombudsman<sup>51</sup>

49.Hampshire County Council, The Castle, Winchester, Hampshire SO23 8UJ

50.Online complaints form: <http://www3.hants.gov.uk/mineralsandwaste/complaints-form.htm>

51.Local Government Ombudsman: [www.lgo.org.uk](http://www.lgo.org.uk) - The Oaks No 2, Westwood Way, Westwood Business Park, Coventry CV4 8JB. The advice line is 0845 602 1983].

## 9. Enforcement

9.1 Enforcement of planning decisions is an essential element of a development control service. Development and uses of land proceed sometimes in breach of a planning permission or without permission at all. In these circumstances the situation should be brought under control either by negotiation or formal enforcement action.

9.2 Paragraph 207 of the National Planning Policy Framework (NPPF)<sup>52</sup> states:

*“Effective enforcement is important as a means of maintaining public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control. Local Planning Authorities should consider publishing a Local Enforcement Plan to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where it is appropriate to do so.”*



9.3 There is no statutory duty to enforce against all breaches of planning control. Enforcement is a discretionary process, recognising that there may be more than one solution to a problem. However, formal powers are available to enable unauthorised developments and breaches to be addressed.

9.4 The NPPF sets out guidance on how planning authorities should proceed with enforcement. Formal enforcement proceedings will be taken after alternatives to resolve a problem have been pursued, or where it is necessary to take immediate action to prevent serious harm or irreparable damage occurring.

9.5 The County Council does not condone breaches of planning control. However, it will take action commensurate with the scale and nature of the breach. If a breach of planning control is substantiated, the Council will:

- advise the developer and/or landowner of the situation, in writing, within 10 working days advises the action required to correct the breach; and
- advise on the timescale within which the action should be taken.

9.6 An Annual Report is produced for minerals and waste planning<sup>53</sup> and includes information on complaints received and enforcement.

9.7 Progress on statutory enforcement action taken by the County Council is regularly reported (at least once a quarter) to the Regulatory Committee.

52.NPPF (2012): [https://www.google.co.uk/?gws\\_rd=ssl#safe=strict&q=nppf](https://www.google.co.uk/?gws_rd=ssl#safe=strict&q=nppf)

53.Annual Monitoring Report: <http://www3.hants.gov.uk/mineralsandwaste/pd-facts-and-figures.htm>

### Regulation 3 developments

9.8 Breaches of planning control concerning non-mineral and waste developments including for the County Council's own development will be referred to the appropriate district council. Whilst there is no regular monitoring of County Council developments the Council seeks to ensure that it undertakes its responsibilities in relation to implementing planning permissions. The enforcement procedures apply equally to Hampshire County Council projects as with any other development.

9.9 In the event of a breach of planning control taking place:

- where investigations determine that the breach is outside the scope of planning control, it will be referred to the appropriate agency;
- where the nature of the breach overlaps with responsibilities of another agency, the County Council will work in partnership with that body to resolve the matter; and
- where the breach is within the scope of planning control, the County Council will first seek to resolve it through negotiation.

### Minerals and waste developments

9.10 In accordance with the NPPF the Hampshire Local Enforcement and Site Monitoring Plan (2016) sets out what enforcement and site monitoring service businesses and individuals can expect from Hampshire County Council as Mineral and Waste Planning Authority.



9.11 There are several agencies with enforcement powers over various aspects of mineral and waste management developments including:

- the Environment Agency - pollution control;
- the Environmental Health Authority – statutory nuisance; and
- the Health and Safety Executive - site management.

9.12 Complaints about a development, use, operations or management will be directed to the appropriate authority to respond.

## 10. Enforcement appeals

- 10.1 Where an Enforcement Notice is issued by the council, there are some circumstances where it could be appealed<sup>54</sup>.
- 10.2 Like with planning appeals, nearly all enforcement appeals are determined by the Planning Inspectorate or by appointed persons. A small percentage could be decided by the Secretary of State and these tend to be the very large or contentious alleged breaches of planning control.
- 10.3 The Planning Inspectorate provides more detailed guidance on the enforcement appeal process<sup>55</sup>. The guidance provides more information on the appeal process, how to launch an appeal, the timescales for an appeal etc.

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54. Appealing an enforcement notice: <https://www.gov.uk/appeal-enforcement-notice/when-you-can-appeal>

55. Enforcement Appeals: <https://www.gov.uk/government/publications/enforcement-appeals-procedural-guide>

## 11. Land searches

11.1 The County Council holds information on the history and plans for the development of minerals, landfill and waste management facilities within Hampshire and interested parties can 'search' this data. The common requests are:

- information on the location of minerals, landfill and waste management development (usually within certain buffers of a specified property);
- advice on whether a particular site is within a specified distance of a "site allocation" in the adopted Hampshire Minerals and Waste Plan (2013)<sup>56</sup>; and
- information on whether a site is within a 'consultation area' of safeguarded mineral.

11.2 A request for a search should be made in writing to Strategic Planning in Economy, Transport and Environment Department at HCC and include a :

- **red line plan of the location of property; and / or**
- **address / post code of property;**

11.3 There will be a **fee** for information which the appointed case officer can you advise on.

11.4 A response will be made within 15 working days unless another date has been agreed.

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56. Hampshire Minerals and Waste Plan (2013): <http://documents.hants.gov.uk/mineralsandwaste/HampshireMineralsWastePlanADOPTED.pdf>

## 12. Where can I find out more information?

12.1 More information on the development management activities of the council can be found by making contact in the following ways:



01962 845891 or 01962 846746



Strategic Planning, Economy, Transport & Environment Department, Hampshire County Council, Elizabeth II Court West 1, The Castle, Winchester, Hampshire, SO23 8UD



[planning@hants.gov.uk](mailto:planning@hants.gov.uk)



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**This document can be made available in large print, on audio media, in Braille or in some other languages.**

**For further information, please contact Development Management in the Strategic Planning group:**

**Telephone: 0845 603 5634 or 01962 846591**

**Email: [planning@hants.gov.uk](mailto:planning@hants.gov.uk)**

Write to:  
Strategic Planning  
Economy, Transport & Environment Department  
Hampshire County Council  
Floor 1 Elizabeth II Court West  
Winchester  
Hampshire  
SO23 8UD

Internet: [www.hants.gov.uk/county-planning](http://www.hants.gov.uk/county-planning)

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