

BROMSGROVE DISTRICT COUNCIL
MEETING OF THE MARLBROOK TIP WORKING PARTY

29TH JUNE 2015 AT 5.30 P.M.

NOTES FROM MEETING HELD ON 29TH JUNE 2015

Appendix 1

The meeting closed at 6.38 p.m.

Chairman

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MARLBROOK TIP WORKING GROUP

29th June 2015 17:30 – 18:38

Present: Councillor Kit Taylor (Chairman)
Councillor Brian Cooper
Kevin Dicks, Chief Executive
Ruth Bamford, Head of Planning and Regeneration
Amanda Scarce, Democratic Services Officer

Michael Adams	(Lickey Community Group)
Paul Batchelor	(Lickey Community Group)
Baden Carlson	(Lickey Hills Society)
Roy Hughes	(Lickey Community Group)
Sue Hughes	(Lickey Community Group)
Gill Lungley	(Catshill & North Marlbrook PC)

Invitees: Tony Deakin Reservoir Safety Manager, EA
Fiona Upchurch Reservoir Safety Enforcement Officer, EA

1. Apologies

Apologies were received from Councillor Luke Mallett, Mr Charles Bateman, Mr Mike Brooke (Lickey Hills Society) and Mrs Anne Doyle.

2. Notes from Meeting held on 23rd April 2015 and Matters Arising

Councillor Brian Cooper highlighted that he had given his apologies for this meeting, but they had not been recorded.

Mrs Hughes (SH) said that she had made notes at this meeting and recorded that the Panel Engineer, Robert Mann would attend the site on announced visits and asked for this to be noted.

The following updates were provided by Officers:

Response from AECOM

Kevin Dicks (KD) read out a letter which he had received from AECOM in response to the letter he had sent on behalf of the Group. This is attached as appendix 1 to these minutes.

KD asked Members of the Group what; if any further action they would now like to take and following discussion the following actions were agreed.

ACTIONS:

- KD to send a response to the letter from AECOM to include questioning why their employee had previously visited the site if they were not monitoring it

and question whether they had a duty of care and raise the point that the figures provided were not added up correctly.

- Ruth Bamford (RB) to check files to see if there was any contractual agreement between the Council and AECOM.

Update on outcome of gas monitoring in the locality

RB confirmed that the Mark Cox (MC) from Worcestershire Regulatory Services (WRS) would attend the next meeting, but in the meantime had confirmed that a number of properties in the vicinity had been checked (both inside and in the garden) for carbon dioxide and methane. No properties were found to have carbon dioxide or methane and only one, had a small amount of methane in the garden. In terms of the parallel site monitoring MC had stressed that in order to be able to analyse the data and get a clear picture, which would take into account different times of the year and changes in the atmospheric conditions, this testing needed to cover a prolonged period, in order to draw any meaningful conclusions.

3. Update the Environment Agency

Fiona Upchurch (FU) confirmed that the EA had maintained contact with Liberty Construction and had written to highlight the EA's concerns at the lack of development of the works which needed to be completed by January 2016 and reminding them that it was a criminal offence not to comply with requirements. FU confirmed that there had been a number of phone calls with Liberty Construction and vague, unsatisfactory, reasons given as to why the work had not been started.

Tony Deakin (TD) confirmed that the Waste Recovery Plan had been received by the Waste Team and this was being reviewed, with a view to providing a response by the end of July. It was believed this Plan contained details of the types of materials to be used. TD said he would ask colleagues for further details and confirmation as to whether the Group could have sight of the Plan and if so when this would be available.

4. Planning Update from Ruth Bamford

RB confirmed that there had been no pre application contact since the last meeting. There would be a considerable amount of information needed at the pre application stage in order to formulate a view and for any decision to be reached.

RB also confirmed that an Enforcement Notice had also been served. This had had to be carefully worded to ensure vehicles were removed, but not replaced with others or moved to another part of the site. She had driven past today and it appeared that the site was less cluttered around the gate area. In respect of the blue structures RB confirmed that there were some things on the site which may be needed should the planning application come forward and these would be managed through that process.

Councillor Brian Cooper (BC) questioned how long the land owner had to comply with the Enforcement Notice and RB confirmed that it was one month, following 28 days after the issue of the notice, which would take us roughly up to the end of August. If they did not comply there were 2 options the Council could take, direct

action and remove the vehicles and bill the land owner or through the courts, which could result in a fine being given, but the vehicles still being on site.

5. Questions received since the last meeting

The following answers were provided with regard to the questions received from members of the Group:-

- That you need to be able to analyse 12 months data ideally to get a clear picture covering different times of the year and changes in atmospheric conditions. It is therefore probably still too soon to draw any meaningful conclusions.
- The EA are happy to ask Robert Mann the question but suspect he may just repeat what he has previously said “the need for the minimum 300mm covering is to stop vegetation roots penetrating and damaging the clay cap”. Especially in areas where vegetation is growing without such cover.
- The EA explained that the Panel Engineer’s report was a legal document and cannot be changed unless there are specific circumstances.
- It was understood that the vegetation on the upper unrestored section of the site (as opposed to the completed areas which are covered in grass) is not sufficient for reservoir act purposes. There are still sections which are sparsely covered i.e. you can see the soil, and this can lead to silt being carried into the water system.
- It is understood that the 300mm was a standard requirement. Any future planning application would show this in more detail and the permit would indicate the quantities required.
- In respect of the re-profiling it was believed that the recommended practice is to remove all the larger depressions on the site this was to ensure it was both structurally sound and aesthetically acceptable. The Group were reminded that this was also being recommended by the Council’s consultants Halcrow. Surface water management will be covered by the current surface water drainage system. Robert Mann has recommended some improvements to this to make it work more effectively, e.g. replacing ripped liners. These are very similar steps to ones the Council would have asked the landowner to take on advice from Halcrow.
- Re site visit, we asked the land owner about this following the Feb meeting and he is not willing to permit the group to enter onto the land for such a visit. Robert Mann has said it is not within his remit to come to the working group meetings.

The Chairmen then opened up the meeting to allow those members of the public in attendance the opportunity to ask questions of the Group. Responses were provided to the following points raised:

- Whether damage had already been caused due to the vegetation. The EA confirmed it was not possible to say whether this was the case and that site

visits by Robert Mann would be undertaken and he would determine whether this was the case or not.

- What safeguards if any would be put in place to ensure that Liberty Construction met the guidelines and that the work is completed satisfactorily? RB reiterated that this would be determined by any planning application and conditions attached to it, which must be worded carefully to ensure this happened.
- It was understood that it was good practice to secure “a bond” in cases of this nature and it was questioned why this had not happened previously and whether it would happen when the next application was received.
- Why the Council should grant planning permission on a further application, particularly when they did not adhere to any conditions imposed previously. RB explained that under planning legislation the Council must consider each application on its own merits and any conditions must meet specific criteria and should only be imposed where they are necessary and reasonable, as well as enforceable, precise and relevant both to planning and to the development to be permitted. If this is not the case then it would leave the Council open to an appeal from the applicant. The report which was prepared would be presented to the Planning Committee who would ultimately make the decision. RB stressed that should it reach this stage then it was important for members of the public to put forward their views and concerns to the Planning department for inclusion within that report, it was not enough for their views to be heard simply at this meeting.
- Clarification as to what happens if Liberty Construction does not meet the requirements of the Panel Engineer’s report or if the owners chose to “walk away” from the site. TD explained the role of the EA and the options available, including the EA arranging for the work to be carried out and the cost being charged back to the land owners, highlighting that planning permission would still need to be sought.

ACTION:

The legalities attached to the inclusion of a bond within any planning application conditions to be investigated. This should include what could be achieved from its inclusion and whether it was feasible, with details of the outcome of that investigation to be reported back to a future meeting.

6. Items for future meetings

No specific items were agreed.

The next meeting will take place on Thursday 10th September 2015 at 5.30 pm (venue to be confirmed).

6 May 2015

Mr Kevin Dicks
Chief Executive
Bromsgrove District Council
The Council House
Burcot Lane
Bromsgrove
Worcestershire
B60 1AA

Dear Mr Dicks

I refer to your letter dated 14 April 2015 and your previous letter seemingly sent in November 2014, but with a date of 14 September 2014 on its face.

We have reviewed our engagement documents with Liberty Construction Limited and the relevant planning conditions granted to Link Property Limited.

We were engaged contractually by Liberty Construction Limited to monitor the following items in relation to the Marlbrook tip:

1. Landfill gas/leachate monitoring wells. Faber Maunsell supervised the drilling of additional monitoring boreholes.
2. Faber Maunsell fitted the gas monitoring taps on the original gas monitoring boreholes.
3. Faber Maunsell undertook water quality, landfill gas, leachate and groundwater level and quality monitoring and produced a monthly report of the monitoring for submission to Bromsgrove District Council and the Environment Agency. We also produced a summary quarterly report of the results of such monitoring for the planning department at Bromsgrove District Council.
4. Faber Maunsell recommended one of the bidders for undertaking the topographical survey in direct contract with Liberty Construction Limited

We have fulfilled the above monitoring and reporting tasks. Whilst we were not contractually engaged to do so, Liberty Construction Limited requested that AECOM collate the monthly figures provided to AECOM by Liberty Construction relating to their own measurements of materials tipped into the quarterly reports. We are given to understand that those figures were provided on a weekly basis by Liberty Construction Limited directly to the Council. To be clear, AECOM did not undertake any monitoring or measuring role of the volume of material brought on site as we were not engaged to do so. AECOM was not engaged to verify the information. We simply collated and entered the information into our quarterly reports and compared the volumes to the volume of materials permitted under the planning permission.

We understand that our quarterly reports were provided by Liberty Construction Limited to the Council. The volume of materials aspects of reports were based solely on records provided to AECOM on a monthly basis by Liberty Construction Limited. This is clearly stated on the quarterly reports. The waste input records were apparently provided on a weekly basis to Bromsgrove District Council directly. In other words, Bromsgrove District Council appears to have had those records in some instances three weeks prior to AECOM receiving them.

There is a clear misunderstanding on the part of either Bromsgrove Council or the interested citizens group as to AECOM's role. This is reflected in the minutes of the Marlbrook Tip Working Group of 12 August 2014, wherein it is recorded that AECOM was monitoring the amount of fill being brought onto the site. That is simply incorrect.

Please do confirm in writing that you will bring to the attention of the Working Group the fact that AECOM was never responsible for monitoring or measuring the amount of fill tipped onto the Marlbrook Tip in Bromsgrove.

Please retract your statement that there was a failure of monitoring for which AECOM was responsible. AECOM denies any responsibility for any over-tipping which may have occurred with respect to Marlbrook Tip.

In the circumstances, AECOM cannot consider making a voluntary payment for the benefit of the local community. AECOM does contribute to charitable organisations through the United Kingdom with both monetary donations and the pro bono services of our generous employees.

Yours sincerely



Patrick Flaherty
Chief Executive, UK & Ireland