

**BROMSGROVE DISTRICT COUNCIL**  
**MEETING OF THE MARLBROOK TIP WORKING PARTY**

**21ST MARCH 2019, AT 11.30 A.M.**

PRESENT: Councillors R. J. Deeming, B. T. Cooper and C. B. Taylor

Officers: Mrs. R. Bamford, Mrs. T. Lovejoy and Ms. A. Scarce

Resident Representatives

Representatives from the Environment Agency and Worcestershire  
Regulatory Services.

23/18 **APOLOGIES AND INTRODUCTIONS**

Apologies for absence were received from Mr Paul Batchelor.

The Chairman invited everyone present, at the main table to introduce themselves.

24/18 **NOTES FROM THE MEETING HELD ON 25TH JANUARY 2019**

The notes from the previous meeting were agreed as a true record.

Ruth advised that a number of questions had been received in advance and the responses from the various agencies to these would be published on the Council's website together with the agenda and minutes of today's meeting.

These questions and responses were also read out by the relevant officers.

25/18 **UPDATE FROM THE ENVIRONMENT AGENCY**

Tony Deakin responded on behalf of the Environment Agency and confirmed that the situation was similar to that report in January 2019, the only major change was that the Panel Engineer appointed by Liberty Construction, Robert Mann had stood down. The Environment Agency had written to Liberty Construction asking for confirmation of the details of the replacement Panel Engineer.

Martin Quine of the Environment Agency added that they were in the process of reviewing the documentation in relation to the waste soils that had been accepted on site. A further visit would take place in the coming months.

26/18

**PLANNING UPDATE**

Ruth Bamford confirmed that there had been no further tipping and a planning application had not been submitted. If tipping were to resume, then the situation and what actions to be taken, would be reviewed at that time.

27/18

**UPDATE FROM WORCESTERSHIRE REGULATORY SERVICES**

Richard Williams, from Worcestershire Regulatory Services (WRS) confirmed that they were satisfied with the regular updates they received from EXEA Associates, who were appointed by Liberty Construction. They had no concerns and there was no change to the gas emissions and performance on site.

28/18

**ANY OTHER QUESTIONS FROM THE AUDIENCE NOT COVERED IN THE MAIN BODY OF THE MEETING**

As explained earlier in the meeting there had been a number of questions asked prior to the meeting and responses had been provided. The Chairman invited the audience and Working Party to put forward any further questions they had. A number of questions were put to officers, including:

1. *Who owned Liberty Construction Ltd?*

It was confirmed that Angus McGee was currently the director and that this information was available through Companies House. Marie McIntosh was the Director of Link Property Developments Ltd.

2. *As Robert Mann was no longer the Panel Engineer, had a new Panel Engineer been appointed and could he have a different solution?*

Tony Deakin (EA) confirmed that this appointment was made by Liberty Construction and he had written to them asking for details of the new Panel Engineer. That person would review the documents.

3. *Was there a plan to bring the matter to a conclusion?*

Ruth Bamford explained that the Council was not able to make Mr McIntosh apply for planning permission, so there was nothing further to be done at this stage. If there were developments in the future then a course of action would be considered, dependant on those developments. Currently there was no planning harm being caused and the Council was content with the situation.

4. *If the Council had done what it could then the matter must rest with the Environment Agency?*

Tony Deakin responded that there were legal requirements to carry out, a site visit had been made in December and there were no immediate concerns. The EA would continue to look to the person responsible to address any issues, they would only step in where they had safety concerns, and currently they had no concerns.

Richard Williams from WRS also responded that they had been asked to look at how the site was being managed and that as there was continuous monitoring they were also happy with things as they stood.

5. *The amount of over tipping and at what stage it would be agreed that enough was enough and no further tipping would be allowed.*

Ruth Bamford explained that there had been over tipping on a previous planning application, for the development of a golf course. More than was given permission was tipped in this case. A topographical study was carried out which showed this and after that Mr Mann advised that more was needed to cap it. The professional view was that more was needed. Any application received would be scrutinised and evaluated. It was difficult to say what the Council would do until the situation arose.

Tony Deakin explained that originally there was no Panel Engineer appointed to oversee the reservoir, but one was appointed at a later date. That Panel Engineer required more soil to meet safety requirements, as the clay core needed sealing off.

6. *Was the transfer notice on any planning permission?*

Martin Quine, EA confirmed that the owners had been made aware during the December and March site meetings that planning permission was needed for anything further brought on to the site. The Council had made it clear that this was the case and nothing further could be done without an application.

7. *Whether there were detailed plans as to where the 68k would go.*

Martin Quine advised that the waste recovery plan (document approved with the Environmental Permit) specifies the location of where waste is deposited. The soils will need grading across the site. A topographical survey is required once works have been completed.

Further clarification was sought in respect of both the type of soil and where it would be placed as it had been suggested that the whole site would be covered by 300 mm, and it was questioned why the whole site as it appeared that only about a quarter of it needed. Tony Deakin responded to the points raised and explained that Robert Mann, the Panel Engineer had said top soil was needed to protect the clay from the ingress of water. There were a number of patches around the site where soil was exposed for stability, where it would be placed and to what depth would be part of the planning application.

Ruth Bamford provided further back ground information in respect of the topographical survey which the Council had commissioned and the outcome of that survey. The Panel Engineer, Robert Mann, had said there were issues and this was separate to the original work the

Council had commissioned. If a planning application came in which asked for more tipping to be carried out then the fundamental question to be asked would be the need to understand why.

8. *As Robert Mann had stood down, were Liberty Construction legally obliged to appoint another Panel Engineer and if so were any formal meetings with the replacement envisaged?*

Tony Deakin confirmed that as soon as a new Panel Engineer was appointed dialogue would commence and the new Panel Engineer would determine if a new report would be asked for and the EA would consider any appropriate actions that needed to be taken, however, at this stage no assumptions could be made.

9. *There were a number of requirements from the EA report from 2014 which needed to be actioned, surely enough time had elapsed for us to now take legal action and why has this not been done.*

Tony Deakin advised that the EA had taken action over the last few years, a number of the items in the report did not need planning permission and had been actioned. The importation of the restoration soil was the only outstanding issue which required planning permission.

Ruth Bamford confirmed that Liberty Construction had spoken to the Planning Department in October and they were aware of what was needed, however an application had not to date been forthcoming.

10. *Did the EA have the powers to carry out the work itself and recharge Liberty?*

Tony Deakin explained that the majority of the work had been carried out, the EA would continue to monitor the situation but currently there were no safety issues and therefore it would not consider going down this route.

11. *Further soil had already been put on site as requested by the Panel Engineer, who was employed by Liberty Construction, who monitored the type of soil which was put on the site.*

Martin Quine from the EA confirmed that they had received the relevant paperwork in respect of this which would be scrutinised over the next 6 weeks. This included a contamination report which received in the last week and would also be analysed.

Concerns were raised in respect of what appeared to be misinformation and a lack of understanding of the situation and circumstances, in particular in respect of the broken culvert and impact of this. It was therefore suggested that the best course of action would be for a public enquiry to be called, which was supported by some residents in attendance.

Those present continued to discuss the history of the site and events which had brought it to the current position. This included the lessons learnt exercise which had taken place in December 2011 and the

suggestion that the inclusion of a weighbridge would have mitigated some of the previous problems. It was suggested that even if a weighbridge had been included in the requirement would have been for Liberty Construction to self-monitor. It was further suggested that the EA could be more proactive in dealing with the matter and that the responsibility now rested with them.

Ruth Bamford said that she appreciated that October to January seemed like a long time for residents,, but she explained what had happened and that from a legal perspective the Council needed to demonstrate that it had considered all the relevant issues at the time. Currently, due to actions taken by the Council activity had ceased at the site. If this recommenced then the Council would consider what action to take if necessary, at that time. In the meantime, the appointment of a new Panel Engineer was awaited by the site owner.

29/18

**DATES FOR FUTURE MEETINGS / FREQUENCY OF FUTURE MEETINGS**

The Chairman agreed that a further meeting would be arranged as and when necessary, but currently there was no need for a further meeting to be arranged.

The meeting closed at 12.40 p.m.

Chairman

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## MARLBROOK TIP QUESTIONS FOR MEETING ON 25 JANUARY 2019

Issue/Question	Response	Provider of Response
<p><b>The Reservoir &amp; Culvert</b> - At the last meeting the minutes say that Tony Deakin of the E.A. Stated “the reservoir was still safe and no immediate actions required” This appears to contradict a statement made in the meeting that the culvert from the reservoir had collapsed. Clarification and details of remedial action needed.</p>	<p>The culvert collapse happened many years ago and created the current situation where water is stored upstream of the landfill material.</p> <p>We are not presently concerned that the reservoir presents any elevated risk of failure.</p>	<p>Mark Acford  <a href="mailto:Mark.Acford@environment-agency.gov.uk">Mark.Acford@environment-agency.gov.uk</a>            Mobile: 07768276837</p>
<p>Can we please see the cost/risk analysis of decommissioning the reservoir and the alternative options?</p>	<p>Recent site work has confirmed that decommissioning the reservoir is not a viable option. We will continue to monitor the site for any signs of movement or distress.</p>	<p>Mark Acford  <a href="mailto:Mark.Acford@environment-agency.gov.uk">Mark.Acford@environment-agency.gov.uk</a>            Mobile: 07768276837</p>
<p>How much material has been deposited since tipping re-started in October 2018?</p>	<p>Waste return documentation received by the Agency confirms that in the period October to December 2018 a total amount of 10,500 tonnes of material has been received on site.</p>	<p>Val Colman  <a href="mailto:Val.Colman@environment-agency.gov.uk">Val.Colman@environment-agency.gov.uk</a>            Tel No: 02077140676</p>

Issue/Question	Response	Provider of Response
Have the waste transfer returns been seen and what do they actually tell you?	Waste transfer returns for the site were received by the Environment Agency's Operator Returns Department covering the period October 2018 to December 2018. The returns tell us that 10,500 tonnes of soil and stones have been brought onto site during the period. All wastes are described with a unique code under European Waste regulations dependant on the origin and nature of the waste. In this instance the code is 17 05 04. This tells us that the material is soil and stones not containing hazardous substances. This complies with the materials specified as acceptable in the permit.	Val Colman <a href="mailto:Val.Colman@environment-agency.gov.uk">Val.Colman@environment-agency.gov.uk</a> Tel No: 02077140676
Can the waste permit be modified or revoked if necessary?	The environment agency has a variety of powers of enforcement as a regulator. Waste permits can be modified (varied) or revoked by the Environment Agency. A decision to vary or revoke a permit is a serious step assessed on a case by case basis and involves a decision making process which takes into consideration a variety of factors. This includes, but is not limited to, factors such as the operators level of compliance with their permit conditions; any significant and persistent breaches of conditions; the level of risk of environmental impact such as pollution; an assessment of the operators competence and history of responses to any notices or other enforcement actions issued. The environment agency also has a duty to support business growth.	Val Colman <a href="mailto:Val.Colman@environment-agency.gov.uk">Val.Colman@environment-agency.gov.uk</a> Tel No: 02077140676

Issue/Question	Response	Provider of Response
EXEA Associates have written a report for Liberty Construction telling them what is needed as a management system to log all material going on site. Has this been set up?	A site visit was conducted on 13 <sup>th</sup> March 2019 by Martin Quine and Val Colman from the Environment Agency along with Ruth Bamford and Simon Jones from Bromsgrove Planning department. It was confirmed on this visit that Liberty Construction have an Environmental Management System and we have received a copy of this. During our visit we inspected relevant paperwork such as waste transfer notes on site. Some of the systems are not yet fully in place. We are currently working with the operator to achieve this.	Val Colman <a href="mailto:Val.Colman@environment-agency.gov.uk">Val.Colman@environment-agency.gov.uk</a> Tel No: 02077140676
What has happened since the Temporary Stop note expired last month?	Nothing has occurred from a planning perspective on site.	Ruth Bamford <a href="mailto:r.bamford@bromsgroveandredditch.gov.uk">r.bamford@bromsgroveandredditch.gov.uk</a> mobile: 07852437802
If tipping continues without planning permission, what protection do we have regarding hours of work and routes taken by lorries?	There would be no protection if tipping continues without planning permission. If tipping was to recommence the planning authority would need to decide what to do to address the issues raised in the question.	Ruth Bamford <a href="mailto:r.bamford@bromsgroveandredditch.gov.uk">r.bamford@bromsgroveandredditch.gov.uk</a> mobile: 07852437802

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