

MARLBROOK TIP WORKING GROUP

10th September 2015 17:30 – 18: 25

- Present:** Councillor Richard Deeming (Chairman)
Councillor Brian Cooper
Councillor Luke Mallett
Ruth Bamford, Head of Planning and Regeneration
Sarah Sellers, Principal Solicitor
Amanda Scarce, Democratic Services Officer
- Michael Adams (Lickey Community Group)
Charles Bateman
Mike Brooke (Lickey Hills Society)
Ron Brown
Baden Carlson (Lickey Hills Society)
Ann Doyle
Roy Hughes (Lickey Community Group)
Sue Hughes (Lickey Community Group)
Jill Harvey (Lickey & Blackwell PC)
Bernard McEldowney (Catshill & North Marlbrook PC)
- Invitees:** Fiona Upchurch Reservoir Safety Enforcement Officer, EA
Martin Quine Waste Team Leader, EA

1. Apologies

Apologies were received from Councillor Kit Taylor, Mr Kevin Dicks and Mr Paul Batchelor.

2. Notes from Meeting held on 29th June 2015 and Matters Arising

The notes were agreed, with no further matters arising.

3. Update from the Environment Agency (EA)

Fiona Upchurch (FU) informed Members that she had no further update and that the situation remained as previously reported. The reservoir remained under construction and the work needed to be completed by January 2016, when safety measures would be reviewed. At this point the EA would step in using their emergency powers if required.

An inspection would be carried out to ascertain whether action was necessary and a report would be produced. This would be considered in conjunction with the Construction Engineer's report. FU then responded the questions from members in respect of the following:

- The need for the 300 mm of restoration soil and the area which this refers to on the site.

- Access to the site by youths and the need for this to be secured, particularly when there is access to the reservoir.

Martin Quine (MQ) informed the Working Party that a Waste Recovery Plan (WRP) had been submitted. This document accompanies the Environmental Permit and is required to demonstrate that the proposed activity is genuine waste recovery rather than disposal. We have not yet approved this document and have requested further information. If the information is not provided then they cannot do the works using waste. MQ then responded to questions in respect of the following:

- Is there a deadline for the operator to provide further information required to assess the WRP? There is not a time limit, however, an approved WRP must be in place to carry out the works using waste.
- Was the permit a pre-requisite to planning permission being granted? A permit does not guarantee that planning permission will be granted as both need to be in place.

4. Planning Update from Ruth Bamford

Ruth Bamford (RB) confirmed that the Council had not received a planning application and there had been no further contact with the applicant, although there had been correspondence regarding legal technicalities. Officers responded to the following points raised by the members of the Working Party:

- The amount of time needed to process any application – RB confirmed that it should be completed within 13 weeks, unless an extension of time has been agreed with the applicant for a larger application.
- The unlikelihood of the application would not be approved prior to the EA deadline being reached and whether any preparations were in hand to address this.
- FU acknowledged that it was unlikely that the deadline would be reached, but the EA was unable to take any action until then.

5. Planning Enforcement Action re Storage of Vehicles on the Site

RB provided an update and confirmed that the enforcement notice had been served, containing a list of registration numbers but also worded to ensure that other vehicles were also covered. There was a timescale in which an appeal could be made to the Planning Inspectorate, and it was understood that someone had attempted an appeal, but details were not currently available. The appeal timescale would close in mid-September and the appellant would need to prove an interest in the land before then. Working Party members discussed the following points in more detail following receipt of this update:

- The grounds that the appeal had been made and the robustness of the enforcement notice.
- Until the appeals process had been completed no further action could be taken.

- The timescale should the appeal be rejected – RB confirmed that a revised compliance deadline would be set.

6. Questions received since the last meeting

Sarah Sellers (SS) confirmed that the questions which had been raised since the last meeting had been addressed within the updates received at this meeting. In response to Mr Bateman's question regarding soil, this had been referred to the EA but it was accepted that it was difficult to provide detail until the planning application had been received. Therefore the question had been noted and further details would be addressed at the appropriate time.

Mr Hughes highlighted that he had raised a question in respect of what progress had been made to produce a monitoring plan when the application had been received. Both SS and RB highlighted that lessons had been learnt from the previous experience and consideration been given to what would need to be done to ensure that the same mistakes were not repeated. Whether this be through a S106 contribution or other means, this would be dealt with when the application was received. Members were concerned that there was not a system in place as to how conditions were monitored. Officers explained that whilst there were standard wordings available, each application was dealt with on its own merits and it was not possible to pre-empt what actions would be needed.

Mrs Doyle raised the point that if the current owner did not action the Panel Engineer's Report then the EA would carry out the works and re-charge the owner. FU confirmed that whilst this was an option, it was not the most probable one. As previously explained the EA would initially look at what work needed to be carried out in order to make the site safe. The report that the EA would commission would not be as detailed as the Construction Engineer's report but would simply be a snap shot of the site's condition at that time and cover any work which needed to be completed immediately.

Members went on to discuss the Construction Engineer's report and the need for its content to be redacted and who had access to the full report. RB confirmed that the Council did not have the full report and that only the EA and site owner had sight of it. It was confirmed that it had been redacted by the EA, who does not own the intellectual property rights. The Council could ask for it, but there was no obligation to provide it. The EA confirmed that it was redacted due to a risk to public safety and this is standard practice for all reservoirs. It was explained by Sarah Sellers that a legal challenge to this decision could be made by the Council via the Information Commissioner. However, the Council would want to explore other options for the information being made available in the first instance.

ACTION:

- Officers to explore in more detail alternative means by which the Construction Engineers Report could be incorporated into consideration of any further planning application.

7. Items for Future Meetings

No specific items were agreed.

8. Dates for future meetings/frequency of future meetings

Following discussion it was agreed that as it was unlikely that any further significant developments would need to be reported until the EA deadline had been reached, that the November meeting of the Working Party would be cancelled and a meeting date be set for late January/February 2016. If there were any developments in the meantime then an interim meeting would be called if necessary and an update in respect of the enforcement notice would be emailed out to Members of the Working Party.

ACTIONS:

- Meeting of the Working Party to be carried for January/February 2016.
- Members to be emailed by Bromsgrove District Council with any developments in respect of the Enforcement Notice.

9. Any Other Business

Residents in the public gallery raised the following points to which officers responded:

- Clarification as to why no critical incident report or future plan had been carried out to ensure that the same thing did not happen again.
- Officers confirmed that the Council had requested the Internal Audit Team to investigate and a report with recommendations was produced.
- The Overview and Scrutiny Board had also carried out an investigation (Planning Policy Task Group) which had incorporated both the Internal Audit Team's report and put forward further recommendations (the implementation of which was monitored by the Board). Both these documents were available on the Council website.
- The recommendations had included better monitoring of conditions for future applications. RB highlighted that any conditions needed to be appropriately worded and each application to have a designated officer as the main point of contact.
- Any national guidelines or systems in place in respect of conditions which could be applied to a specific planning application. Whilst there were guidelines, RB confirmed that it was good practice to assess each case on an individual basis and formulate the recommendations accordingly.
- RB confirmed that if a planning application was received in this case, the case officer would be Sally Price.
- Any planning permission requested was attached to the land and not the owner; therefore if the ownership changed the permission would remain, together with any conditions attached to it.