

## **MARLBROOK TIP WORKING GROUP**

**27th January 2016 17:30 – 18: 23**

- Present:** Councillor Kit Taylor (Chairman)  
Ruth Bamford, Head of Planning and Regeneration  
Sarah Sellers, Principal Solicitor  
Amanda Scarce, Democratic Services Officer  
Jess Bayley, Democratic Services Officer
- Michael Adams (Lickey Community Group)  
Paul Batchelor  
Charles Bateman  
Mike Brooke (Lickey Hills Society)  
Baden Carlson (Lickey Hills Society)  
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  
Tony Deakin Reservoir Safety Manager, Environment Agency  
Martin Quine Waste Team Leader, EA  
Lara Williams EA

### **1. Apologies**

Apologies were received from Councillors Brian Cooper and Richard Deeming, Mr Kevin Dicks and Mrs Ann Doyle.

### **2. Notes from Meeting held on 10<sup>th</sup> September 2015**

The notes were agreed.

### **3. Update from the Environment Agency (EA)**

Fiona Upchurch (FU) provided an update on action that had been taken since the previous meeting. She advised that a Panel Engineer had visited the site on behalf of the Environment Agency. This visit had been conducted under S16 powers, emergency powers available to the agency to assess if any immediate actions were required in the interest of public safety. The engineer had assessed the reservoir and had found that water levels were being maintained, management of the site complied with requirements in the Construction Engineer's report and no waste had been brought on to site. The engineer had concluded that there was no imminent risk to public safety and therefore no immediate action from the agency was required.

The deadline for completing works outlined in the original Construction Engineer's report was the end of January 2016. Many of these works had not been completed and a Reservoir Safety Enforcement Notice was therefore in the process of being prepared by the Environment Agency. This would specify actions that needed to be taken and timeframes in which the actions would need to be completed. In some cases these actions would require planning permission and some actions would take longer than others to resolve; this would be reflected in the different deadlines that would apply to each action.

Martin Quine (MQ) informed the group that the Waste Recovery Plan (WRP) had not been resubmitted to enable the acceptance of waste. A WRP is required for works to be undertaken using waste on the site. There was also no deadline by which the requested information needed to be provided.

FU and Tony Deakin (TD) subsequently responded to questions in respect of the following:

- Whether the notice, due to be issued by the Environment Agency, would be made public. TD informed the group that, subject to legal advice, there was the possibility that this could be released under Freedom of Information (FOI) rules, though only once the notice had been served and it was likely that details would be redacted.
- The extent to which actions in the notice could be prioritised. TD advised that deadlines would need to be reasonable and would be influenced by factors such as requirements for planning permission.
- Whether sanctions could be applied if the site owner failed to comply with the notice. TD informed the group that the notice was a sanction, though further action could be taken. The form this action would take would be assessed by the Environment Agency in context.
- The date when the notice would be served. TD clarified that the notice would be served shortly.
- Whether the recent Panel Engineer's report would supersede the original Construction Engineer's report. FU advised that the Panel Engineer had been fully aware of the findings in the original report and that the actions detailed in the report would inform the content of the notice.
- The length of time it would take for the actions detailed in the notice to be completed. FU advised that the length of the process would be difficult to predict and would be partly dependent on the time taken in respect of the planning process.
- The length of time required to process planning applications. Ruth Bamford (RB) advised that major planning applications were processed within 13 to 16 weeks, though sometimes an extension to the timeframes was agreed by the Council with the applicant.

#### **4. Planning Update from Ruth Bamford**

RB informed the group that the Council had not received a planning application since the last meeting and therefore planning permission had not been requested.

## **5. Planning Enforcement Action Update**

Sarah Sellers (SS) advised that the challenge against the Planning Enforcement notice had not been successful and the notice had therefore taken effect. The site owner had subsequently removed the items that needed to be removed in accordance with the terms of the notice. Consequently the site was looking much tidier.

## **6. Any Other Questions from the Audience not covered in the main body of the meeting**

A number of questions were asked addressing similar points to those raised during consideration of the update on the Environment Agency as well as the following additional areas:

- The reasons for the time that had been taken by the Environment Agency to progress with action at the site. TD advised that the agency had to follow a legal process.
- The potential for the site owner to appeal against the Environment Agency's notice. TD advised that anybody served with such a notice had the right to appeal, though the grounds for appeal varied.
- The potential for any appeal to be held in the public arena. TD advised that a decision as to whether to hold an appeal in public would be taken by the courts.
- The potential for interested residents to be kept informed of the appeal process if one was launched as this was held in private. TD advised that further legal advice would need to be obtained on this subject.
- The timescales in which an appeal could be made. TD advised that the site owner could make an appeal in the 28 day period after the notice was served.
- The developing nature of the Environment Agency's action at the site. FU advised that it was not always possible to predict in advance how the agency would be acting in 12 months as this could be influenced by changing circumstances.
- The extent to which further checks would be made in future on the safety of the site. FU explained that the inspection had been carried out by the Panel Engineer because the deadline for completing the recommendations of the Construction Engineer's report was approaching. Safety checks were the responsibility of the Construction Engineer. He was subject to professional expectations, responsibilities and liabilities. The frequency and timing of his visits were decided between himself and the site owner
- The requirement for the Construction Engineer to sign a certificate of completion works once all required actions had been taken.
- The need for works to be undertaken in the long-term interests of safety on the site. FU clarified that the Panel Engineer was satisfied that the risk to public safety could be managed by the site supervisor (Construction Engineer) but these would still need to be resolved in due course.

## **7. Dates for Future Meetings / Frequency of Future Meetings**

The Working Group was advised that the next meeting would be taking place on 28 April 2016.

Further meetings would take place on the following dates:

- 21st July 2016.
- 17th November 2016.