

Marlbrook Tip Working Party  
25 January 2019

**BROMSGROVE DISTRICT COUNCIL**

**MEETING OF THE MARLBROOK TIP WORKING PARTY**

FRIDAY 25 JANUARY 2019 AT 10:00 A.M.

COMMITTEE ROOM, PARKSIDE

PRESENT: Councillors Richard Deeming, Brian Cooper

Michael Adams, Baden Carlson/Michael Brooke, Paul Batchelor, Charlie Bateman, Roy Hughes and Sue Hughes

EA Representatives: Tony Deakin, Martin Quine, Val Colman

Ruth Bamford, Head of Planning and Regeneration  
Tracy Lovejoy, Planning Lawyer

Observers: Members of Public, Councillors Charlie Hotham, Helen Jones

16/19 **APOLOGIES AND INTRODUCTIONS**

Apologies for absence were received from Cllr Luke Mallett, Kit Taylor, Fiona Upchurch, Cllr Jill Harvey and introductions were made.

17/19 **UPDATE**

Tony Deakin from the Environment Agency (EA) provided an update on events since the last meeting. He advised that a site survey had been carried out, the findings shared and all costs recovered. Eddie McIntosh had been interviewed in July and cautioned as part of the process. In the summer a cost risk analysis was carried out and different scenarios were looked at. A site visit was made on the 7 December with a geotechnical engineer a reservoir panel. The report is still awaited. In the meantime it was advised that the reservoir was still safe and no immediate actions required.

Martin Quine visited the site on 7 December 2018 to inspect compliance with the Environment Permit. A low level of non-compliance was identified with one load accepted containing a small amount of metal and plastic physical contamination. It was asked for this waste to be removed.

Cllr Richard Deeming (Chairman) asked if there were any questions and the following responses/comments were noted:

- It was advised that there was an Environmental Permit allowing the acceptance of waste soil for restoration purposes. The restoration soils prevent damage to the clay cap from erosion and vegetation growth. Tony Deakin believed that the reason why waste was being brought on site at the moment was due to carrying out requirements in the Construction Engineers report.
- Discussions took place regarding the Environmental Permit and monitoring of the loads coming in. Martin Quine confirmed that the operator is required to provide a quarterly waste return informing the Environment Agency of how much waste they have accepted. This document is public register and can be provided to the working group. A request had also been made to the operator for copies of their waste transfer notes.
- Tony Deakin clarified that from the initial findings of the recent site visit, there had been no movement and the dam is in a stable condition to the point where intervention is not required at the moment but safety work still needed to be carried out.
- It was advised that 68,000 tonnes of waste permitted under the Environmental Permit, which is likely to equate to approximately 3.5k – 4k lorry movements to the site. How this figure was calculated was explained.
- The number of lorries tipping was queried and it was asked if a further topographical study could be carried out. Residents expressed concerns about this being too late and it was advised that was the case the engineer would sign off has not compliant.
- The decommissioning of the reservoir was discussed and Tony Deakin explained the cost risk analysis undertaken considered a number of alternative options.
- It was advised that the minimum depth of 300mm was dependant on reprofiling work that Liberty plan to carry out.

18/19

### **PLANNING UPDATE**

Ruth Bamford advised that two notices had been served. Firstly, a Planning Contravention Notice that questioned what was going on and why and secondly, a Temporary Stop Notice for 28 days (served today 25.01.19 just before 9:00am) . Ruth Bamford explained why the notice was temporary and that the Planning Authority cannot advise what the stage next would be but it would involve liaisons with the site owner and EA. Ruth Bamford advised that she would be doing some monitoring and having discussions with legal colleagues. Cllr Brian Cooper asked why the EA observe tipping continuing without planning consent and the EA advised that they had been informed by Liberty Construction that all planning permissions had been obtained.

Ruth Bamford explained that the control of the site falls under two sets of regimes. Firstly there is the reservoir legislation and then secondly planning. It could not be confirmed that the admission of tipping was declared under caution until further evidence collected. If Planning permission was in place site operating levels could be controlled. Submission of a planning application would include a topographical survey. It was discussed why the Temporary Stop Notice had not been served earlier and how the site engineer could not know that there was no planning permission. Martin Quine explained that local tests were required before the license/permit could be revoked. EA explained there are two processes for the site – a transfer waste to be submitted to EA if required and the submission of a 3 monthly report. Tracy Lovejoy advised that when the operator said he had planning permission he was referring to an old planning permission. The 2 regimes have to be pursued separately and in any planning appeal the safety of the reservoir would be taken into account. Ruth Bamford stated that if any enforcements action is appealed or queried she would like to be in a position in that the Council could win and secondly what was served this morning was not the only enforcement served since late last year i.e. planning intervention notice. The Temporary Stop Notice served today (25.01.19) is a tool for what the Council's next moves should be for the right decision made from a planning prospective. Liberty Construction representative advised that Liberty had taken on a waste consultant who will give an independent view including the legalities.

19/19

#### **UPDATE FROM WORCESTERSHIRE REGULATORY SERVICES**

18 months ago a gas test was performed and it was advised that there was nothing there.

Barbara Newman read out email from Mark Cox of WRS. The details of the email are on the questions and answers table which would be issued separately with the minutes.

20/19

#### **ANY OTHER QUESTIONS**

Cllr Charlie Hotham asked Ruth Bamford that if planning permission was granted would it be possible to include S106 as it moves forward. It is quite common for conditions for mitigation i.e. dust sprays. Until a planning application is seen the Council cannot state what mitigation would be needed.

It was asked if environmental protection would be involved as was it not seen as a statutory nuisance and it was expressed that WRS should be in attendance at the next meeting. Ruth Bamford explained the circumstances of this. Ruth Bamford also stressed that when any planning application is submitted it would be visible to everyone for comment. If a planning application is not received with the 28 days of the Temporary Stop Notice, Ruth Bamford stated that the next steps would be looked at. It was

questioned what happens if planning permission was not granted. EA stated the work is required to make the reservoir safe. Ruth Bamford said if not granted likely to go to appeal. Monitoring for safety would continue.

It was asked with 68k tonnes needed to go on and, bearing in mind previous tipping, was it assumed that 68k tonnes was the maximum based on 300mm. Ruth Bamford responded that the panel engineer under Reservoir Legislation had asked for this as a minimum and calculated tonnage. If the panel engineer asked for 300mm across the site the accuracy of the maths depended on whether the material was wet or dry, compressed or not. The topographical survey would confirm this. Therefore a hybrid approach could be taken regarding the monitoring of lorry movements and an interim topographical report. Tony Deakin to seek clarification from engineer as to why if only a quarter of the site is clay capped why the tipping is on the entire site.

The matter concerning other vehicles on the site i.e. boat on trailer was raised. Ruth Bamford advised that going forward an understanding would be achieved of what works were to be undertaken and the related machinery. Discussions took place regarding the planning process. It was advised that before a separate enforcement could be possibly issued the whole situation needed to be looked at in more detail.

Ruth Bamford stated that questions that had been submitted before the meeting had been listed separately on the table of questions and answers.

21.19

#### **DATES OF FUTURE MEETINGS**

It was agreed to hold the next meeting sometime in March. Environmental Health Officers attendance was requested.

Closed: 12:00