

Public Meeting regarding Marlbrook Tip

13th March 2012



Introductions - Councillors

- Councillor John Ruck - Ward Member for Marlbrook and Chair for this evening
- Councillor Dr Brian Cooper - Ward Member for Marlbrook
- Councillor Richard Deeming- Chair of Planning Committee
- Councillor Kit Taylor - Planning Portfolio Holder

Introductions continued - Officers

- Ruth Bamford - Head of Planning and Regeneration
- Iain Mackay - Senior Enforcement Officer
- Claire Felton - Head of Legal, Equalities and Democratic Services
- Andy Stephens - notetaker (the notes of the meeting and the Powerpoint presentation will be placed on the website.
- Mark Cox – (Senior Practitioner) Pollution & Andy Ferguson (Team Leader) – Worcestershire Regulatory Services

Purpose of the meeting

- Some useful background information for people who have not followed issues as closely as others (also exhibition)
- Issues of Public Concern
- Planning and Environmental Issues going forward
- Discuss future action with regard to the site
- Ensure public involvement and communication (ongoing)

Site History

Application Ref.	Proposal	Decision
B/2002/0618	New drain culvert and balancing ponds – resubmission of B/2000/1193 – (58,500 cubic metres)	Approved 10.07.02
B/2003/1490	Variation of Condition 3 of Planning permission B/2002/0618 – allowed – 36,500 cubic metres	Approved 07.04.04
B/2003/0378	Remediation of former landfill site and creation of golf course – 373,369 cubic metres was granted	Approved 25.01.06

Study by AD Horner

Conclusions:

- Volume of material added to site as at AD Horner survey of April 2011.
- This is more than permitted via planning permissions.
- This report is on the Council's website

Internal Audit Report (as presented at last meeting)

- Objective: To establish how overtipping had occurred at Marlbrook Tip and to identify lessons to be learnt
- The final report was published on 16th December 2011 and is available to view on the Council's website.
- The report makes a number of key recommendations and a timeframe for implementation

Overview and Scrutiny Meeting

This meeting will take place on 26th March. The O&S Board will decide at that meeting whether to recommend that the report is taken on to Cabinet on 4th April for their consideration. The report should be available to view from March 17th.

Faber Maunsell Reports

- Faber Maunsell reports showed mathematical errors. This has been taken up with CEO who has already had one meeting with Faber Maunsell and a second will be arranged.

Service related Issues of Public Concern

- A large amount of over tipping occurred and the Council failed to adequately monitor it.
- The Council did not act decisively to stop the unauthorised development and there has been a time lag in proceedings.
- No investigations into the level of illegal earnings derived.
- Loss of property value

Public Comment on the future of the site

- Harm to Green Belt
- Harm caused by noise and dust.
- Risk of Flooding
- Risk arising from unknown Material deposited.
- The stability of the deposited material is unknown.
- Landscape and tree planting issues.
- Visual amenity issues.

Planning Issues Moving Forward

- Minimise harm caused by noise, dust and traffic fumes – assumption at this stage that material essentially stays on site.
- Improving visual amenity – so that there is a better blend into the existing landscape (i.e. limited remodelling)
- Ensuring site stability – now and in the future (i.e. remodelling will need to be stable and enhance visual amenity).

Planning Issues Moving Forward

- Landscaping and planting – can an adequate growing medium be established using existing materials on site or is the importation or other treatment required?
- Surface Water Management – what measures will be necessary to ensure the long term sustainability of the site?
- Environmental Management issues – what are these and ensuring ongoing sustainability.

Planning Issues Moving Forward....continued

- Boundary treatment.
- Green Belt policy.
- Appropriate end use/financial viability.
- General Development Management Policies.
- Removal of Temporary Buildings etc.

- Much of the information will be required from external consultants who will need to work together. This will take time.

Environmental Management Issues

- The key is that future actions on the site do not compromise or hinder the environmental management of the site.
- Issues to be considered:
- Ongoing gas and leachate management, monitoring and infrastructure
- Retention of a suitable capping layer on the landfill
- Ensure the soil quality on site is suitable for use

Realistic Options Moving Forward

- Do nothing – except for monitoring environmental management issues and ensuring that there are no safety issues
- Remove excess material – except tipping associated with the Reservoirs Act etc.
- Do minimum re-contouring to achieve satisfactory outcomes
- This could be achieved through negotiation
- The site owner could ‘walk away’
- The site owner could ‘walk away’ or see this as a stepping stone for something else on site

Planning Tools

- The purpose of any planning action is to improve the current planning situation in the wider public interest.
- There are two realistic options:
 1. A retrospective Planning Application. The applicant would need to submit a range of documentation to allow proposal to be evaluated It would not necessarily be approved.
 2. Enforcement because of a breach of planning control i.e. the site owner didn't have planning permission for the amount of overtipping that has occurred and so the Council will tackle this as free standing unauthorised development. BDC will need to consult with WCC.

Enforcement Notice

- This is a notice asking the site owner to do something.
- If they don't it is referred to Magistrates Court the penalty if convicted is up to 20k or if heard at Crown Court an unlimited fine.
- The fine from the Courts is for non-compliance but it doesn't necessarily change anything on site
- Consultation would only be informal (not usual).
- The "notice" goes with the land.
- A disadvantage is that there is a right of appeal to PINS which can cause delays and PINS may not back the Council position.

ENFORCEMENT NOTICE - Issues

- a notice may lead to criminal liability therefore it is necessary to ensure the basic protection of the recipient.

“... does the notice tell the person fairly what he has done wrong and what he must do to remedy it?”

SPECIFY has two elements:

- the matters to be stated precisely and clearly, and
 - accurately
- failure to achieve an adequate standard may render the enforcement notice A NULLITY or INVALID

So what should the Enforcement Notice for Marlbrook Tip say?

- This depends on the feedback from the different professions/consultants.
- There will be formal discussions with WCC.
- The Notice will require significant legal input.

Concluding Comments

- The issues at Marlbrook Tip are wide-ranging and complex.
- BDC is happy to work with residents and keep people informed regularly
- Next meeting Sept 2012?

Questions?