

Public Meeting regarding
Marlbrook Tip
10th February 2014



Introductions - Councillors

Councillor John Ruck – Ward Member for Marlbrook and Chair for this evening

Apologies

Councillor Brian Cooper – Ward member for Marlbrook



Introductions continued - Officers

- Ruth Bamford – Head of Planning and Regeneration
- Tracy Lovejoy – Planning Lawyer
- Amanda Scarce – note taker (the notes of the meeting and the Powerpoint presentation will be placed on the website).
- Sarah Sellers – Principal Solicitor



Introductions continued – Environment Agency

- Fiona Upchurch – Environment Agency
- Roger Lewis – Environment Agency



Purpose of the meeting

- Breach of Planning Control / over tipping
- Reservoirs Act and Environment Agency Enforcement Role
- Council approach to issues at Marlbrook Tip
- Time for Questions
- All info related to this evening will be put on the Council's website



Breach of Planning Control

Over Tipping

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



Marlbrook Reservoir

⇒ Outstanding Measures in the Interests of Safety

⇒ Fiona Upchurch

⇒ FCRM Officer - Reservoir Safety Enforcement – The Environment Agency

Marlbrook

- ➔ Reservoir registered in 1993
- ➔ Capacity 37000m³ Water above natural ground level
- ➔ Dam is formed by the landfill



Legislation

1925 = 2 dam failures
16 lives lost

Reservoirs (Safety Provisions) Act 1930

Reservoirs Act 1975

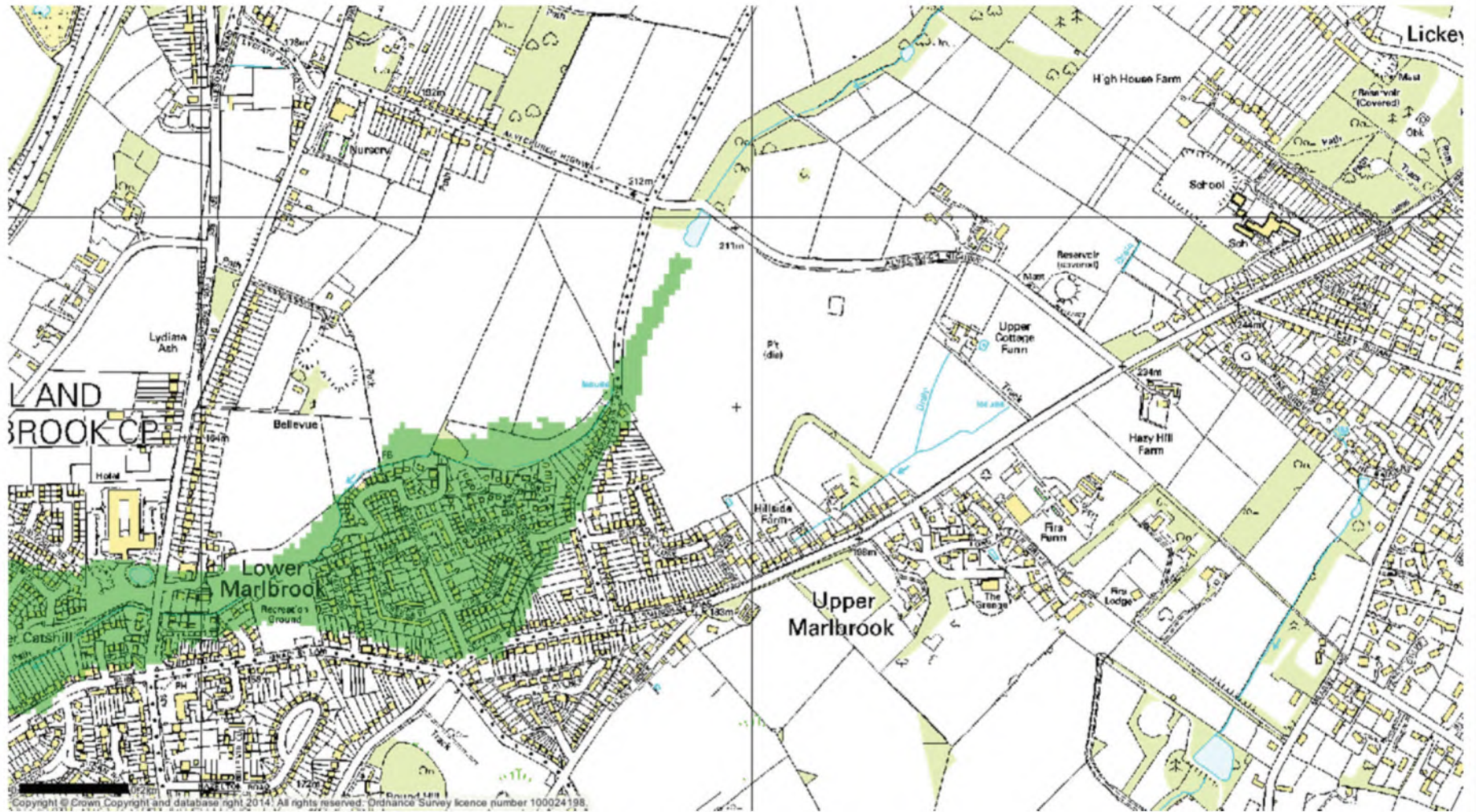
- 25000m³ volume
- Civil engineers (Panel Engineer)
- October 2004 Environment Agency responsible for enforcing Reservoir Safety Act



Panel engineers report

- ➔ March 2013
- ➔ Measures in the interests of safety due
- ➔ The site should be covered with 300mm of restoration soils and seeded to provide a good grass sward
- ➔ 12 months to complete works
- ➔ Criminal offence





Environment Agency - Contacts

➔ Waste – Helen Bayliss

➔ helen.bayliss@environment-agency.gov.uk Tel: 01684 864356

➔ Water Quality – Michael Morris

➔ michael.morris@environment-agency.gov.uk Tel: 01562 534126

➔ Reservoir Safety – Fiona Upchurch

➔ fiona.upchurch@environment-agency.gov.uk Tel 01392 442131

➔ Environmental Incident Hotline (24hrs)

Tel 0800 80 70 60

Council approach to issues at site (1)

- Starting point = issue an enforcement notice to address issues at site caused by over tipping
- Notice to compel owner to take steps to remedy harm caused to visual amenity

Council approach to issues at site (2)

- Specific areas identified
 - ❖ Contouring works – make shape better
 - ❖ Soft landscaping – ensure vegetation cover
 - ❖ Drainage – improvement to surface water drainage
 - ❖ Site compound – removal or tidying up of this part of site

Council approach to issues at site (3)

- Long process as complex issues affecting the site including the reservoir
- Assisted on technical issues by Halcrow and on legal issues by Counsel
- Close liaison with EA – Reservoirs Team and Waste Team
- Meetings with EA, landowner, North Worcestershire Water Management, QCE
- As work progressed potential conflict with the work of Panel Engineer became apparent

What is a panel engineer's report?

- Statutory requirement to have reservoirs inspected at least every 10 years by a panel engineer – usually results in a report
- Panel engineer may recommend works to be carried in the interest of the safety of the reservoir

What is a panel engineer's report?

- Those safety works must be carried out within the time period set out in the report – failure to do so is a criminal offence
- EA is the regulatory authority for the reservoirs and would enforce the safety recommendations

Planning enforcement vs Protection of the Reservoir

- Planning enforcement: balancing a wide range of factors
- Panel engineer: narrow issue of public safety and the integrity of the reservoir
- Legislation designed to protect people and property from uncontrolled releases of water from large raised reservoirs
- Marlbrook tip: formal report issued - Different from LPA's approach but LPA cannot change

Planning enforcement vs protection of the reservoir

- Unreasonable and therefore unlawful to impose conflicting requirements on landowner –
 - Safety requirements take precedence
 - Planning enforcement action overridden by events
 - Avoid conflicting requirements to the landowner
- Unnecessary and little benefit in duplicating requirements under planning enforcement – e.g. landowner cannot be prosecuted twice for same set of requirements
- Reasonable for LPA not to take enforcement action in this case

Comparison of Council approach and Panel Engineer approach (1)

Issue at Site	Council draft proposals	Panel Engineers Recommendations
Volume of over tipped material	Not expedient to remove. Not in the public interest.	No plans to seek to remove over tipped material.
Contours/ gradients on the site	<p>Proposal to smooth out contours on the top part of the site and fill in some of the depressions. Methodology to include cut and fill i.e. re-using existing material to reduce amount of extra material to be brought onto site</p> <p>Top soil to be saved for re-use in soft landscaping works.</p>	<p>Proposal to reduce gradients of the land on the areas surrounding the reservoir.</p> <p>Informally confirmed that works will include some general re-contouring.</p>

Comparison of Council approach and Panel Engineer approach (2)

Issue at Site	Council draft proposals	Panel Engineers Recommendations
<p>Soft landscaping works</p>	<p>Area where contours remodelled, to be subject to soil improvement. Remainder of site (apart from established grazing land) to be subject to soil amendment.</p> <p>Soil improvement - Introduction of minimum of 200mm of soil/ compost over area of re-contouring to act as a growing medium .</p> <p>Soil amendment – soil preparation through screening, soil aeration and weed control. Addition of compost</p> <p>Methodology to include re- use of saved top soil to limit the amount of additional soil required to be brought onto the site.</p> <p>Seeding of both the areas of soil improvement and soil amendment with selected specified grass varieties to establish a good cover of vegetation to provide an erosion resistant surface and improve appearance.</p>	<p>Introduction of 300mm or restoration soils on the whole area of the site that has not already been restored to grazing land.</p> <p>Methodology to be importation of the materials required from off site sources (as opposed to use of cut and fill – because of risk of disruption to the existing capping layer). Use of soil only – no compost.</p> <p>Seeding of the area covered by restoration soils to establish a good grass sward to limit erosion and siltation of the reservoir/ various drainage structures.</p>

Comparison of Council approach and Panel Engineer approach (2)

Issue at Site	Council draft proposals	Panel Engineers Recommendations
Drainage	<p>Repairs to existing drainage channels</p> <p>Works to formalise existing informal drainage channel and create one new drainage channel</p>	<p>Some repairs to existing drainage channels</p> <p>Voluntary inclusion of additional Council drainage measures in the works has been discussed with landowner and supervising engineer.</p>

Realistic Options Moving Forward

- Support to the Environment Agency to ensure compliance on site with the requirements of the Panel Engineer

Questions