

TONBRIDGE & MALLING BOROUGH COUNCIL

STREET SCENE and ENVIRONMENT SERVICES ADVISORY BOARD

13 February 2018

Report of the Director of Planning, Housing & Environmental Health

Part 1- Public

Matters for Recommendation to Cabinet - Non-Key Decision (Decision may be taken by the Cabinet Member)

1 FORMER JOCO PIT – LANDFILL GAS INVESTIGATION

SUMMARY

1.1 Since 1991 the Borough Council has been monitoring landfill gas levels at the former Joco Pit, which now comprises the residential area of Tolsey Mead and Eaglestone Close, Borough Green. In mid-2017 increased gas levels at one borehole were recorded which have not stabilised and further investigation is now needed to identify the level of risk.

1.2 Background

1.2.1 The site formerly known as Joco Pit is a closed landfill site which now consists of the residential roads Tolsey Mead and Eaglestone Close in Borough Green. The site lies to the north of Borough Green, on the east side of Wrotham Road. (See attached plan in Annex 1). The site was quarried for sand before accepting waste from approximately the 1960s to the early 1980s. Planning permission was granted in 1984 for the construction of 56 dwellings on the former pit. Site investigations at the time did not indicate any issues from landfill gas and the only remediation required was the provision of clean soils for the gardens.

1.2.2 The 1988 Town & Country Planning (General Development) Order introduced the requirement for the waste control authority (in this case Kent County Council) to be consulted in respect of proposed development on, or within, 250 metres of land which had been used for landfill in the preceding 30 years. This then led to a review of all landfills which had already been developed, including Joco Pit. In 1991 eight borehole monitoring points were installed across the site as well as two control boreholes off site, as part of a joint initiative between the Council and KCC. Surveys were also undertaken inside the residential properties. .,This investigation, whilst finding nothing inside properties, did find that the site was starting to produce landfill gas at low concentrations and although no formal documentation can now be found, it is assumed this was the reason for the continued monitoring.

1.3 Recent monitoring results

- 1.3.1 In June 2017 officers noticed concentrations of landfill gas noticeably higher than those recorded in recent years at one of the two remaining boreholes. Due to the random nature of results obtained from spot checks from those bore holes that remain on site, officers repeated the monitoring, to determine whether the original results were representative of current conditions. Concentrations did not fall as expected, but an increasing trend appeared.
- 1.3.2 In August the Council commissioned a review of the site, including planning history and monitoring data, from Leap Environmental Limited to determine whether this increasing trend in landfill gas concentrations, including Methane and Carbon Dioxide, at a single borehole posed a potential risk to residents.
- 1.3.3 The conclusions of Leap's desktop study state that further investigation is needed to establish whether there are potentially unacceptable risks from the perspective of Part 2A of the Environmental Protection Act 1990, relating to ground gases. Leap Environmental Limited have now been commissioned to advise and carry out works which include the drilling and monitoring of 8 additional boreholes, installed with continuous gas analysers to provide data for 1 month. The site will then be spot monitored weekly for a further 2 months and the data used to produce an up to date and adequate risk assessment for the site.
- 1.3.4 As gas is more likely to migrate to the surface during winter months due to frequent atmospheric low pressure systems, it was also recommended that to obtain a worst case scenario, this exercise be undertaken as soon as possible.
- 1.3.4 In December an internal steering group was convened, comprising officers from Environmental Protection Team, Media, Finance and Legal, as well as representatives of Leap, in order to ensure that all aspects of this project are fully considered and managed..

1.4 Current Progress

- 1.4.1 Following local member briefings in early January, letters were sent to all residents of Tolsey Mead and Eaglestone Close (Zone 1) on Wednesday 24 January (copy attached in Annex 2), advising of the problem and seeking permission to install a new boreholes. Letters were also sent to residents of 2-18a and 47a Annetts Hall (Zone 2), as those properties whilst not forming part of the Joco Pit site do sit directly adjacent to it (copy attached in Annex 3).
- 1.4.2 Coupled with the letters, a dedicated webpage with links to relevant documents including a FAQs page was also established at www.tmbc.gov.uk/formerjocopit A dedicated email address was also created for residents to contact officers directly at formerjocopit@tmbc.gov.uk

- 1.4.3 Officers also organised two drop in sessions to enable residents to ask questions of officers and Leap staff. These took place at Potters Mede, Wrotham Road on the evenings of Tuesday 30 January and Thursday 1 February.
- 1.4.4 At the time of writing the 30 January event has been held and was attended by residents from 10 different properties. All were naturally concerned but understood the need for the Council to carry out the further investigative works and several appeared agreeable to having a new borehole on their property. A further 16 residents have returned forms sent out with letters requesting permission to install a new borehole on their land, of which four were a positive response. Officers are therefore confident that sufficient sites for new boreholes can be found to move ahead as planned.
- 1.4.5 Following the identification of the eight new borehole locations it is planned to begin installation later this month with continuous monitors in place by the end of February and spot monitoring completed by the end of May. Officers will therefore report back to board with progress in the coming months.

1.5 Legal Implications

- 1.5.1 Part 2A of the Environmental Protection Act 1990 places a duty on all local councils to investigate where land in its area might have been contaminated because of the way it was used in the past or how it is currently used. The council then has to put any sites they find in order of priority based on the risk they might cause to human health or the wider environment. We have been doing this in line with our Contaminated Land Inspection Strategy.
- 1.5.2 Having identified a potential issue with landfill gas at this location, it is our duty to carry out further investigations. The initial intent of the further investigations is to demonstrate that there are no significant issues that can be reasonably identified, in which case no further action need be taken other than an appropriate regime of future monitoring. Should the study by our consultants demonstrate high levels of gas production from the site then we will then need to assess whether the gas is capable of entering homes, so further monitoring inside dwellings may be required.
- 1.5.3 On the conclusions of investigations and in the context of advice from our consultants and expert legal advice the Council will need to consider whether the site should be 'declared' under part 2A of the Contaminated Land regime and, if appropriate, develop a remedial strategy with homeowners.
- 1.5.4 The Board should be aware that specialist external legal advice has been commissioned to provide advice on the legislative context for the Council's involvement and in particular on the issue of liability of parties.

1.6 Financial and Value for Money Considerations

- 1.6.1 No provision for the cost of these investigative works is, or could reasonably have been, specifically included in the Council's budget and funds for this initial study have been found from reserves. Should it be necessary to extend the nature of investigations then additional funds will need to be identified in due course.
- 1.6.2 The Director of Planning Housing and Environmental Health has sought a waiver of the Councils Procurement Rules in line with Rule 13 of the Councils Contracts Procedure Rules due to the urgent nature of these works.
- 1.6.3 The company retained Leap Environmental Ltd have an excellent track record in assisting Local Authorities with contaminated land investigations and recently undertook work for Tunbridge Wells Borough Council at the former Halls site in Paddock Wood.

1.7 Risk Assessment

- 1.7.1 Part of the investigation into potential contaminated land required under Part 2A of the Environmental Protection Act 1990 includes the creation of a detailed risk assessment for the site. The purpose of these works is to obtain sufficient data for a valid risk assessment to be created.

1.8 Policy Considerations

This investigation is in line with the Councils Contaminated Land inspection strategy updated in 2016 which can be found online at <https://www.tmbc.gov.uk/services/environment-and-planning/pollution/pollution-control-contaminated-land>.

1.9 Recommendations

- 1.9.1 It is **RECOMMENDED** that Cabinet **ENDORSE** the approach taken by Officers in order to begin investigations into this matter in a swift and timely manner.

The Director of Planning, Housing & Environmental Health confirms that the proposals contained in the recommendation(s), if approved, will fall within the Council's Budget and Policy Framework.

Background papers:

Nil

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