



PLANNING COMMITTEE – 8TH OCTOBER 2014

SUBJECT: SITE VISIT - LAND OPPOSITE BROOKLANDS, NELSON, CONSIDERATION OF THE EXPEDIENCE OF ENFORCEMENT ACTION.

REPORT BY: ACTING DIRECTOR OF CORPORATE SERVICES AND SECTION 151 OFFICER

PRESENT:

Councillor D. G. Carter – Chair
Councillor W. H. David - Vice Chair

Councillors H. Davies, L. Gardiner, A. Lewis and S. Morgan

1. Apologies for absence were received from Councillors E.M. Aldworth, Mrs A. Blackman, N. George, Mrs J. Summers and Mr J. Rogers (Principal Solicitor)
2. The Planning Committee deferred consideration of this application on 10th September 2014 for a site visit. Members and Officers met on site on Wednesday, 24th September 2014.
3. Details of the Officer's report and its recommendations were noted.
4. Those present walked the site and viewed the cesspits and surrounding area in order to fully appreciate the issues under consideration.
5. Members were asked to note that the site is opposite a cul-de-sac of houses at Brooklands, Nelson and contains the four cesspits that serve those properties. The history of the site was highlighted and the issues of concern as noted in the Officer's report outlined. Concerns had been expressed by residents that the landfill activities had damaged the integrity of the cesspits causing sewage to flood out onto the surrounding area. The Officer confirmed that this was a private matter between the developer and the local residents.

The level of landfill brought onto the site was queried and it was confirmed that the levels were slightly higher than that approved but not to such an extent that they would be actionable on grounds of visual amenity. Members were advised that due to recent good weather the extent of the flooding experienced was difficult to gauge and the intention was for Officers to monitor the site over a period of inclement weather in order to gather evidence and then consider if enforcement action was required.

6. The Local Ward Member agreed that the site was visual acceptable, but felt that the levels being tipped on to the site were not. Clarification was sought with regard to the permitted levels of landfill and whether these had been exceeded by the owner. The Officer confirmed the site benefitted from an exemption under Waste Licensing Regulations and advised that a tonnage limit would have been specified in the exemption however any alleged breach would be a matter for Natural Resources Wales (NRW). It was also noted that residents had received a letter from NRW with regard to the sewage overflow problems. This letter had requested they identify and remedy the cesspit causing the problem. At this time a resident of Brooklands had also contacted the Council directly with the same concerns.

7. The Local Ward Member expressed the opinion that the Council, in granting planning permission to allow tipping on the land and for not adequately controlling the development have a responsibility to ensure that the applicant abides by its terms and rectifies the problems with the cesspits. The Legal Officer confirmed that the cesspits would be a private matter between residents and the landowner, and the landowner should have made appropriate arrangements in this regard. He advised that if residents wished to, they did have a legal right to seek an injunction against the landowner to up hold their third party rights, stop interference with the cesspits and claim damages for costs and expenses incurred . It was noted that the legal action costs would be a matter for the cesspit owners however if successful they would be recoverable. The Development Control Manager confirmed that the Local Planning Authority could not act on issues that were not material planning considerations.
8. Members viewed the two accessible cesspits and noted the amount of soil surrounding one which had a collapsed area to one side. At the second cesspit it was noted that this had been built up by several levels to accommodate the landfill process without the permission or knowledge of the cesspit owner. The Local Ward Member was of the opinion that the water pooling, overflow of sewage and the loss of the natural soakaways had been a result of the damage caused to the cesspits by the overfilling of the site.
9. A copy of the report submitted to the Planning Committee on 10th September 2014 is attached. Members are now invited to consider the recommendations contained in the Officer's report.

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Consultees:	T. Stephens	Development Control Manager
	G. Mumford	Senior Environmental Health Officer
	R. Crane	Solicitor

Appendices:

Appendix 1 Report submitted to Planning Committee on 10th September 2014