

OVERVIEW AND SCRUTINY MANAGEMENT BOARD
Wednesday 28 July 2021

Present:- Councillor Clark (in the Chair); Councillors Barley, Baker-Rogers, Browne, Burnett, A Carter, Cooksey, R. Elliott, Pitchley, Wyatt and Yasseen.

Apologies for absence: - Apologies were received from Councillor Baum-Dixon.

The webcast of the Council Meeting can be viewed at: -

<https://rotherham.public-i.tv/core/portal/home>

27. DECLARATIONS OF INTEREST

There were no declarations of interest.

28. QUESTIONS FROM MEMBERS OF THE PUBLIC AND THE PRESS

- 1) Mr R Branagan asked that with regard to the amount of waste currently being taken to the site as part of the construction phase, what processes were in place for ensuring that the operator did not exceed the amounts of waste allowed by the permit that were currently being taken to the site.

In response the Assistant Director - Community Safety and Streetscene noted that the responsibility for monitoring compliance with the permit was that of the Environment Agency and referred the question to Jacqui Tootill, Area Environment Manager at the Environment Agency who was in attendance at the meeting.

Jacqui Tootill advised that material could currently be imported to the site under two authorisations, with one authorisation being an exemption that allowed inert waste to be brought to the site for the purposes of constructing the haul roads, the compound and other infrastructure, with the second authorisation was to bring in materials if it was suitable to create the required engineering works of the engineered bases on the waste cells. Jacqui Tootill advised that these authorisations were in place order to prepare the site to be fully operational with the amount of waste brought to the site being dependent on the size of the area being worked on. Jacqui Tootill advised there had been five inspections carried out by Environment Agency inspectors during 2021 and that no concerns had been raised regarding the amount or type of waste that was being taken to the site. It was noted that full records of the waste taken to the site were kept by the operator and that the Environment Agency had no concerns regarding compliance by the operator with regards to the waste currently being taken to the site.

As a supplementary question Mr R Branagan asked about the processes for the Environment Agency inspecting waste transfer

records.

In response Jacqui Tootill advised that the Environment Agency did not hold these records and would only ask to see them if they had any concerns regarding the type or amount of waste being taken to the site, however as the Environment Agency did not have any concerns the Environment Agency would not be asking to inspect these records.

- 2) Mr S McKenna asked that as the Council would not use its powers to issue a discontinuation order, and that as the Council also allowed the operator to use the access road that crossed Council owned land, what would the Council do to stop the operation of the site.

In response the Assistant Director - Community Safety and Streetscene noted that both the Council and the Secretary of State had the power to revoke a planning permission if it had been found to have been granted wrongly. The Assistant Director noted that the Council had considered the use of Section 102 of the Town and Country Planning Act 1990 in term of the potential for making a discontinuance order on the site, however any discontinuance would be subject to compensation which had been estimated to be potentially in excess of £20million. The Assistant Director reaffirmed that the Council did not have the financial resources to pay at that level of cost as well as being unlikely to be able to justify the proportionality of spending such a large amount of local public money on a single planning issue without contravention of value for money requirements. The Assistant Director advised that the Secretary of State had confirmed that they would not use their powers to revoke the planning permission as the planning permission had been granted correctly.

The Assistant Director confirmed that the Council had received a wide range of advice regarding the operator's right to use the access road over Council owned land and that from this advice it was clear that the Council was required to allow the contractor to use the road in order to access the site. The Assistant Director advised that further advice would be sought on this issue and confirmed that the Council's position of wanting to stop the operation and use of the site for landfill had not changed.

As a supplementary question Mr McKenna asked whether the Council would acknowledge that the use of the access road over Council owned land was not legitimate.

In response the Assistant Director reaffirmed that based on current legal advice, that the Council had no legitimate power to stop the contractor using the road to access the site.

- 3) Mr M Staniland asked when the Council would make it clear that the operator had no right to use the access road and that the operator was not allowed to stop others using the road to access the adjacent public space.

In response the Assistant Director reaffirmed that the Council owned the land over which the access road passed, and that the legal advice received by the Council had made it clear that the Council did not have the ability to stop the operator of the site using the road as they had a legal right of access. The Assistant Director advised as the operator had a legal right of access that the issue of the ownership of the land over which the road passed was not relevant. The Assistant Director stated that while the operator had a right of access to use the road, that they had no right to stop other people using the road and that the Council had communicated this clearly to operator.

As a supplementary question Mr Staniland asked why the site operator was not using the original access road to access the site.

In response the Assistant Director advised that the operator had a right of access in using the access road that was currently being used and that the Council had no powers to compel the operator to use the alternative access road to the site.

- 4) Councillor Jones asked whether the Environment Agency had received information on the material taken from to the site from the MHH Contracting site in Sheffield after the fire at that site.

In response Jacqui Tootill stated that the Environment Agency had not as yet received a fire report for the site. Jacqui Tootill confirmed that the fire had been on an area of the site that had been used for the storage of scrap metal and that the material that had been brought to the Grange landfill site was inert material from a separate part of the MHH Contracting site that had not been involved in the fire.

As a supplementary question Councillor Jones asked why potentially contaminated material from the fire site was being taken to Grange landfill.

In response Jacqui Tootill advised that Environment Agency officers had inspected the MHH Contracting site and had confirmed that no evidence had been found of waste from the area of the fire going to the Grange landfill site. Jacqui Tootill stated that there were no concerns about the type of waste that had been taken from the wider MHH Contracting site to Grange landfill.

29. EXCLUSION OF THE PRESS AND PUBLIC

There were no items that required the exclusion of the public or press.

At this point Councillor Clark vacated the Chair. Councillor Barley then took the Chair for the following item.

30. GRANGE LANDFILL SITE - UPDATE

The Assistant Director - Community Safety and Streetscene, the Strategic Housing and Investment Manager, the Head of Planning and Building Control and Jacqui Tootill, Area Environment Manager at the Environment Agency attended the meeting to provide a report on activity regarding the Grange Landfill Site.

The report noted that on 30 October 2019 the Council had received a petition from the Droppingwell Action Group calling on the Authority to take enforcement action in respect of the Grange Landfill Site. As the petition had met the threshold for consideration by the Overview and Scrutiny Management Board a meeting had been held on 28 January 2020 to consider the petition. At that meeting the Overview and Scrutiny Management Board made eleven recommendations (Minute No.113) that were subsequently accepted by Cabinet on 23 March 2020 (Cabinet Minute No.140).

A further update report had been presented to the Overview and Scrutiny Management Board on 18 March 2021 where it had been resolved: "That a further report on the latest situation surrounding the Grange Landfill be presented to the Overview and Scrutiny Management Board in three months' time." (Minute No.341).

In introducing the report, the Assistant Director advised that the report provided a further update on activity surrounding the site since March 2021.

The report stated that over the last three months, the operator had continued to undertake works to prepare the site for full operation and to fulfil the requirements of the Environmental Permit that had involved the importation of inert waste for use in construction. It was noted that this was legally allowed under the terms of the Permit. It was noted that the conditions of the Environmental Permit for the operation of the tip had not yet been met, and as such full landfilling operations were not able to commence.

The Assistant Director advised that the Council had last written to the Secretary of State on 26 February 2021, to ask them to use their powers under the Town and Country Planning Act 1990 to revoke or discontinue the planning permission and to fund any compensation claims from the Government purse. On 14 July 2021 the Ministry for Housing, Communities and Local Government had advised the Council that they:

“...do not consider it would be expedient for the Secretary of State to exercise his powers to revoke planning permission or to discontinue use of land in this case.”

In addition to the update on the planning issue the report provided updates on:

- Access issues related to the site
- Public Rights of Way
- the Borehole
- Site Security and Monitoring
- Disposal of Waste from Housing Development.

Jacqui Tootill, Area Environment Manager at the Environment Agency confirmed that the engineering works that were required to enable the site to accept waste were continuing and advised that once these were completed a report would be submitted to the Environment Agency for their consideration. Jacqui Tootill stated that only once the Environment Agency were happy with the construction and all of the arrangements at the site would tipping activity be allowed to commence.

Members asked that due to the complex nature of the ongoing issues related to the operation of the site that involved a number of council departments, how confident officers were that activity was being effectively coordinated to stop the operation of the site. The Assistant Director confirmed that he was leading and coordinating activity across the council regarding the site and noted that all council departments were fully committed to working to find any possible way in which the operation of the site for landfill could be stopped. The Assistant Director reaffirmed that the present difficulties around the site and its operation were a result of the planning permission that had been granted in 1958 and the lack of conditions on how landfill activities could be operated at the site contained in that permission.

Members queried the Environment Agency's classification of the site as a "low risk" site and asked what implications this classification had for the monitoring of the site. Jacqui Tootill confirmed that from the perspective of Environment Agency the site was classified as a "low risk" site as the current tip was separate to the historic site. Jacqui Tootill advised that due to the concern locally about the site, the tip was subject to an increased level of inspection, noting that the site had been subject to five inspections so far during 2021. It was noted that other similar "low risk sites" would only be subjected to two inspections a year. The Assistant Director assured members that the site was viewed as a high-risk by the Council due to its impact on local communities.

Members asked whether officers could guarantee that no further waste from council construction sites would be taken to the site, following an incident earlier in the year when a contractor to the council had taken waste from a council construction site to the site. The Strategic Housing

and Investment Manager advised that the contractor involved had confirmed that this issue would not happen again and advised that all new Council contracts with contractors would contain a requirement that no waste from construction sites was taken to the Grange landfill site.

Members asked whether the traffic restrictions that had been implemented in the locality of the site were effectively addressing road safety concerns related to vehicles accessing the site. The Assistant Director advised that the restrictions that had been implemented had effectively addressed the safety issues regarding the access to the site off Droppingwell Road, but that they did not address the road safety concerns around the unadopted access road. The Assistant Director noted that issues relating to road safety on the unadopted access road were the responsibility of the Health and Safety Executive (HSE), but assured members that the Council was continuing discussions with the HSE regarding road safety concerns related to the access road.

Members sought clarification on whether a revocation of the 1958 planning permission for the site could provide a final solution for the site and its potential to be used as a landfill site. The Assistant Director stated that if the planning permission granted in 1958 was revoked then the operator of the site would be able to apply for a new planning permission to use the site as a landfill site and advised that any such permission would be accompanied by the kind of comprehensive conditions relating to the site's operation that were not included in the current planning permission. The Head of Planning and Building Control noted that if previous planning had been revoked for the site then it was very unlikely that a new application to use the site for landfill would be successful. The Head of Planning and Building Control advised that the Secretary of State had confirmed that they did not see any reason why the planning permission granted in 1958 should be revoked.

The Head of Planning and Building Control noted that the Council had considered the use of Section 102 of the Town and Country Planning Act 1990 in terms of the potential for making a discontinuance order on the site, however any discontinuance would be subject to compensation that had been estimated to be potentially in excess of £20million. The Head of Planning and Building Control stated that the Council did not have the financial resources to pay at that level of cost as well as being unlikely to be able to justify the proportionality of spending such a large amount of local public money on a single planning issue without contravention of value for money requirements.

Members noted with concern the apparent lack of trust between local residents and the Environment Agency regarding how activity at the site was regulated. Members asked whether the operator of the site received prior notification of when inspection visits from the Environment Agency would take place. Jacqui Tootill advised that inspections were carried out both with and without notice being given to the operator, as while inspections without notice allowed an accurate picture of operations to be

observed, inspections with notice were required in order to enable the operator to have the correct specialist personnel on site to meet the inspectors from the Environment Agency. It was noted that of the five inspections carried out during 2021 that four had been with notice and one without notice.

Members noted the ground water monitoring activity carried at the site and asked whether any monitoring of water courses in the area was taking place. Jacqui Tootill advised that the monitoring of water courses and surface water was covered by a national monitoring programme that was carried out by the Environment Agency but noted that this programme did not cover every water course. It was noted that the permit for the operation of the site did not require the monitoring of surface water.

Members asked how the Council would ensure that the conditions contained in the 1958 planning permission on issues such as the height of tipping would be managed correctly and complied with by the operator of the site. The Head of Planning and Building Control advised that there was no requirement on holders of planning permission to advise the Council how they would comply with the conditions attached to a planning permission and that the Council would only become involved if they were advised of a potential breach of conditions.

Members sought assurance on how the Council was communicating with local residents regarding the ongoing situation at the site. The Assistant Director noted that the Council's website contained detailed and up to date information relating to the site. The Assistant Director advised that activity was taking place in order to develop more a more effective communication strategy that would enable local residents to be advised on what powers the Council did and did not have in relation to the operation of the site.

Members noted and agreed that it may be beneficial to write again to the Secretary of State to request that they used their powers to stop the operation of the tip.

The Vice-Chair thanked the Assistant Director - Community Safety and Streetscene, the Strategic Housing and Investment Manager, the Head of Planning and Building Control and Jacqui Tootill, Area Environment Manager at the Environment Agency for attending the meeting and answering member questions.

Resolved: -

- 1) That the report be noted.
- 2) That a further report on the current situation regarding the Grange Landfill site be brought to the January 2022 meeting of the Overview and Scrutiny Management Board, or sooner if there are

any significant changes regarding the issues relating to the site's operation.

- 3) That the Assistant Director, Community Safety and Streetscene liaises with the Leader of the Council, the Opposition Group Leaders and the Chief Executive on the potential to write a further letter to the Secretary of State for Housing, Communities and Local Government requesting that they use their discretionary powers to either revoke the planning permission granted in 1958 for the Grange Landfill Site or to make a discontinuance order.

At this point the Councillor Barley vacated the Chair. Councillor Clark retook the Chair for the remainder of the meeting.

31. ADULT CARE RESTRUCTURE AND PATHWAY DEVELOPMENT - PROGRESS REPORT

The Cabinet Member for Adult Social Care and Health, the Strategic Director of Adult Care, Housing and Public Health and the Assistant Director of Adult Care and Integration attended the meeting to provide a progress report on the Adult Social Care Restructure and Pathway.

In introducing the report, the Cabinet Member for Adult Social Care and Health noted the restructure and pathway had been a success due to the clear vision that had been created at the outset.

The report noted that on 21 October 2019, the Council had implemented a new Adult Social Care operating structure and introduced new pathways for Rotherham residents to access information, guidance and support. At this time following a period of engagement and formal consultation, staff moved into new teams. The main aims of the new structure and pathways had been to ensure a more customer focussed and responsive offer to the residents of Rotherham, resulting in less waiting time at the point of contact; a stronger reablement offer that enabled more people to regain independence; increased continuity of council staff involved; a simpler structure for residents and partners to understand and to raise practice standards and overall performance.

The report provided an update on activity since the previous progress report to the Overview and Scrutiny Management Board that was received on 2 December 2020 (Minute No.262).

The Assistant Director of Adult Care and Integration noted that the new pathway had been only four months into its implementation when the pandemic arrived, and as such the service had been operating under the pandemic procedures as well as working in the new ways of the pathway. The Assistant Director advised that as such it was still difficult to ascertain clearly what the impact had been of the pandemic on the delivery of the pathway had been, noting that significant challenges related to the pandemic still remained.

The Assistant Director advised that since the last report had been received by the Overview and Scrutiny Management Board that an Internal Audit had been carried out in January 2021. The overall objective of the audit had been to provide independent and objective assurance that the Target Operating Model/Social Care Pathway was being applied correctly and consistently by social workers. The Assistant Director advised that the results of the audit had demonstrated that Substantial Assurance could be shown that the controls were operating effectively.

Members noted some difficulties that they had experienced regarding the first point of contact processes online and by the phone when accessing services. The Assistant Director advised that these concerns would be investigated.

Members asked for further information on issues around staff vacancies that had been highlighted in the report. The Assistant Director advised that the delivery model had been based on expected levels of demand, but as demand had increased there had been difficulties in ensuring that there were sufficient social workers in post. The Assistant Director assured members that action had been taken to ensure that extra staff had been brought in as needed in order to meet demand for services.

Members noted how the report stated that it was essential for staff to feel settled and confident in their roles and that the culture in the service had changed to be much more positive than it had been before. Members asked what had happened in the service to create this change. The Assistant Director advised that the new structure and related procedures had created a greater feeling of togetherness and purpose which had not been possible in the previous structure due to the disparate way in which it had been designed. The Assistant Director advised that the service was now clearly focused on supporting staff to provide the best possible service by focusing on each staff member's particular skills.

Members noted the wide range of services provided by the service and asked for further information on how performance was monitored over the wide range of services. The Assistant Director advised that many of the services provided were statutory services with related methods of monitoring performance but advised that many of the services provided went over and above the statutory requirements. Members agreed that it would be beneficial to see both quantitative and qualitative information that showed how the Adult Care Service went over and above its statutory requirements.

Members asked for further information on the outputs that been achieved through the implementation of the new performance management framework. The Assistant Director advised that the performance framework had presented challenges to both staff and managers in its implementation, noting that it the framework was multipurposed in both

ensuring a high quality and constantly improving service as well as managing staff and manager performance. The Assistant Director advised that the introduction of the framework had been a big cultural change for the service but assured members that it was now well embedded and was driving continuous improvement to how services were delivered.

Members asked whether it would be possible when service users were re-referred to the service whether they could be relocated to the same worker who they had been previously involved with to ensure continuity of service. The Strategic Director of Adult Care, Housing and Public Health advised that due to the size of the Adult Care Service this would not be logistically possible, but assured members that information sharing processes were in place that ensured that when service users were re-referred for support that the allocated worker would have full knowledge of an individual's history and needs.

Members asked how far the experiences of service users went into the design of services. The Assistant Director advised that in addition to the outcomes of the investigations into when things had gone wrong feeding into service development, Huddle Boards and the Perform platform enabled feedback to be recorded daily which could then be analysed in order to ensure the best possible service delivery.

Members asked for further information on the issue of staff turnover, retention and vacant positions, and asked whether there had been any benchmarking activity conducted in order to establish how Rotherham compared to other local authorities. The Strategic Director advised that recruitment in the sector was a national issue and was being experienced by all local authorities. The Strategic Director noted that the restructure had created a number of new roles, but that due to the impact of the pandemic and changes to staff turnover with fewer staff across the sector looking to change jobs, recruitment to vacant posts had been more challenging.

The Chair thanked the Cabinet Member for Adult Social Care and Health, the Strategic Director of Adult Care, Housing and Public Health and the Assistant Director of Adult Care and Integration for attending the meeting and answering member questions.

Resolved: -

- 1) That the report be noted.
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- 2) That the Chair and Vice-Chair of the Overview and Scrutiny Management Board liaise with the Strategic Director – Adult Care, Housing and Public Health and the Assistant Director - Adult Social Care and Integration on the focus of a future report to the Overview and Scrutiny Management Board on how the Adult Social Care service goes over and above statutory levels of service provision.

32. WORK PROGRAMME

The Board considered its Work Programme.

Resolved: - That the Work Programme be approved.

33. WORK IN PROGRESS - SELECT COMMISSIONS

The Chairs of the Improving Places Select Commission, the Health Select Commission and the Improving Lives Select Commission provided an update on the work of their commissions.

34. CALL-IN ISSUES

There were no call-in issues.

35. URGENT BUSINESS

There was no urgent business.

36. DATE AND TIME OF NEXT MEETING

Resolved: -

- 1) That subject to a final decision being made by the Chair and Vice-Chair, that a meeting of the Overview and Scrutiny Management Board will be held at 11am on Wednesday 14 August 2021 at Rotherham Town Hall.
- 2) That a meeting of the Overview and Scrutiny Management Board will be held at 11am on Wednesday 15 September 2021 at Rotherham Town Hall.