

Public Report  
Overview and Scrutiny Management Board

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**Committee Name and Date of Committee Meeting**

Overview and Scrutiny Management Board – 27 January 2022

**Report Title**

Grange Landfill Site Update

**Is this a Key Decision and has it been included on the Forward Plan?**

No

**Strategic Director Approving Submission of the Report**

Paul Woodcock, Acting Strategic Director of Regeneration and Environment

**Report Author(s)**

Tom Smith, Assistant Director, Community Safety and Streetscene  
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**Ward(s) Affected**

Keppel  
Rotherham West

**Report Summary**

On 30 October 2019, the Council 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 met the threshold for consideration by the Overview and Scrutiny Management Board, a meeting was held on 28 January 2020 to receive representations from the lead petitioner and also heard from the Cabinet Member for Waste, Roads and Community Safety, officers and representatives of the Environment Agency in respect of the site.

The Overview and Scrutiny Management Board made eleven recommendations which were accepted by Cabinet on 23<sup>rd</sup> March 2020. All have been completed in full.

Further updates in terms of the site have been provided to Overview and Scrutiny Management Board on 18 March 2021 and 28 July 2021. On 28 July 2021 Overview and Scrutiny Management Board 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.

This report provides a further update in terms of the site since July 2021.

### **Recommendations**

Overview and Scrutiny Management Board are recommended:

To note and comment on the report.

### **List of Appendices Included**

Appendix 1 – Update from the Environment Agency – 6 January 2022

### **Background Papers**

- Cabinet Report (23 March 2020) – Response to recommendations from Overview and Scrutiny Management Board – Petition in respect of Droppingwell Landfill.
- Overview and Scrutiny Management Board (28 January 2020) – Meeting to consider a petition received calling on the Council to take enforcement action against the reopening of Droppingwell Landfill.
- Overview and Scrutiny Management Board (18 March 2021) – Grange Landfill Site Update
- Overview and Scrutiny Management Board (28 July 2021) – Grange Landfill Site Update

### **Consideration by any other Council Committee, Scrutiny or Advisory Panel**

Overview and Scrutiny Management Board – 28 January 2020, 18 March 2021 and 28 July 2021

Cabinet – 23 March 2020

### **Council Approval Required**

No

### **Exempt from the Press and Public**

No

## **Grange Landfill Site Update**

### **1. Background**

1.1 An update report, outlining the background and issues relating to Grange Landfill site, was presented to the Overview and Scrutiny Management Board on 28 July 2021, following the previous update report on 18<sup>th</sup> March 2021. Overview and Scrutiny Management Board 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.

1.2 Since the last update, the operator has continued to undertake works on site to prepare the site for full operation and to fulfil the requirements of the Environmental Permit. This has continued to involve the importation of inert waste for use in construction, which is legally allowed under the terms of the Permit. At the date of this report, the conditions of the Environmental Permit have not been met, and full landfilling operations are not able to commence.

### **2. Key Issues**

#### **Environment Agency Update**

2.1 The Environment Agency provided an update about the site on 6 January 2022, which can be found at Appendix 1.

#### **Planning**

2.2 Following complaints in July from local residents about the amount of activity being undertaken at the site, the Council's planning enforcement officer visited the site and wrote to the site operator to try and obtain information about how they intend to comply with the conditions attached to the 1958 planning permission. No responses were received to this written communication and a more formal approach was required. The Council subsequently served a Planning Contravention Notice (PCN) on the 2 Sept 2021. The serving of a PCN is issued under Section 171C of the Town and Country Planning Act 1990 (as amended) when the Council considers that a breach of planning control might exist and they think they require more information to inform their consideration of the investigation. The response to a PCN is used to help the Local Planning Authority consider whether a breach of planning control has

actually occurred, and if so, to help them decide whether it's expedient to take enforcement action. It is an offence to provide false or misleading information in response to the notice.

- 2.3 The planning permission, which was granted in 1958 was split into Part (a) and Part (b) and was subject to conditions. As Part (a) is now complete, there are conditions specific to Part (b) which still have to be complied with. Condition No 3 of Part (b) of the planning permission states that tipping operations shall be so arranged that not more than 5 acres of the land referred to shall be out of cultivation at any one period. Condition 4 goes on to say that the whole of the soil is to be removed from the area before tipping is commenced and is to be stacked separately for restoration. Local residents were concerned that Condition 3 was being breached during the preparation of the site for the new tipping operations which is why the PCN was served.
- 2.4 In response to the PCN, the site operator has provided a plan of the areas that have been worked on and provided detailed measurements which demonstrate that they have not worked more than 5 acres of land. In addition to this and as part of responding to further questions they have also stated that when tipping operations commence, they intend to remove soil from only a portion of the first phase of Part (b) of the development such that each Cell within Part (b) will be tipped on in phases so that no more than 5 acres is out of cultivation at any one period. Part (b) of the planning permission relates to an area substantially greater than 5 acres (c.12 acres). Conditions 3 and 4 read together in light of this clearly do not require the whole of the soil to be removed from Part (b) prior to tipping operations as Condition 3 limits tipping operations to 5 acres. Indeed, condition 3 requires a significantly lesser area to be worked on at any one time. Condition 4 must therefore be read in this context.
- 2.5 The operator has therefore confirmed in writing that to comply with Condition 4, all soil will be removed from an area prior to tipping operations on that area, and to comply with Condition 3 that they will ensure that tipping operations shall be arranged so not more than 5 acres of the land is out of cultivation at any one period to comply with the conditions. The topsoil already stripped has been stacked separately for restoration and is located in the area to the south of the longest temporary drainage ditch.
- 2.6 As such, the Council does not have any evidence to suggest that there has been a breach of planning control at this time but that this would not prevent enforcement action in the future should there be a breach of the conditions and it was deemed expedient to do so.

### **Access to the Site**

- 2.7 The access road to Grange Landfill site is on land owned by the Council and it is clear from historical/legal documentation that a right of access is established across the land leading from Droppingwell Road. The Council has a duty not to obstruct the way but has no duty to maintain the way in a useable condition.
- 2.8 The use of the access way and the risks presented to other users of the way, such as the visitors to Millmoor Juniors Football Club, has always been of great

concern to the Council. As a result, the Council has already sought numerous pieces of external legal advice in respect of the legal position relating to the access way and has corresponded significantly with both the Health and Safety Executive and the Police in respect of these concerns. The Council has subsequently corresponded with both the operator and Millmoor Juniors Football Club in relation to the risks and the obligations of all parties concerned.

- 2.9 The Council is committed to keep the legal position in terms of the access way under review. If additional information, such as historical/legal documentation is provided, that would enable a review to take place, it would be considered fully. This may ultimately require the Council to seek further external legal advice to answer any questions that appear to be outstanding as a result of any potential review.

### **Public Rights of Way**

- 2.10 The Council received an application for various public rights of way to be considered, which are situated across the Grange Landfill site. An independent expert was appointed to carry out a full assessment of the application and present the findings to the Council.

- 2.11 Based on those findings an Officer Delegated Decision was made and published on 19 July 2021 that enabled the Council to make a Definitive Map Modification Order in relation to a number the claimed rights of way and the consultation process was followed, as required by the legislation. This Order was subject to statutory consultation for a six-week period following the Order being made.

- 2.12 The Council has received one objection to the Order and as a result, the Council is currently progressing the application to the next stage of the process, which requires the order to be sent to the Secretary of State for a decision. This will either result in a decision being made based on written representations or will require a Public Inquiry. It is not yet possible to provide a date for the conclusion of the application; however, the Council is aware that there is a significant backlog in respect of public inquiries.

- 2.13 The decision of the Secretary of State will be to either:

- Confirm the Order
- Not confirm the Order
- Confirm the Order in a modified form (this may require further consultation)

- 2.14 Unless and until the Order is confirmed by the Secretary of State, the rights of way cannot be detailed on the Definitive Map.

### **3. Options considered and recommended proposal**

- 3.1 There are no options to be considered in relation to this report other than the consideration of the OSMB recommendations and the proposed response.

#### **4. Consultation on proposal**

- 4.1 The Council has been in regular dialogue with senior officials from the Environment Agency, including regular meetings. This engagement will continue going forward and a number of the recommendations from OSMB are reliant on the Council working with the EA, Droppingwell Action Group and Grange Landfill.

#### **5. Timetable and Accountability for Implementing this Decision**

- 5.1 The Council is keeping the situation at the site under review to ensure compliance with all existing Planning conditions and regulations.

#### **6. Financial and Procurement Advice and Implications (to be written by the relevant Head of Finance and the Head of Procurement on behalf of s151 Officer)**

- 6.1 There are no direct financial or procurement implications arising from this report. The cost of officer time engaged on this matter will be contained within existing approved revenue budgets.

#### **7. Legal Advice and Implications (to be written by Legal Officer on behalf of Assistant Director Legal Services)**

- 7.1 There are no direct legal implications arising from this report. The Council will continue to actively consider all legal issues that arise relating to the site through the assistance of Legal Services.

- 7.2 Where necessary, the Council will seek advice in relation to any potential action relating to the site and reserves the right to take any such action should the advice support the same.

#### **8. Human Resources Advice and Implications**

- 8.1 There are no direct human resources implications arising from this report.

#### **9. Implications for Children and Young People and Vulnerable Adults**

- 9.1 There are no direct implications for children and young people or vulnerable adults arising from this report.

#### **10. Equalities and Human Rights Advice and Implications**

- 10.1 There are no direct equalities or human rights implications arising from this report.

#### **11. Implications for CO<sub>2</sub> Emissions and Climate Change**

- 11.1 There are no direct implications for CO<sub>2</sub> emissions or climate change from this report.

## **12. Implications for Partners**

12.1 There are no implications for partners arising from this report.

## **13. Risks and Mitigation**

13.1 There are no specific risks arising from this report.

## **14. Accountable Officer(s)**

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