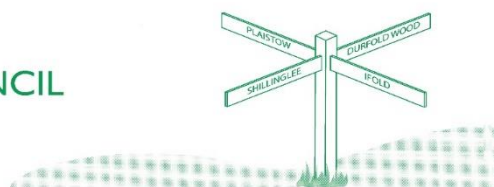


PLAISTOW AND IFOLD PARISH COUNCIL



Report FC/001/22

Agenda Item No: 5
Committee: Full Council
Date: 12th January 2022
Title: Lagoon 3 update
By: Catherine Nutting, Clerk & RFO
Purpose of Report: To update the Council regarding the joint meeting with Chichester District Council (CDC) and Kirdford Parish Council (KPC) regarding progress of Enforcement action.

Recommendations

Full Council is recommended:

- a. To note the update from the virtual meeting which took place on Tuesday 11th January 2022.
- b. Cllr. Paul Jordan & Catherine Nutting, Clerk were in attendance.
- c. Report to be read in conjunction with the meeting agenda (appended).

1. Introductions

1.1 The last meeting was held on 13th October 2021.

1.2 These update meetings take place quarterly.

1.3 Attendees

- 1.3.1 From CDC: Andrew Frost, Tony Whitty, Alison Stevens, Fjola Stevens, Cllr. Adrian Moss, Cllr. Gareth Evans, Cllr. Janet Duncton.
- 1.3.2 From Kirdford Parish Council: Tony Piedade, David Irwin, Lynne Brooks.
- 1.3.3 From Plaistow and Ifold Parish Council: Paul Jordan, Catherine Nutting.
- 1.3.4 From Environment Agency: Michael Turner

2. Emergency Planning update from Alison Stevens, Divisional Manager for Environment

2.1 Multi-agency inspection site meetings are conducted biannually. The last one was undertaken on 9th September 2021 between CDC, the Environment Agency (EA) and West Sussex County Council's Emergency Planning Team. The purpose of these multi-agency meetings is to ensure

the safety of the community and environment by understanding the risks. The minutes of this meeting were circulated, and are published on the Parish Council's website [here](#).

2.2 At the time of the site inspection there was no activity at the site. However, prior to the inspection, the landowner had taken a sample of the lagoon's content. The site inspection noted a small gas leak on the South-West side of the bund. The leak did not register on the gas alarm, with one bubble per minutes or less being recorded. It is surmised that this is where the sample was taken. It was concluded that considerable force would be required to make the tear larger. Considering the low-level leak, the site was assessed as relatively stable with little change from the last inspection (26.05.2021).

2.3 CDC have chased WSCC's Public Rights of Way (PRoW) team regarding re-opening the footpaths around the lagoon, however, have received no response. Should the paths re-open, the multi-agency group would review the risk assessment accordingly.

2.4 The next multi-agency site inspection is scheduled for March 2022.

2.5 David Irwin read out an email from the PROW team stating that they facilitate the closure upon advice and await official written confirmation from the multi-agency group that the footpaths are safe to re-open. Alison Stevens stated that she would follow this up.

3. Environment Agency (EA) update from Michael Turner

3.1 The EA recognises that the Lagoon contains potentially polluting material. Consequently, the EA served a notice to the landowner to remove the lagoon's content, but this has not been complied with to date.

3.2 It remains the EA's view that a spillage of the lagoon's content amounts to a significant risk.

3.3 The EA forms part of the multi-agency group that seeks to manage the risk the lagoon poses to both people and the environment.

3.4 An experienced engineer regularly inspects the dam structure and continues to conclude that the risk of material escaping remains low. Nevertheless, the EA remains concerned.

- 3.5 The EA is working with CDC in relation to the enforcement action, however its remit is to protect the local environment and support / permit the correct disposal method/removal of the lagoon's content.
- 3.6 The disposal method is at the landowner's discretion. It could be via land spreading, either locally or nationally, for the benefit of agriculture. Other removal/disposal options include to a wastewater treatment works, or an anaerobic digestion plant.
- 3.7 If the landowner opts for spreading on the land, the activity will need to be done under an environmental permit issued by the EA.
- 3.8 Land spreading is usually undertaken by a company who holds a Mobile Plant Permit allowing it to spread anywhere in the country. The company would notify the EA and make an application for deployment of the waste. The EA will assess the waste material and either permit the deployment, if the material is suitable for spreading, or refuse the application. The operator would have to show/prove that the material is suitable for the specific location identified for the spreading i.e., the sensitivity of the land, the spreading season, that the land requires the nutrients specific within the material for the benefit of agricultural and would not pollute drinking water. Deployment permission would go on a public register.
- 3.9 The EA can require a public consultation process before permitting deployment. The consultation would seek to ascertain the views of the local area to satisfy the EA that it had not overlooked anything important that should be taken into consideration. This consultation process may be required in relation to the content of Lagoon 3 in due course.
- 3.10 If there is no one with a suitable generic Mobile Plant Permit to manage the material, a separate application can be made to the EA for a bespoke permit. It may be that the content of Lagoon 3 does not qualify for spreading under a generic permit and requires a bespoke permit. It is up to the applicant to decide which permit is needed; the EA then agrees or disagrees with the applicants' view.
- 3.11 To date, the EA has not received either a deployment application, or any type of permit application regarding the content of Lagoon 3.**
- 3.12 The owner may choose another method of removal (see 3.6 above).
- 3.13 Cllr. Duncton stated that there are limited local wastewater treatment works with capacity. The EA confirmed that it would be for the plant operating company to decide if it could accept the waste.
- 3.14 Mr Irwin advised of the historic issues he has personally suffered as a landowner regarding the pollution caused by spreading to land. He stated that local landowners require transparency and monitoring.

3.15 The EA prosecuted Crouchlands Farm Ltd in 2013 for a pollution event. The spreading of slurry is a particular source of pollution incidents. If the content of the Lagoon is spread by a company, they would be aware of the sensitivities. However, it is helpful for the community to keep a watching brief to ensure the spreading is done in an appropriate way. If the EA approves the deployment to land, the documents and risk controls are public documents, clearly visible. Unfortunately, the EA does not have the finances to monitor, although DEFRA is aware of the public interest in this area. The permit system is designed to prevent pollution incidents occurring.

3.16 Mr Irwin offered his land for real-time data capture and monitoring purposes.

3.17 Mr Piedade asked how long the current status quo can remain, from the EA's perspective, before either proactive action should be taken, or the risks increase?

3.18 The law does not protect against businesses going bust and leaving an environmental legacy with little recompense. Situations do arise where no one is lawfully responsible. This is not currently the case; Lagoon 3 has an identifiable landowner who has a legal duty not to let the materials cause pollution.

3.19 The EA expects the landowner to adhere to the notice and take positive action to reduce the pollution risk. The EA does not have the finances to intervene. The risk is judged as low and regular inspections and multi-agency planning is deemed sufficient to monitor community risk.

3.20 The EA have offered to enter a dialogue with landowner and consider a fast-track permit application.

4. Planning Issues update from Tony Whitty - Divisional Manager for Development Management

4.1 CDC have two approaches running simultaneously. Firstly, they are putting pressure on the landowner via communication seeking regular updates; and secondly, pursuing legal action via the Courts for noncompliance with the enforcement notice to remove the structure of the lagoon.

4.2 The landowner continues to state his intention to seek to dispose of the content via spreading to land. The owner has stated that the EA are making the process of removal difficult by putting up obstacles.

5. CDC are awaiting further documentary evidence from the EA, which will then enable them to proceed with the prosecution.

5.1 The Court evidence bundle has been prepared for prosecution and subject to obtaining further evidence from the EA, the matter is with CDC's barristers.

5.2 Significantly to note, prosecution does not compel action. The Owner states that he has not got the funds to comply. The Court has the lawful power to ascertain the financial position of the owner if this becomes an issue.

5.3 Mr Piedade asked if there was any new commercial interest to purchase the lagoon?

5.4 CDC must rely upon the information provided by the landowner, which is that no further commercial negotiations are taking place.

5.5 CDC confirmed that Fjola Stevens will be taking over from Tony Whitty regarding lagoon 3, further to a detailed handover.

6. AOB/Questions from PC's

6.1 Mr Irwin asked about timescales for action.

6.2 CDC stated that they hoped to get the evidential statement from the EA by the end of January and thereafter the papers would be reviewed by the barrister and submitted to Court. The Court timescales would thereby take over.

7. Date of next meeting

7.1 The next meeting will be scheduled for end of March / beginning of April.

The meeting concluded at 15:45.