



BROMSBERROW PARISH COUNCIL

MINUTES

7.00pm on Tuesday 28th November 2023 at Bromsberrow Village Hall

1. **Present:** Cllr Robin Launders (Chair), Cllr Chris Neville, Cllr Roxanne Shayle Cllr John Stephens, with FoDDC Cllr Philip Burford, Cllr Gill Moseley (Gloucestershire County Council), also present: David Mills (Clerk) and three members of public.
Apologies received: FoDDC Cllr Clayton Williams,
2. **Declaration of interests:** As agreed at the 20th June 2023 meeting the Clerk duly granted dispensation to all councillors to enable discussion of matter Quarry activities, progress of the ROMP and Parish Council Responses of this agenda and at subsequent meetings covering the same topic for the next two years. No other items declared.
3. **Minutes of meeting 26th September 2023** – Approved and signed.
4. **Matters arising:** Defibrillator monitoring:
 - a. Cllr Neville on investigation confirmed: "David Hunter is a volunteer who has undertaken the responsibility of keeping the batteries charged for the two defibs in the village, for which he needs non-emergency access and has the locking code for the purpose. He has our thanks and appreciation for this responsible task. He is not at liberty to distribute this code.
I understand that a school which has a defib outside its building would logically conclude that having the locking code handy could save vital seconds in an emergency. It can be argued that 'The more handy the locking code, the better'. But the call to the Ambulance Service is more than just to get the locking code, it is the gateway to triage and expert medical advice. It is the gateway to using the defib as appropriate in the context of medical emergencies. It is the national procedure.
In these potentially life and death situations, there is always a balance of risks. Speed of response, professional management, access to backup and an ambulance, and the risk that the defib may not be there, or not be in full working order.
Having carefully considered the pros and cons the parish council is reluctant to deviate from the national procedure. I hope that you will understand our reasoning."
 - b. The Parish Council thank David Hunter for his continued support for the village Defibrillators.
 - c. Clerk confirmed no enquiries have been received for the role of Parish Clerk and Councillor.
5. **District Council reports:**
Cllr Burford reported the District Council has a new Chief Executive and is to review the vital services run by Publica anticipating bringing more local services back in house, including Planning.
6. **Planning Quarry activity & ROMP:**
 - a. Cllr Launders provided introductory remarks as Chairman on the Quarry activity and ROMP developments while requesting fuller responses to the 'Eight Complaints' raised by BPC in April 2023 with GCC Planning that to date have not received a full and meaningful response.
 - b. Followed by introductory remarks from Nick Bainton (NB), Senior Planning Officer Gloucestershire County Council covering planning roles within GCC for ROMP, Enforcement responsibilities as well as definitions in context of the terms 'Ancillary', 'Expediency' and time limits for enforcement plus new law changes.
 - c. NB confirmed that the Bromsberrow quarry 'Final Review' involving the Environment Agency (EA), Severn Trent (ST), Pollution control is taking place this month and expected to conclude in the next few weeks.

- d. NB confirmed five visits to site have taken place this year, none have been paid for inspections followed up with owner consultations.
- e. Bromsberrow quarry is a 'WCS Safeguarded Waste Site strictly for the use of inert materials, this doesn't include plastics or toxic materials. **Action:** NB agreed to provide a "further definition on how WCS applies to the quarry".
- f. NB acknowledge the removal of material impacting on boundaries and the angle of slopes within the quarry were breaches of current planning conditions that would require further investigation and compliance would contribute to the ROMP negotiations. **Action:** Where the distance to the boundaries appear narrowed NB agreed to check these against the conditions.
- g. "The storage of skips on site does not have planning permission" however the 'ancillary' use of skips in support of the winning of sand would be allowed. The current storage of skips at the bottom of the pit does not have planning permission and "the owners will be asked to comply". The stated that unauthorised use has increased that were prompting further concerns with the material being stored within these skips. NB stated, any pollution issues caused by the contents of the skips being stored at the bottom of the pit was an issue to be raised with the EA for further investigation.
- h. Advertising of services was raised by the chair in particular the resale and storage on site of 'Topsoil'. **Action:** NB stated he was not aware this was an issue and "would look into this and feedback".
- i. Advertising of skips and container were acknowledged that other than use for ancillary purposes storage on site and advertising as a business breaches of planning law. The issues of clarity of responsibility for advertising issues whether it be a County or District Planning to address were discussed at length. NB acknowledged these were clear breaches of planning conditions and would discuss with District Planning officers as soon as possible to clarify responsibility. NB considered that in the context of other issues with the site that this should be led by County Planning. **Action:** NB to "provide an answer by return".

Discussions moved onto the ROMP:

- j. NB clarified that the ROMP is a review of conditions to be requested by the operator and that only through careful relations can the Planning suggest the inclusion of further conditions. This is not a planning application and therefore not subjected to normal planning timeframes. NB is keen to work with the operator to avoid a 'stalled ROMP' and whilst devised conditions can be proposed they cannot be imposed on the operator.
- k. NB acknowledged that it would appear "nothing has happened over the last 6 months" however there had been a lot of discussion activity and he sounded confident the current 'Environmental Statement' being concluded by the EA, ST & Pollution Control will be completed this year. This will enable the NB to act requesting a screening opinion and meet with the appellant. NB was grateful to the Chair/BPC for raising detailed issues with the quarry, these would lead to requests for responses from the operator and contribute to achieving a successful ROMP outcome.
- l. The final report to be compiled by NB using the Environmental Statement and BPC comments and as a delegated decisions will not normally be presented to the GCC Planning Committee. The report is expected to be completed this year and will be distributed to GCC planning management and the BPC will be advised. **Action:** BPC to receive a report copy.
- m. The Chair thanked NB for his valued contributions to a complex and difficult issue for all involved.



Planning application:

- n. P1520/23/FUL & P1521/23/FUL - Yew Tree Cottage Bromsberrow Heath Ledbury HR8 1PG
Removal of condition no. 3 (building height) of P0160/22/OUT to allow for the dwelling to be over one storey in height. Variation of condition 01 (approved plans) to P0066/23/APP to allow for the addition of a first floor within the roof space of the building including x3 rooflights.
Action: Council noted that the original comments raised with a previous application had not been addressed and that these comments subject to a further review should be submitted as BPC comments on this application.

7. Discussion items

- a. **War memorial Statues**—War Memorial two statues project completed for Remembrance Day.
As agreed, the project was underwritten and supported by the Parish Council with Cllr Stephens coordinated the collection of pledges. In September, a thank you letter from BPC confirming the pledges and a request to submit donations to the BPC bank account were sent to 21 people. By November 23 donations were received amounting to £710. After all costs and the VAT (to be reclaimed) £376.67 remain to be donated to the Royal British Legion. **Action:** Clerk to send thank you letters to donors.
- b. **Remembrance Day & The War Memorial repair:** Cllr Stephens confirmed the Remembrance Day parade was well attended. The repair to the monument stones has been completed by Nigel Cave from Monmouth Memorials and BPC await invoice for payment. **Action:** Clerk to arrange payments wreaths, Sound system and stone mason upon receipt of invoice.
- c. **Social media including progress with Nextdoor** – The platform, which automatically identifies your geographical location and puts you into the neighbourhood defined by the boundaries that are predetermined by the system. In the case of Bromsberrow, the system recognises our parish, but it forms part of a much larger neighbourhood encompassing areas as far apart as Newent, Ledbury and Malvern. Cllr Neville recommend that as a parish council, we begin to use Nextdoor to post messages where we need to seek public opinion, consult or inform our community as an addition to more traditional methods of engagement. Cllr Shayle confirmed a community group on Facebook was also active.
- d. **School/Albright Lane parking development** – **Action:** Cllr Neville to draft sketch plan to be shared with Cllr Gill Mosely and request site meeting with GCC Highways officer to discuss how this development can be progressed.
- e. **Litter picking events** had proved there was inadequate demand for dog waste bins however a Waste bin to placed by the Village Hall to be requested from the District Council and emptied by the district council on a regular basis. **Action:** Clerk to apply to FoDDC for a waste bin.
- f. **Footpaths** and common land to be discussed at the next meeting.
- g. **Childrens Playground** – Cllr Shayle from her initial research revealed significant interest in a playground by the Village Hall. Georgina Jones of the Bromsberrow Village Hall committee (BVHC) confirmed some work had been completed on a similar project in the past and the BVHC were keen to progress the project with the support of the BPC. **Action:** Cllr Shayle agreed to set up a Workgroup including Mrs Jones to get the project underway. Clerk to provide a plan of action.
- h. **Donation request** - Parish Council decided with other projects ongoing not to respond to the Malvern Hills AOB request.

8. Parish Council business - Clerk

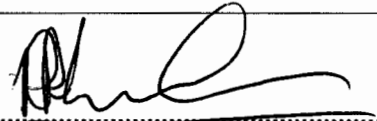
- a. Correspondence shared with Councillors on GAPTC Training opportunities for Councillors, GRRRC funding sources etc.
- b. Clerk presented the current year 2023/24 accounts position included project payments for December and January.
- c. Clerk remuneration and pay award were agreed. Adoption of the NALC recommended Clerk pay award, back dated to April 2023. In line with current activity Clerk pay scale point uplift from SCP21 to SCP22 from January 2024.
- d. Clerk presented a 3-year budget with 1% precept recommendation for 2024. **Action:** Clerk to present a further 3-year budget update with a proposed 2% increase to taking into account the impact of the Playground as a 2024 project for the next meeting in January 2024.

9. AOB

- a. Biodiversity Policy to be drafted for consideration at the next meeting.
- b. BPC Risk Management Strategy to be updated and considered at the next meeting.

10. Date of next meetings

Tuesday 30th January 2024
Tuesday 26th March 2024
Tuesday 28th May 2024
Tuesday 30th July 2024
Tuesday 24th September 2024
Tuesday 26th November 2024

Signed:	
Date:.....	30 January 2024



NB assured the Meeting that there would be.....

Chair 'how do we proceed, Nick, that's the advice that we want. How do we to get this one not to go west?

NB. 'The best advice is that the use of the land will be a County matter. The advertising, and I will need to talk to ? here, to my colleagues at the District, would be a District matter because of the advertising regs ..'

Chair 'Point of information: you have already written to me and said it might be better for County to do this'.

NB 'I need to discuss it because it's a sensitive matter. What I don't want do is look to our colleagues in District like I am saying is this me then another couple of weeks and I want their involvement to be clear. Is the ?Colgate? one still there Phil?

PB I was at ? last night and you'll be aware of what goes on there and it strikes me that these enforcements nearly always end up in a position where the entire site is not County and the entire site is not District. Now, I can recall some sites in the area where that has very clearly been the case and when ?Pete Wales? Was senior planner he had a chap in his office over in County and together they decided whether the entire site is going to be a District site or a County site and then whoever got it dealt with everything whether it be minerals or advertising or enforcement or whatever. So I think that it would be very constructive for these sites that go on and on and don't come to a conclusion if we could get to a point where there is a definitive decision...'

Chair 'I have to interrupt you here. This is far too much of what happens between County and District and not what we, as a Parish, who have a complaint to make should be doing...'

PB 'The problem ..'

Chair 'I need to get this off tomorrow...'

PB 'Yeah, the problem, Robin, is that if part is being done by County and part...'

Chair 'Absolutely, but that shouldn't be my problem.

PB 'Both of them are going to say that it's not us whereas if we just pause for a moment and get a decision from the senior planners as to who is responsible for the site then they will be responsible for everything. And, believe me, you will get to the end a lot quicker that way.

Chair ' I have to take issue with *getting there quicker*. You see, I've only been in this chair a short time. I've only been in this Council short time, but throughout my time here there has been mutterings about topsoil, about skips, about these things. We put it into our ROMP. We said things were happening on the site which were inimical to the concept of winning sand and protecting the aquifer and consistency with those. We put it in our reminder to the ROMP. We put it in our letter to the Environment Agency. We have made particular complaints about it. That's quite heavy, I mean this is escalation. We are now at the stage of having to complain about complaints not having been done.

PB 'That's not unusual in District, I'm afraid.'

Chair 'OK, OK. I cannot comfortably accept advice which says *give that process time*. We have given it the best part of 2 years, perhaps even 5 years I am looking to Mr Hunter here, that there have been skips on site for all that time. What's going to happen? They are going to say *oh, we've had skips on site for 10 years, we are a skip business, we have been doing soil forever here- here's an invoice or three, we can ask for a Certificate of Lawfulness?* OK, so maybe they can, but wouldn't it be correct to get an assessment as to whether these things are, or are not, permitted and if they are not permitted to require the operator to make a planning application to get his position rectified. To wait to sort out whether it is a matter of County or

District – I don't know – I'm going to over-rule this and say *Nick, I believe that one of the roles of County is to co-ordinate such matters; you are the principal planning authority. In your Policy for Enforcement it says: when a complaint is issued 1. We will acknowledge it (well, I wish you had) 2. We will tell you whether it is a County matter or a district matter. (I wish you would). Those are meant to be done within days of the receipt of a complaint... I'll just do that. I'll send the complaint to Gloucester County Council and you will then say no, this is a matter for District and you will forward it. That's what I would like to happen*

NB. I don't want to step on ?Bill's toes .. planning authority.. The District Council deal with many, many, many more applications than we do in a year.

Chair. But you obviously contemplate matters that involve both and that you will write to say that it is a planning matter and whether it falls within District or County. That's all you need to do. You've got 5 days in which to do it, why should we expect any less?

NB. What I will do, I will have that conversation with Steve and ask him if he minds us taking a view on the advertising because obviously it sits within your stall ...

Chair I have no view on whether its one or the other , such as advertising, I'm not putting pressure on that. We need this to get to the appropriate authority please, in the relevant timescale please, so that the relevant person please can start to look at it please.

NB. I will look at the history of the topsoil matter from my colleague's notes which we still have online and provide you with an answer on that as well.

Chair. Well thank you and that won't hold things up because quite clearly there is a website that says *topsoil'* there is advertising placard that says *topsoil* ...John, sorry...

JS I can't understand why there can either be a board on that fence advertising it or not.

NB. Because planning is a civil matter until you get to the latter stages of enforcement.

Chair. Excuse me, my reading of the law says that advertising without advertising consent is a criminal matter.

NB. It's unlawful.

Well OK, I'd have to read the ..

NB Its not a criminal matter, which is why the planning authority deals with it. If it were a criminal matter, the police would be involved.

Chair. I stand corrected. Thank you.

NB. No problem So, until we get to a certain stage in proceedings, I know I mentioned this earlier, I served notices on behalf of the District Council ...[[discussion largely between PB and NB, faint,](#)](man cave, served notices 2013/14, still in jail, etc.) that shows you what happens.

Chair. OK. There is a procedure that I'm very keen for the planning authorities to conduct. That is, to ask the site owner as to whether there are operations of the nature we are describing in this case : topsoil, skips, and containers; to ask for a formal statement of the operator as to whether that particular business is being conducted.

NB. Yes. I can take a view with that statement on the skips. They're storing skips without planning permission. There. The benefit in some terms of the fact that they have moved more skips into a different location means that the certificate of lawful use route is annulled for the early part when they're doing it elsewhere ?5 or 6? and the clock starts again for the different location and larger amount.

Chair. I like it, .It being a different zone with a different planning consent

NB It being a materially different operation.

Chair. Because it has moved from one planning zone to a different one. Plus there are more skips.

NB A certificate of lawful use depends on an activity happening at a certain level for a period uninterrupted of 10 years. The use has increased. The unauthorised use has increased. I'll go on record to say it's unauthorised.

[45 minutes on the recording].

Chair. Right. We've neatly got to the next one on my list, which is the review of our 3 later skip complaints, which have got lost – You have not replied, ..District have not replied, they say say it is a matter for County. We don't judge this. Is the ball in your court?

NB. It is certainly mine.

Chair. Can we have some replies please?

NB. Yes indeed.

Chair. Could you put in writing what you are saying to us verbally?.

Chair. Could you get, or not get, as you think it necessary, 'cos you can proceed anyway to ask them to remove them. That would be good. And, just to widen it, because we are soon to come to the ROMP matters, we do really do take the view that the operation of skips is inimical to the safe operation of the site; it induces the public or contractors to come on site, it gives every opportunity for things that aren't inert waste to be buried under stuff that is inert waste, and it would tempt them to keep open the Bell Lane entrance which is meant to be shut within 9 months of the signing of the ROMP. And, above all, it's vehicle movements, amenity, noise, smells, rubbish, and we become a waste handling site. So, we are deeply keen to , yes. Yes, to not have skip at all except in the purely limited (sand) operational sense that if something comes in that has to be safely disposed of, a skip may be a reasonable place in which to put it and, as then soon as the skip is full, it goes off to a waste transfer site that's got a licence to do that.

NB. That's what I am hoping for and that's what I am working towards.?we're on ? those aims.

Chair. Right, if I could shake your hand across the table, I would. (laughter).

Chair. And the topsoil was a pesky nuisance when it was being done. They tried, I think Mr Hunter told me, they tried I think to mix their own with imported manure from an anaerobic digester over the motorway, and we had flies and noise and smells and people coming with wheelbarrows on site and, you know, it's just not on!

Silence.

Chair. Right. Any more on skips? No. Good.

Chair. The review of the 8 complaints. Nick , you know what the 8 complaints [of alleged breaches of existing planning consents] are, don't you?

NB. Yes.

Chair. Skips was the first one.

Chair. You waxed lyrical on Containers [\[in an email\]](#). Before I leave Containers, it is probably the most trivial of them all. Again, storage of stuff in containers, on site, by the public, means you've got unknown materials, .members of the public coming in , and it really is a dangerous thing to have, as well as inappropriate under planning law. Would it be possible to get a statement from the operator as to whether there are or are not containers [\[for rent\]](#). They are still advertised on their website, they removed the things from the gate that said container hire, but it would be good to have a statement from the operator please

NB. Yeah.

Chair. and I think in these circumstances, you are empowered to reasonably ask that.

NB. Just speaking broadly, on these sites, my experience tells me that operators use containers to keep valuable equipment in... However if there are any , going forward, that would be something I would look to incorporate in the Review of Conditions, limiting the number, size and location of [\[containers\]](#) as well....It wouldn't be something that would be allowed to run amok. They wouldn't be allowed to put one shovel in container and then another 5. That's not on... and I would look to control that.

Chair. Thank you very much.

Chair. We've talked about Containers and Skips. That's 2 out of 8.

Chair. Storing topsoil and overburden on site, to be available for subsequent re-spreading. [\[45 minutes on the recording\]](#). So, this is one of those enduring things. They are meant to be permanently stored until they are re-spread. It's not a 10 year limit or a 4 year limit or anything limit. It should be there. We have set out why we think that has not, in history, been the case, so, they are not retaining the topsoil. It's obviously linked with the sale of topsoil; it's a small leap to say 'oh, they haven't got any topsoil on site, that's because they are selling it!'. ... Are we agreed that the topsoil should have been retained on site?

NB. Yes indeed.

NB. The question is then, how do we resolve that matter?

Chair. OK...Just to go through my evidence, our evidence, [refers to text of the relevant Complaint] point c says, referring to the topographical survey of the ROMP, you don't see any piles of topsoil, you look at a pile and say 'what is that?' 'oh, that's sand, gravels'. No there isn't one, you can't see it there. There is the bund, there's a quantity there, but there's a calculation problem as to how much should have been stored upon site and there is the issue of what you can do. So, in our ROMP submission, we said that selling topsoil and overburden and getting it off-site means that they have caused more vehicle movements and loss of amenity to the village than would have been the case if they had been compliant. And, that to bring the topsoil back, they will require more vehicle movements. And that there should be, at least, an equivalent reduction in the levels of activity to compensate.

Silence

Chair. That doesn't seem unreasonable to me. It's not even punitive.

Chair. Then we go on to say 'well, if you are not using your spaces to store the stuff and instead you are putting skips on it, they'd scattered them all over the place, well that's not very good. If you can act on that one..? but it's a good strong moral point.

Chair. And then there's this observation, which I think John drew my attention to and I think we've all seen it (looking to the Councillors present) the 'Dark Materials'. So, quite within their powers, the quarry started excavating towards Bell Lane/Little Oaks (I'm looking at David again because he is a resident of Little Oaks) (and Ron because you're a resident of Bell Lane opposite) and they have uncovered, not their fault, you know, it just was there, this VAST quantity of dark materials. I pointed this out to you [NB.] when you were kind enough to attend a meeting in my conservatory in..April [2023] and we are very concerned about these dark materials, because John Stephens here, who has got the longest memory, of before my house and David's had been constructed, there was a pit where somebody had dug sand out, deep, and the pit had, over the years, filled up with water and rubbish. And they, the operators may (this is just a speculation) have uncovered that. Now they have a great deal of – well. It's not topsoil, it's not really overburden, it's a prior waste site. And that could be hugely significant. What's more, I'll let you come in in just a sec John, we are suggesting, and I suggested to you when you came to my conservatory, that they have trucked a whole lot of that material down to the bottom of the pit and levelled it out and then covered it with sand. Now that, I can't prove, but an inspection, say 'bring the digger over here, let's see what's under here' could prove. And they have used it to construct a bund; if you walk round the outside and have a look at new bund materials, there are not very many of them, it's quite a small metre high sort of triangle, but you see there is rubbish sticking out of it. Which suggests, look at the colour, it's not sand. If you look at a photograph, you can look across to that side you can see the weeds that grow out of it, in the dark materials its got lots of biological food for plants.

JS A few months ago, there was evening primrose, all the way from the top to the bottom.

Chair. And it doesn't have the structural stability of the sand..just a little bit of rain and you see bits falling off where where they've been digging. This is serious stuff. Again, I must emphasise, it may not be the fault of the quarry that they happen to have come across this, but, having come across it, they have to deal with it appropriately under your planning consents. Which is to store topsoil and if you hit waste, a previous waste tip, you don't just put it on the floor and cover it over. You say to the EA or yourselves 'we've got a problem chaps, what do we do?' And, you cope with that in the ROMP. So, all of these are implied, if you like, in this breach of conditions, item 3, as to the storage of topsoil and overburden. OK?

NB. I will ask what has happened in that operation. However, if it proves not to be topsoil that should be retained for any restoration, ..

Chair. Or overburden, whatever that is? Anything between topsoil and sand?

NB. Yes. It's made-up ground. There's nothing within Planning that I can do about it.because it hasn't been imported onto the site.

Chair. Oh, but there is, sir. Because, it has to be retained on site. OK, you are saying it is retained on the site. But it's not retained on site for the subsequent restoration.

NB. No. I will check, and it's probably best to get a little pile driven into it to find out what's down there.

Chair. It should be available for subsequent re-spreading. The bit in the bund is available for subsequent respreading.

NB. Indeed

Chair. The bit down on the floor...

JS/ Ron. The hole was as big as half a football pitch. " When you look at the different colours, you've got the red sand ..and you've got this brown exposed as the side of the hole. If you go behind that ..it's in his garden

and in the road..that's where the hole was, in the road at the end of Sandfields...there used to be a quarry at the end..[indistinct]..

Chair. Thank you gentlemen, that's very helpful.

Chair. That was number 3.You can see why we feel quite strongly about that one. Oh, I think you [NB.] said, by the way, 'investigations will be undertaken to identify the location of any soils stripped within the last 10 years and to locate any stockpiles.

NB. The answers I get are...We're undertaking that.

[57 minutes]

Chair. OK I'll move on to the next one: No excavation to be carried out within 30feet of the highway boundary. We had identified pits that appeared in the North East corner. [to NB] I've shown you that picture before the Meeting..

NB. Yes.

Chair...which came from our formal complaint. So, this is the corner where John lives. And we suspected that they may have used those pits for emptying waters, and the waters might either have been from skips which fill with water when the rain falls or from the road-sweeping operations. And in the process, they removed trees they've ..encroached on the distance to the highway – no, not the highway, the BOUNDARY as that's the word in the Planning Consent and ..it needs to be investigated. When I read your comments I think you are not looking at the same thing, the thing that we photographed. So, it's the corner to Beach Lane and Wood End Street.

NB. I would have to ..I'll take the opportunity the next time I'm on the site to view if that is still there, or whether it has gone.

Chair. It's no longer visible from the roadway without heroics.

Chair. I'm having to go quickly because I've used up an hour.

Chair. One to One slopes. Are you aware that, yes you are because I've told you in the ROMP, and I've told you in this Complaint, that all over the place there is more than 1:1. If you look at, Chris and I looked just the other day and said 'that's damn near vertical !'.And its in the zone for this limit. If you look towards Little Oaks it's a precipice...

NB. Yes.

Chair. ...And if you look at the house towards Sandfields, they are on a precipice. And that's historic. But, goodness, the 1:1 is severely being flaunted.

[indistinct]

.Chair. ... and this again, 1:1 [excess dig] is a volume where you could, quite reasonably, within the ROMP, restrict the volume of activity that they do because they have dug too much sand, ..there's trucks gone out, there's going to have to be trucks coming in with inert materials – that's twice that we suffer. So, if you take that volume and double it, and say 'you're restricted by that' or you raise the level of the floor with sand or whatever it is, that would at least set the record straight..

NB. It's a bargaining tool.

Chair. No, it's a breach of Planning Consent.

NB. Yes, but ..

Chair. It may be a bargaining tool to you, but it's a breach of planning consent and this council, [\[looking to fellow councillors\]](#) am I alright here? This Council takes this seriously!

[muffled]

Chair. Right. Tree Screens. I think you've got a good point saying that the tree screens were done and passed by the then-planning-people, but there are comments in there [\[indicating file of Complaints\]](#) like the storage structures for gravels may be encroaching on the 30' strip. That reveals itself when you look at the topographical survey. It's also gone out of its own bounds because the Certificate of Lawfulness re gravels has 2 zones which are on that map I waved in front of you.

NB. Yes.

Chair. It's gone outside those. So, you've addressed PART of the issue; you've not addressed the whole of it. Could you pay attention to that?...

NB. Yes indeed.

Chair...please. Thank you.

[61 minutes]

Chair. Seven (there's only eight of them) 'No winning of sand shall take place within 50 feet ..of the Southern and Eastern boundaries of the site. And you replied to that saying you don't think that's the case. Well, the Southern is where the footpath is and I think you are tending to make the measure from the motorway...

NB. Yes

Chair...not from the BOUNDARY of the site.

NB. It's from the public highway.

Chair. No it's not. It says, quote, 'within 50 ..feet of the Southern and Easterly boundaries of the site.

NB Which permissions are you quoting from?

Chair. This is c .

NB. Right.

Chair. 1209/c.

NB. Right.

Chair. So, it's TO the public footpath. It's not the public footpath. It's the BOUNDARY of the site. It's not the motorway. You've said 'Clapham omnibus equals motorway'

NB. Yes indeed. ...I'll have to re-visit that one.

Chair. Just go down the footpath. There is a cone that is observable, more towards Wood End Street, and it's just about two-and-a-half-metres ..off the boundary, and if you look from the other side at the cone, you can see it's about a metre-and-a-half. So, the limit is 15 metres [\[actually 50 feet\]](#) and there's about 5 there...

NB. OK, I'll check that.

Chair. What's more, we have seen operations down there , ..heavy tractors, tidying-up the edges, pulling stuff down. And so, there are current operations, it's not just historic.

NB. Yes.

Chair. You're going to have lots of ammunition in your negotiations and lots of things to reply to us on.

Chair. The final one. 'The winning of sand shall be restricted to the depth of, you know this one, don't you, to 46metres above sea level, and they've gone down to 33/34. And I think you've said, 'yes, we agree with that, it has exceeded the minimum depth This cannot be contested'. The ROMP operator is willing to refill a number of metres on the floor of the quarry'.

Chair. That might be what they think they have done, using the dark materials which I suspect have been put down on the bottom and then a layer of sand, not a very thick layer of sand, and they'll say 'there you go'. But I don't think they have.

NB.No.

Chair. And, as to the quantity, I think you are still negotiating it. The Environment Agency is contesting the depth on hydrogeological grounds. And, we've written to the EA, and I'm encroaching on the later bit now, we've written to the EA saying 'don't forget that the water levels are only that because they continue pumping it and don't forget that the seasonal variation [of the water table], that the annual variation could take it up to 37 metres. And, you know, there is a serious potential problem, you might have a floating bowl of clay, one of these years, going up. So that's grist to your negotiating mill.

[65 minutes]

Chair. We've finally got through the Planning Complaints about Containers and skips. We've had the [planning] re containers, but not the advertising of Containers [to rent].and the Skips.

Chair...you poor people, you have had to listen to all this, and poor Nick, being under the hammer. Can we just do the bit on the ROMP?

NB...I'm obviously the Planning Officer for the ROMP. The ROMP stands for 'Review of Mineral Planning Permissions' It was brought about by the Environment Act 1995, when the Government considered that there were a lot of old planning permissions relating to minerals sites. And, following '95, 2000, every single minerals site in the County has had to be surveyed. The operators had to state: active or inactive, and a new set of Conditions have to be applied. Now, this is the first Review of this active site, this old minerals site, because it had several different planning permissions. A Review of permissions isn't a planning permission as such, so we don't get a planning application fee, and this has been going on for quite a few years, quite a lot of Officer's time, so we need to get it right when we do have to ?impress this amount of time into it. It's not a situation where we can refuse planning permission, either. That is a very important point. The planning permission endures, this is just a review of it, bringing updated conditions. As I said, this is my negotiation

point. I really earn my money in the next few weeks, when the operator and I thrash out the Conditions, because the legislation requires that we agree a set of conditions.

Chair. Point of information: can you propose conditions?

NB. I can..the legislation states: the applicant brings the conditions forward and we have a discussion based on those. Luckily, I have a working relationship with these operators that means I can propose conditions.. in relation to this site, which means that I can bring my own conditions to the table.

Chair. Does not the law allow you to, or even require you to put conditions?

NB. Unfortunately not, because they have to be agreed by the operator. So, they can, just out of hand, say 'no, not having that'.

Chair. So, the law requires you to propose conditions, but they can not-agree-them?

NB. Yes. They propose them, we have a discussion. I can propose them, but there is no power for me to do that. Its down on my ..relationship with the operators.

CN. If you can't reach agreement between the parties is there a further process beyond that? Does it go elsewhere? Or, if you can't agree a condition it just doesn't-have-to-be-included?

NB. There are several procedures, we then go into 'a stalled-ROMP' situation, which, every 6 months, has to be reviewed and it's a continual ?act. Where I worked previously, The South Downs National Park, there was one such site that had a Stalled ROMP nearing completion so, we kept on extending the time limit till it was completed and then it went away. There weren't the issues that we have here, with high public interest, even though it was in the National Park. It was one of their sites that could be managed that way.

NB. Another alternative, is that we impose conditions that are not agreeable to the operator, the operator then goes directly to the Secretary of State with an application for costs against the County Council. And one such example of that was: we limit the depth of the floor in the quarry.

90% of the area doesn't have a depth limit currently, so, for us to impose a limit similar to the c condition [1209/c] across the whole of the site, the operator, whether it is reasonable or not, would sa to the Secretary of State 'we are losing this much mate'rial sold at this much per tonne and that's how much the County Council owe us' and the Secretary of State says 'that's how much you are paying'. No discussion. We essentially are over a barrel in such matters. So it is down to my ?wit.in the next few weeks to get these conditions agreed for the best for everybody, and especially for the local community. I've got to work hard to do this. I've got to get the best for you people here, and the generations that follow.

Chair. OK. So, I am puzzled that the local authority cannot propose conditions.

CN. Can't IMPOSE conditions.

Chair. Can't set conditions, might be a better word. I am puzzled that, so far, the process has been delayed, so I assume it must be one of these 'stalled situations', or extended by consent of the applicant maybe?

NB. Yes

Chair. The latter. OK. I am puzzled that Policies like 'ensure that the developer does not compromise sustainable sources of supply' which are a Policy of yourselves but you can't implement those policies.

Chair. I am puzzled that: we talked about 4 years and 10 years for the limits for legal action against a perpetrator, if that's the right word, of breaches of planning conditions, but it seems to me that there is a third way of doing it, which is that you just rule out the old conditions in a [ROMP] application. We've been

talking about 1:1 and 30' from this and 50' from that and depth limits and things like that. Now, depth they did propose in their Conditions and the Environment Agency has protested but the process does seem to be bizarre. I've read the Act, well I've tried to read the Act..

NB. Yes

Chair..for instance , there is a wonderful phrase, which I think, after much wondering, about it, means that if there isn't an Environmental Statement, then the Local Authority should provide one.

NB. Yes, well I was going to come on to that as well...as another matter. The discussions hopefully will reach a climax next week when the Environment Agency, Severn Trent, and our Flood Consultants reach a consensus of opinion on whether this can go ahead, what level the quarry can go to, and that's in agreement with the appellant that they will not claim against us for limiting the depth across the majority of the site, which they would be within their rights to do.

Chair. Hopefully, to take account of the overdigging, 1:1, boundaries, depths.

NB. Unfortunately not. No.

?Ron. Not when they went straight down near the motorway? The 45 degrees?

NB. That's what happens in the normal world. In the world of Planning, and under this legislation, it's a legal argument and its not taken into account .A rock and a hard place, as they say.

Chair. Well, if, before the ROMP, you were to, I don't know the [\[planning\]](#) word for it, because they are in breach that could be a pre-ROMP Condition...

NB. Yes this is where I am trying to get to. I could serve enforcement notice, if it was in the public interest to do so. But, what would we achieve? We would ask that there be restoration to give a no less than 1in1 slope..

Chair. Excuse me, I was proposing, we have proposed in our ROMP [submissions] that there would be an equivalent restriction in future activity to compensate for the excess past activity..one way of achieving that is the depth.

NB. We cannot do that, it doesn't address the breach in planning control directly. The breach in planning control is the 1in1 slope.

Chair. Yes, you can't put that back, not to the same structural integrity, as might prevent your motorway from sliding into it.

NB. That's what the enforcement notice would have to require.It wouldn't be a trade-off, it would have to require remediation of the actual breach, else the Enforcement Notice would fall foul of legislation and the Inspector would find that the entire Notice was flawed. So, that's not a route. The ROMP gives me the power to address this 1in1, to limit the bottom and sides. With the co-operation of the appellant, we get a new access for the people away from Bell Lane, we get Bell Lane blocked up, and we get tighter conditions which the applicant is willing to go with for the benefit of everyone. I know it looks like I am trying to do a hard sell here, but it's with the public interest in mind, bearing in mind I gain nothing professionally from these negotiations. It's bearing in mind your lives, your amenity, that I go forward asking for these improvements.

Chair. And don't forget our aquifer.

NB. Yes. If we agree a depth, I then know what the proposal is and there I can introduce any EIA screening based on an actual knowledge of everything that's going to happen. If I had produced one earlier, I would

had to have taken a worst case scenario and let the operator go as deep as they wished, and that would have required an Environmental Statement.

Chair. Does it not require an Environmental Statement anyway?

NB. That's yet to be determined. I will go out to consultation once I know ...[drowned out by noise]

Chair. Can we express our exasperation that after 2 years of this, or 3 years as you knew about it before it was coming, that we don't know if there is an Environmental Statement required. It is a Schedule 2 under the EIA Act..

NB. Yes.

Chair...and if you decide, who decides?, you decide as the Authority I should have thought, that it is of significance this aquifer serving 27,000 houses. Do we believe 27,000 people? Is that the right number? John?

JS It's more than that.

Chair. More than that? How do you know it's more?

JS I speak to those at the pumping station. They are pumping today 10 million litres a day they can take 12. We take 12 in summer. You know yourself there are 1000 new homes in Ledbury alone.

NB. If they lose their licence to abstract, which hopefully they won't, and common sense says they shouldn't .. then the re-charge will come back up as groundwater and that's why they are making sure they get it right. And that's just a minor factor. We look at the ecology, the landscape, noise, all those aspects, but that call has to be made on the entire proposal.

JS. Bear in mind, just over the motorway, where the strawberries were, about ¼ mile away [from the pumping station] all those strawberries got sprayed with pesticides and about 20 years ago closed 2 boreholes.

NB. Yes. ...

Chair. So I think this might fall under: a Schedule 2 development 'likely to have significant effects on the environment'.

NB. That's where it would be screened, yes.

Chair. Yes.

JS. If that [closure of the boreholes] were to happen here, where is the water coming from?

NB. That's the concern and that's why we? [unclear] want to get it supported? And that's why we have gone to these lengths. The screening opinion should be within 3 weeks of receiving the application, or 90 days by extension. The applicant then has the option to either wait for the screening opinion or appeal to the Secretary of State for a direction. We've exceeded the 90 days. There has been a wait for our screening opinion. When I know what is proposed, the screening opinion, I will then be sending my request to all live specialties. I know nothing. I'm a ?planner?, I go and ask all my consultees, ..and they come back and tell me their opinion whether this would require an Environmental Statement.

JS. If the cleaner had gone in a month ago, and we having all this rain, where is the [wheelwash] water going to go?

NB. Yes, I understand that. Never, in my almost 20 years of working in minerals and waste, have I seen the extra requirement placed on it by the water authorities for a clay liner...

Chair. That's because we are in Water Protection Zone 2, verging on Water Protection Zone 1, and the pumping comes out just over the road.

NB. Yes. And things have changed. Normally it's just a few .?.households that has the lining but this environmental protection these applicants are being asked to do is way ahead of anything that anyone else I've ever seen being asked to do.

JS.And then you've got the wheelwash. Hundreds ofvehicles. Queuing to wash the wheels and their wheels are covered in clay. That ain't going to wash off in 2 seconds.

NB. It's a problem we have county wide, with wheelwashes. Sometimes it's better not to wash them really. Sometimes it's better to wash them. And sometimes, you get a layer across the road and it is one of my bugbears that we have in this time found no better way of doing it ?..? and it is very much like a repair ramp which used to squeeze the muck out of the treads, no water involved, but that was very remote and very low level and I don't know if it would work. These details have to be agreed.

JS. I notice that the gate is now moved closer to the crossroads.[discussion on gateways to/from the quarry].

Chair. Right, can I move on with that one. He [JS] is making a strong point with the wheelwash. One of our ROMP points was that the wheelwash disappears in the later stages of the development, according the ROMP application, which makes little sense. John [JS] also makes the point on queuing and not enough turning circle which could be problematic on pracial grounds. And don't forget that the wheelwash over at Ryton Road never operated, ever.

Chair. So, we wrote to you at County [\[ROMP Comments\]](#) and then we wrote again and we have no word back on any of those points. In fact, I keep scouring the Planning Portal hoping that there will be new documents. Nothing has appeared for months.

NB. Nothing has surfaced for months.

Chair. 2 points there, we don't know how the comments are being taken. We would like to know. I don'y know what rights we have, but it seems reasonable to say that if we have gone to the trouble of debating this and preparing these documents, - we are the people who are affected and they are reasonable points and we would like to be responded to.

NB. There's 2 areas that I will respond to. One being the feed-in of Conditions; I will use the points that you make, and other consultees, to guide how this discussion of Conditions goes.

Because you have written it down, I can say to the applicant 'this Condition is asked for because the Parish Council has asked for this'...

Chair. Glad to be of service and help in your negotiations. But that doesn't allay the concerns. People ask me in the street 'What's happening?' 'Where are we?' 'What about all those concerns put forward?

NB. Nothing is happening with the ROMP until this meeting... regarding your representations regarding the application, those get addressed in the Officer's Report. That is your opportunity for those to be addressed.

Chair. But there hasn't been a.. Planning Committee Meeting for months.

NB. No, it's.. (pause)

Chair. So there is nothing in the Public domain.

NB. No. it will be. You might have to bear with the process.

Chair. Can you feel the exasperation here?

NB. I can. These are difficult applications because it's not a planning application.

Chair. It's unacceptable. Quite simply, it's unacceptable. I think we are treated badly. I think the town is treated badly. I mean, these are not trivial points. If you get that aquifer thing wrong, there's a disaster.

NB. Yes.

Chair. And, if we get the skips thing wrong, it's a mini disaster. And, if Planning Control is seen not to have been effective over all the years where they've over-dug, ignored the 1to1, ignored the boundary, or have got things on site which they should not have done, if skips could persist there for all that time, then the Planning System has let this village down.

NB. That's one view. I hope that I can maintain..

Chair. And it's letting us down, we think it's letting us down. It's a reasonable extension of views to say 'well if they haven't looked after us in the past, if we don't know that the law is applied, and we don't get replies when we make Complaints or they disappear, or we don't hear about them, or the wrong bit is answered, and, you know, what have we got?

Chair. Can I also add the Environment Agency? We have written to the EA, to Ruth Clare, and copied you in on it. And she said 'we are under discussions and I'll talk to Nick', that's yourself, and so on, and ..that's disappeared as well. There are heavy points here.

NB. I understand. The mechanism, the only mechanism, for addressing those points through a planning application and such as the ROMP is to address them in the Officer's Report, unless there are details I need to discuss with you or the operator ... Your points are well made; they are going to inform the Conditions, they're going to help me with the Conditions, to put meat on those bones, to flesh them out. If didn't address them in the Planning Officer's Report, the Report would be slanted and you would have an avenue for challenge, for judicial review, because I would not have represented the points and answered them.

Chair. By the way, we are not trying to make trouble for you. We really just want the right things to have been done, to be done and to be done in the future.

NB. This is in the forefront of my mind, this application. I am waiting as much as you are for this matter to be resolved, so I know where I am heading.

Chair. Alright. Thank you sir. You can sense our exasperation. I am just going to look down quickly here.[\[consults papers\]](#)

[88 minutes]

Chair. Can existing Conditions be removed so easily? So there's lovely Conditions, like 'place nothing in the bottom to harm the aquifer' – disappeared!

Chair. 1to1. Well if you look at the new conditions, they say 'in accordance with the Reports submitted'. But, if you look at the relevant Reports, they have 2:3 or 67 degrees and that's apparent in the drawings; it's there in one of your reports [re the BPC Complaint as to 1:1 not being adhered to] and expert reports have picked it up.

NB. Yes.

Chair. So, (sighs) at just one sweep to say 'all the old Conditions are gone' [as the first of the proposed ROMP conditions} seems wrong. But they are sensible Conditions.

NB. Yeah, What we can take from them, we will take. We will not be losing any control, but will be adding to it. We'll cherry-pick the good bits and workable bits but we lose things like the depths and we put a depth limit on it. With the agreement of the applicant, we shall agree to them. I cannot overestimate how much of a win that would be for us in legal terms to be able to achieve that. Otherwise, they could justifiably just keep on digging down... on the 90%

Chair. Until they float away.

NB. Yes

Chair. 'Cos they have got to the water table and they get bogged down.

NB. We rely on Severn Trent taking a legal action against them for digging down into the water table.

[89 minutes]

Chair. Nick, you've been very patient with me. Thank you very much. Can I open the meeting to Councillor's questions and Comments?.

CN. Could I just ask one question... You said that ...I'm not sure whether this has been covered, the whole issue of the other side of the quarry over the motorway and the fact that it's been filled-in far higher than allowed for, what I understand it was limited to. How does it fit in to the whole ROMP, the historic.

NB That's a separate site which has its own restoration conduit. There were some amendments to allow the geologists to visit the exposure, alongside the road there is a very interesting exposure there and 2 sand features join so there's a little bowl right at the top near the cottages that I am sure they will open up for people to visit, not just for geologists. That one I will keep. Because of my professional experience of restoration of sites, I will keep a close eye on how that is going, I know about the grass swards...

Chair. Excuse me, I think what Chris is saying is that they have over-filled it, that there were levels set and then they got buried and buried...

NB. Yes. They are in agreement with the restoration.

Chair. They are?

NB Yes.

Chair. OK.

JS. How does that come about? The book says it will be filled up from the motorway to the cottages to the asparagus field and now there is as much above as there is below. How does that come about

NB. There is a restoration Plan which they complied with....I don't believe the levels have changed.

JS where did the Application go?

NB. There was an application which I dealt with..

JS. It didn't come to us. Or Dymock....

NB It was advertised at the time, so, I'll come back to you on that one, if you want, and I'll address that. But, it was an expensive time, application...so I don't believe that the levels have changed, else I'd have gone out to further consultation on the land levels, with everybody.

JS. It says in here: the level of the motorway. It's like .. 40 feet above.#

NB. I am sure that the restoration levels they have got are the ones that are approved. But I will check and give you the reference for that ..

JS .. our quarry how full is that to go once it is to go from Beach Lane to the motorway, is the same going to happen?

NB. No. Categorically not because the original position on restoration was 'it shall be brought to a level standard'. Now we interpret that..whilst there is an interpretation on where that leads, that's not a 'land raising operation'. The absolute maximum would be the original ground levels which are set on the land . You can see the original boundaries. There was never a hill there ...so, that's not going to happen. And I can give you that promise.

JS. So you are saying, the highest it will be is where it was?

Chair. Point of information, John, there is, in the ROMP application, a plan showing the levels of the restoration, and various contours.

[re consents, somewhat drowned out by baby Cecil.]

JS. I struggle. Looking at where it was all pegged out with blue pegs to the original level in the book. And then it changed.

[discussion on settlement , agreed as modest, less than 1 metre]

NB. But I take your point, that you didn't expect it to be that high to the motorway.

JS. I thought they were making a bund. A lot of Cotswold stone come in and I thought it was going to be sold again, to be used again. That was the level.

NB. Yes.

[95 minutes]

Chair. Gill, can I invite you to make any comments? From you? Or Philip?

GM. I was going to ask where the Report ends up. It's not a planning application and the Planning Committee doesn't get many applications (education, minerals, waste) and everything else is Forest of Dean. I should think one in three we meet, possibly one in four [months], so there's nothing unusual in my experience. In 2 years over there we've had about 4 Planning Committees.

Chair. Oh dear, this is bad news (jovially).

GM. Its not bad news, it is just what happens.

? You only meet when you have to.

GM And I was about to ask Nick: Most planning applications are delegated to Officers for approval, it is only in certain circumstances that they will come to committee... so, Nick, where does this report end up? Because it is not an application it's got to be decided. It's negotiated rather than decided. Where will it end up? Who's desk will it end up on? Or will it come to Committee for noting, or whatever?

NB. That's an important question for which I thank you. Now as it stands it's a delegated decision. But, I will write the Report it would then go to my principal Planner, my team leader, and it would also go to the legal services as well, to make sure that the legal aspects of the Review have been complied with and I'm not

overstepping the mark. As with Planning Applications, it could be called in to Planning Committee. But, and I will say this rather strongly, Our Committee will be informed in no uncertain terms by our legal department, not by me, of the consequences of changing any of the Conditions or refusing the Planning Permission. So, it could go to Committee but the standard route is delegated. I would also say, this isn't going to be something that I'm just going to do lightly, ? is the conditions ..? not Let's agree them bish/bsh/bosh; it is probably prudent, whilst not required by the procedures, for me to run these by yourselves..

Chair. Thank you.

NB..just to make sure that we're all there.

Chair. Would we be advised to call an Extraordinary Meeting to consider such matters?

NB. You could do. I could be here but (looking at Gill) I'm not sure you could because of the situation where if it was called into Committee you may put yourself into a situation where ...

GM. Who could call it into Committee, I could, requires either .. not automatic,,no reason why it should go..it's not a yes or no, so I can't see any reason why it should go to a committee ..we are not going to be familiar without a huge amount of explanation with all the why's and wherefire's.

Chair. It's only a few papers, Gill.

Gill...it's the depth of knowledge...technical knowledge, the average member lacks. .. even I feel out of my depth, if you like...I've got the general gist .. I've been listening to this ..from when I was a member and it was going on then ... a constant irritant that is now at least part way to being sorted..I'm very pleased about that..but I can't see the advantage in a way of going to the Planning Committee. There are no more expert opinions that would really help members who are taking any decisions; it wouldn't be a decision yes or no, of saying we don't like this condition. As far as it's been negotiated with the owners who, I have to say, seem to be not ... Paul has been , the owners have not been very user friendly as it were....the best we can do, in my opinion is to let Nick negotiate to get the best results, but it's not my opinion that counts here, it's what I believe, for what it's worth.

Chair. Can I invite any more comments from Councillors?

JS. The water is the over-riding factor here. Where else is 12 million litres per day coming from?

NB. That's why I'm leaving it to the technical experts. I know nothing about it other than the vaguaries of this dip that happens, withdraw cone and what would happen with the rebound. That's why I leave it to them. And that's why I don't make a decision without their say-so.

JS. When you go down to . to those boreholes capped off!

Chair. Could I draw your attention to our last letter to the EA which said what I called 'the bucket theory'. You fill it [line the quarry pit] with clay, therefore the rain that falls either evaporates, or, eventually tips out. When it tips out, it goes towards Bell Lane entrance where they are going to put a soakaway, according to the ROMP. And, if that is not maintained, it will go out into Water Protection Zone 1. And if they do keep filling it up it will go indirectly into the aquifer and into PZ1. Do, in effect, anything nasty that happens to be put inside this clay 'bucket' will end up as leachate in the water system.

NB. That's why my consultants ..have been paying attention to it.

Chair. OK.

JS. Geotechnical. Are they the ones that have done the test holes at Ryton Road.#NB. I don't know; we have our own consultants that are nothing to do with the applicants...I know nothing about geotechnical matters...

Chair. Well, the one thing that I know That this topic has taken up an hour and $\frac{3}{4}$ and we've got 15 minutes left. Mr clerk, would you lead us through the rest of the Agenda, please,

The Chairman later thanked Nick Bainton and led a round of applause in appreciation of his participation.