



BROMSBERROW PARISH COUNCIL

MINUTES

7.00pm on Thursday 22nd February 2024 at Bromsberrow Village Shop

1. **Present:** Cllr Robin Launders (Chair), Cllr Chris Neville, Cllr John Stephens, Cllr Roxanne Shayle also present: David Mills (Clerk) plus one member of the public.
Apologies received: FoDDC Cllr Philip Burford, Cllr Gill Moseley (Gloucestershire County Council)
2. **Declaration of interests:** As agreed at the 20th June 2023 meeting the Clerk duly granted dispensation to all councillors to enable discussion of Quarry activity matters, 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 30th January 2024** – At the request of Cllr Launders the minutes will be signed at the next meeting on the 26th March 2024.
4. **Matters arising from the minutes:**
 - a. Waste bin now in place by the Village Hall, thanks to FoDDC Councillor Burford assistance.
 - b. Clerk gave clear recommendations to councillors to consider adopting, at the next meeting, the Biodiversity Policy and Risk Management Strategy as previously presented.
5. **Discussion items**
 - a. Use of The Shop for future Parish Council meetings – Councillors agreed the Shop is a useful alternative venue in Bromsberrow Heath however the Village Hall in Bromesberrow will remain the usual venue for Parish Council meetings.
Action: Use of the Shop to be considered for a future meeting.
 - b. Use of Zoom for Parish Council meetings was considered an impractical option for BPC at present however it would be useful for workgroup meetings that are not required to be public meetings. The Clerk advise to wait for clearer national guidance for Parish Councils on the use of online meetings. No action.
 - c. Shared Parish Council / Shop noticeboard - BPC can anticipate a decision on the submitted Build Back Better bid for £1500 towards two new Noticeboards in the near future. The deadline to complete the project is December 2024. GCC Application Reference Number: B697MOSFOD
Action: Cllr Neville to coordinate with The Shop on the Bromsberrow Heath Noticeboard.
Cllr Shayle to coordinate with the Village Hall on the Bromesberrow Noticeboard.
 - d. The Village Hall - Playground survey in coordination of the village hall committee representatives is ongoing and Cllr Shayle reported 40 paper and 28 online questionnaires have been returned. Cllr Shayle reported on some of the comments received.
Action: All questionnaire responses to be compiled into a full report for consideration at a later meeting.
Cllr Launders informed councillors he had reassured the trustees of the Village Hall that the survey is to identify the strength of demand for a playground facility within the parish. Depending upon the outcome, progress to development will involve all parties including the Village Hall trustees.
 - e. Councillors decided not to pursue the invitation to the Royal Garden Party nomination. No Action.
7. **Parish council business**
 - a. Clerk presented the current year 2023/24 Accounts update and confirmed Cllr Shayle is awaiting confirmation of access to the Unity Trust Bank Account.
Action: Clerk to share handover logins and access details in single document at the next meeting.

- b. Recruitment of new Parish Clerk and handover arrangements. Clerk post advert is listed on the GAPTC website and advertise in the local press at a cost of £360 inc. VAT – Three enquiries received to date and no applications.

Action: Councillors to canvas residents on interest in the role.

8. Planning

- a. **Land Grab** has been reported to the GCC Highways PROW officers and to FoDDC Planning Enforcement. Cllr Launder has taken site measurements of the footpath widths and reported at one point the path width was 3metres and is now 2.5metres. At the entrance the path was 4.2metres this has now been reduced to 1.5metres.

Action: Cllr Neville and Cllr Stephens to meet with the GCC PROW officer on site next week and discuss the drafted letter and possible further correspondence requesting enforcement action.

Draft letter on Appendix 1 - page 5 below

- b. **Quarry ROMP** Progression Complaint

Cllr Moseley to established confirmation from FODDC Planning that the issues of responsibility of responding to all breaches in conditions are totally with the County Council and are not apportioned to the District Council under whose jurisdiction they would normally fall. The County Council is therefore totally the responding authority for Quarry issues.

CHAIRMAN'S REPORT ON PLANNING AND ROMP DEVELOPMENTS RE THE SAND QUARRY - UPDATE

As resolved at the 8th January 2024 Meeting, I duly dispatched specific complaints under the GCC Corporate Complaints, making it clear that we were Looking first for 'Informal Local Resolution' I sent two complaints on 11th January 2024, and one on the 15th January 2024.

The first was regarding Environmental Impact Assessment (EIA) Disciplines; the first duty is for GCC, as the Minerals and Waste Planning Authority (MWPA), to screen for environmental risk, the screening to be done in 3 weeks from receipt of application, unless.....: If it is screened as EIA, then the operator is required to prepare an Environmental Impact Statement, publicise it to all affected and there is a round of public consultation. If not so screened, then proceed to determination of conditions by grant of new planning consents.

The second was about the apparently huge reluctance of GCC to determine conditions under the ROMP process. The initial conditions were proposed with the application and the ROMP ends with GCC setting the final conditions. Simple one would assume, though: restrictions to mineral winning beyond the effect of prior conditions can require the MWPA to compensate the operator; restoration conditions have no such penalty.

The third one was entirely to do with skips.

I will report later in this report what has (or has not) happened with these three complaints.

GCC Senior Planning Officer, Nick Bainton has, via Councillor Gill Moseley obtained confirmation from FoDDC that he can deal with 'use of Land' and advertising planning issues at the pit on their behalf. I presume this will allow the outstanding skip 'use without consent'/advertising complaints we sent originally to District and to launch the same for the import and sale of top soils, all in addition to the 'use of sand only' complaints of breach to GCC. Thank you in advance to Nick Bainton.

We will, with the help of the clerk please, re-launch all these? Thank you.

ACTION: 9.1 below and Appendix 2 – see page 6 to 9 below.

I have been researching whether there have actually ever been any Planning Notices in the Register for that purpose, and checking with GCC Planning. To the best of my enquiries; there have been none, ever. This is surprising, given the state of (non-) compliance revealed by the ROMP documents, and given the diligence of our predecessor Parish Councils and our own continuous efforts.

I have been trying to discuss with Nick Bainton the indemnity from prosecution time Limits:10 years ram effective completion for mining, etc, operations or 10 years from breach. Nick holds that anything in the area marked red on a Planning Permission means the latter. I contend the former. The latest legislation confirms the original wording but extends the former to 10 years from substantial breach. To be continued.

More generally, I have been offering to meet with GCC Planning to see if any of the many outstanding can be resolved. My offers to meet or talk have not been accepted. I will remain willing, however.

Turning to the three complaints Lodged with GCC Corporate Complaints (GCCCC), things have been 'tricky'. The actual GCC Corporate Complaints Policy document does contain a phrase that a complainant should first 'try to speak' with the 'point of service' with a view to 'informal local resolution' and that is indeed what we sought to do initially, each of the three complaints each requested ILR. But the first one was put on a regime of appointing an officer to answer the complaint and for a reply in 20 clear working days, which is a 'Stage 1' procedure. I should explain that there is a Stage 2, an appeal, but only after a round of stating Stage 1 in unsatisfactory and why and subject to this being accepted by GCCCC. Not very customer friendly.

However, at the end of the 20th day. The first of the three complaints, the one about EIA disciplines, including 'screening' in 3 weeks, was answered by a Robin Drake of Planning. A very courteous letter, but the only statement as to what had been done was that a Notice had been issued under a Regulation 6 of The Town and Country Planning (Environmental Impact Assessment) Regulations 2017 and an extended period of time agreed with the applicant, that there were 'unusual and complex circumstances' (unspecified). Regulation 6 applies when the applicant asked for a screening, but there had been no previous indication of this. Two subsections of Reg 6 can be invoked from Reg 8. Reg 8 is where the MWPA has to do a screening anyway.

So which was it? Should the Notice and timescale have been published?

Also, I think there is a Regulation as to automatic EIA status if there have been Planning Control Notices, which there might be.

Similarly, I read that if there is an objection by a 'Statutory Consultation Body' such as Environment Agency, EIA classification is automatic.

Meanwhile, GCC are 'scrutinising and assessing' information submitted. 81 weeks had passed since the ROMP application of 15th July 2022. They have not yet completed even the 8-page checklist.

Needless to say, more and better particulars are needed and I will persist, and this is just a screening, an opinion as to whether the aquifer and any other environmental elements are likely, or not, to be harmed under the application proposals, for us and for future generations.

So, what's happening here? They don't have to tell us what's going on until they adopt a screening opinion, even if a 3 week screening duty has been extended to 18 months. It may be that the relevant Legislation has not been complied with, but we can see the Notices, Agreements or information requested. But the GCCCC can see the documents and if they would confirm that all is correct, then so be it, but 1 anticipate reluctance. More on this conundrum later.

I have also had a reply 20 February, to the second one, though after I had sent Notice that the 20 clear days had been exceeded. It is extremely bland.

The third one, that skip complaints are long outstanding, has not yet been replied to, though I understand Robin Drake is intending to get his reply to me 'this week'. Tomorrow is Friday. This one is also Noted as out of time, much more than 20 clear days from 15th January. We await on this complaint as to a complaint not having been answered.

CONTINUED ACTIVITY

To be disciplined, I think I have furthered the wishes of this Council from 8th January, from earlier Meetings. Specific Complaints so far got sort of put into Stage 1, etc., but not by me. I ask for your consent



to continue to see through the issues as necessary on behalf of BPC, stages or whatever, having learned that Informal Local Resolution Looks Less and Less likely as a viable route. Councillors agreed?

I also wish to get a bit technical now and talk about the Monitoring function within Gloucestershire County Council. I want to talk to the Monitoring Officer, but nothing to do with respect at meetings, more to do with maladministration, inefficiency or non-performance by GCC of duties under the Legislation, delivery of services and GCC Policies, compliance with the Legislation, the law of the land.

Guidance from the Local Authority Ombudsman describes the trio of Officers who are meant to keep a Council 'on the straight and narrow' - the Chief Executive, the head of Finance (section 151 Officer), and the Monitoring Officer.

I have been in contact with and am trying to arrange a meeting with either the MO or his Deputy. I would like to, informally initially, review the many situations and issues regarding the quarry, the concerns we have been battling with over so many Meetings.

What powers does the Monitoring Officer (MO) have?

Organisationally, Legal and Planning Departments are under the MO, so there is a direct line of authority, so they can of course inspect documents, reports, correspondence, etc. that we cannot and so verify whether the requirements of the Law have been met.

The MO has to report to Council where there has been non-compliance with the requirements of the Law, maladministration, etc. Council has the powers to remedy.

What would we like to see? Revised ROMP and better conditions (particularly that protect the aquifer now and for future generations); restriction, but no more restriction, of winning of sand than would be the effect of the existing conditions, no skips or sale of topsoil unless and until these are permitted by grant of planning permission. We would also like proportionate and effective Planning Control.

Robin Launders, Chair BPC 22 February 2024

Councillors spent 60+ minutes discussing the progress of the ROMP and the complaints including the recent quarry activities being undertaken.

Action 9.1: Clerk to compile notices of breaches of conditions first raised in July 2023 and more recent breaches discussed in the 30th January 2024 meeting. **Appendix 2 – see page 6 to 9 below.**

Action 9.2: Council agreed, Cllr Launders on behalf of BPC, to continue to pursue the complaints process with the GCC until all reasonable options are exhausted. To follow up on all lines of communication with GCC. Ensure that BPC councillors receive emails communications and also included in responses from GCC on the complaints and the progress of the ROMP.

Action 9.3: Council agreed, Cllr Launders on behalf of BPC, to meet with GCC Monitoring Officer (MO) to follow up on progress or lack of progress on the complaints and other outstanding issues. To raise questions with the MO regarding the failure of the planning officer to deal with matters within a reasonable timeframe and generally, to discuss the question of maladministration in so far as it relates to the County Council's handling of the entire ROMP

9. **AOB** Telephone box Councillors agreed to the repainting of the interior at a cost of £99. Action: Cllr Stephens to ensure the contractor sends the invoice to BPC for BACS payment by email.

10. **Date of next meetings**

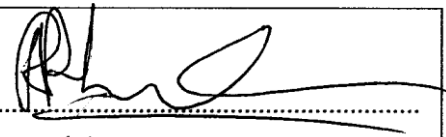
Tuesday 26th March 2024

Tuesday 28th May 2024

Tuesday 30th July 2024

Tuesday 24th September 2024

Tuesday 26th November 2024

Signed:	
Date:	26 March 2024

Appendix 1 reference item 8a. Draft Letter

Dear Ms Hopes

Thank you for your email dated 30th January 2024 concerning the complaint of encroachment over public footpath GBR/35, and I note your offer to contact Councillor John Stephens in mid-February to arrange a site meeting. The Parish Council Chairman, Robin Launders, has asked me to lead on dealing with this issue on behalf of the council.

I have had the opportunity to review the contents of your email and consider the consequences.

As you point out, there are some anomalies in respect of this footpath, not least of which is its designation. The original deed map that you provided references the path with the letters 'FP', which suggests that it is a footpath, however the finger post at the entrance to the path describes it as a 'Public Bridleway'. I don't know whether the sign was put up in error, or indeed whether the designation makes any material difference to the discussion.

Councillor Launders has attempted to make his own enquiries by physically measuring the width of the path and comparing his measurements to a scaled land registry map available online, using established buildings nearby as reference points to verify scale. His calculations suggest that the path should be at least 3 metres wide near the brick built shed in the garden of Yew Tree Cottage, whereas it is only 2.5 metres wide, and adjacent to the corner of the house called Greenlands, the path is 1.5 metres wide whereas it should be 4.2 metres wide.

We must also consider the 1989 Modification Order in which the path is stated to be a minimum of 1.5 metres wide. Even after the most recent encroachments, the path is still not narrower than this.

The practical aspects of trying to enforce any encroachment would not be simple. Even if it can be established that encroachment has occurred, we should give thought to any resolution. The footpath is used by pedestrians as a shortcut. It has not been possible to drive a vehicle along the path for many years, and forcing landowners to move boundary fences would not make any difference to the use of the path.

I offer these thoughts in the prospect of your site meeting when we can discuss the matter further and look forward to receiving your advice.

Yours sincerely

Chris Neville

Vice Chairman, Bromsberrow Parish Council



BROMSBERROW PARISH COUNCIL

FOUR suspected breaches of planning regulations of existing formal Conditions for the quarry at Bromsberrow Heath, owned by Allstone Sand and Gravels Aggregates Trading Company Limited have been identified by Bromsberrow Parish Council that require further investigation by the Gloucestershire County Council.

Following complaints made to Gloucestershire County Council Planning Department by Bromsberrow Parish Council earlier this year and subsequent conversations with Nick Bainton, Senior Planning officer he advised the following two complaints are a matter for County Planning investigation. More recent 3rd and 4th potential breaches have occurred and are detailed below.

G1209, G1209/a & G1209/c - issued by Forest of Dean District Council could be relevant.

Complaints:

1. Advertisements on the gate of Bromsberrow Sand and Gravel site

There are currently 3 advertising placards (non-illuminated) on the only entrance to the site operated by Bromsberrow Sand and Gravel Ltd, Bell Lane, Bromsberrow Heath which also advertise 'Ledbury Skip Hire' and (in one case) 'containers to rent'.



Two of the advertising placards.

We have observed skips on site and a skip vehicle plus skip frequently parked, day and overnight (sometimes with a bulging cover over the skip) .At present (July 2023) there are 60 or 70 stacked skips on site in the pit. In March there were slightly fewer stacked skips, but several with waste, on site for lengthy periods (photos available). These have now been cleared away, but there are still scores of stacked skips on site (see below)

With reference to the Town and Country Planning (Control of Advertisements) Regulations 2007:

We ask that you check if there is any express consent for these placards to advertise skips or container hire; if not: We do not think the advertisements fall into any Class in Schedule 1;

If Schedule 3 applies, it would be deemed consent, probably under 2B: 'relating to any...company separately carrying on a ...business or trade at the premises where it is displayed.'

However, there are problems with a Schedule 3 classification.

1. The only planning consents for the site are G1209, G1209/A and G1209/C, all of which are mining permissions 'for the winning of sand only'. There is also a certificate of lawful use re aggregates. Bromsberrow Sand and Gravel Limited company would be the company carrying out this sand and gravel business. We have reported to GCC that the Conditions in the mining consents for the 'winning of sand only' may be in breach.
If the advertiser is carrying on the businesses of skip hire and of containers to rent such as to bring 2B into consideration, then it would appear to be without planning consent (a matter for GCC; Planning Officer Nick Bainton has already been advised of this potential problem of planning control and is to be copied on this);
If, on the other hand, the advertiser is not carrying on the businesses of skip hire and of containers to rent, then 2B does not apply to them.
2. There are 2 identical medium sized and 1 large for the only entrance to the site, each mentioning both Bromsberrow Sand and Gravel, each mentioning Ledbury Skip Hire and the large one also mentioning 'containers to rent'.
3. Each of the placards exceeds 0.3 square metres in area.
4. One entrance means only one advertisement per business on site would be permitted.

In the matter of safety of the public, these placards may induce members of the public into a site which also advertises a large Site Safety placard, and with (probably legitimately) perimeter fencing danger signs, warning of cliffs, etc..

In the matter of amenity, it would only be the visual amenity as to size and number of placards, and vehicle movements in response to the advertisements, to consider.

Please accept our apologies if there is express consent for these advertisements.

However, if these placards require consent and do not have express consent, then please regard this as a FORMAL REPORTS OF SUSPECTED BREACH OF PLANNING CONTROL. We would ask the planning authority to exercise its powers, for example, to check the statements above, particularly as to whether the businesses of skip hire and of containers to rent are or are not being are being carried on, and carry out the appropriate actions as to planning control under the Town and Country Planning (Control of Advertisements) Regulations 2007.

2. Uses of land for skip operations; uses of land for container storage for hire



Example of skips stored on site and being processed

We understand the planning authority have the powers to ascertain of:

any person who—

- (a) is the owner or occupier of the land or has any other interest in it; or
- (b) is carrying out operations on the land or is using it for any purpose.

A planning contravention notice may require the person on whom it is served to give such information as to—

- (a) any operations being carried out on the land, any use of the land and any other activities being carried out on the land; and
- (b) any matter relating to the conditions or limitations subject to which any planning permission in respect of the land has been granted,

as may be specified in the notice.

Without prejudice to the generality of subsection (2), the notice may require the person on whom it is served, so far as he is able—

- (a) to state whether or not the land is being used for any purpose specified in the notice or any operations or activities specified in the notice are being or have been carried out on the land;
- (b) to state when any use, operations or activities began;
- (c) to give the name and address of any person known to him to use or have used the land for any purpose or to be carrying out, or have carried out, any operations or activities on the land;
- (d) to give any information he holds as to any planning permission for any use or operations or any reason

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This will formally provide confirmation as to whether the businesses of skip hire and of containers to rent are or are not being carried on.

If these uses of land are being carried on at the site, then the issue of planning consent (or rather, lack of consent) arises. We are aware of 3 consents for the 'winning of sand only' (G1209/G1209(A)/G1209(c) and a CLU for aggregates, only. If there are activities of skips without consent for that use of land then another FORMAL COMPLAINT OF SUSPECTED BREACH OF PLANNING CONTROL arises. If there is a business of containers for hire, then there is yet another FORMAL COMPLAINT OF SUSPECTED BREACH OF PLANNING CONTROL

Two new suspected breaches of conditions have taken place within January 2024:

3. Suspected Breach of Planning Control re sale or topsoil.

- New, large, advertising hoardings on the site and outside advertise topsoil for sale from the Bromsberrow Sand and Gravel quarry. The Company's website also offers topsoil for sale and

the quarry is their only open premises. Accordingly, the Company indicates that it is selling topsoil from the site.

- Under C1209, C1209/A and C1209/C, topsoil and overburden are to be retained on site for restoration purposes. A certificate of lawful Use DF867/F/LDC) permits “storage and distribution of sands, gravels and “aggregates” but specifically restricts this to “Primary Aggregates”, which topsoil is not. Accordingly, the activity of selling topsoil is not permitted and contravenes existing planning conditions.

4. Suspected Breach of Condition (d) of G1209/A

- There are new excavations in the zone covered by G1209/A up to the highway boundary (Wood End Street) and at a steep slope right down to the quarry floor towards the water table.
- Condition (d) specifies: “The excavations to be carried out at a slope not exceeding 1 in 1”
- The new excavations are suspected of breaching the Condition (d).
- Excavations steeper than 1 in 1, and in breach, should be stopped.
- Excess excavations under a 45 degree angle from the excavation limit of Condition (c) should be calculated. Condition(c) states “No excavation to be carried out within 30 feet of the highway boundary...”
- The volume of sand so won in excess of Conditions should be balanced by equivalent volume by way of reductions in the winnings proposed in the current Review of Mineral Permissions such that, under the terms of the Act (see below), there will be no net ‘restriction’ as compared with the effect of the conditions ...of the planning conditions... immediately prior...’ The Act is the Environment Act 1995/25. The quotes are from Section 10(2).

Any such activity should be stopped, and the topsoil and overburden retained, as per existing Planning Conditions.

Provided by the Clerk on behalf of the Bromsberrow Parish Council

Bromsberrow Parish Council, 23rd February 2024.