

SPOTLAND AND FALINGE AREA FORUM

Response to questions and action points from the meeting held on Monday 2nd October 2017 about the air sampling report in the Turner Brothers site

1. Information regarding the weather conditions when the airborne sample was detected should be made available

This information is held by Bureau Veritas and has been requested by Rochdale Borough Council (RBC)

2. The raw data from the survey be made available

This information is held by Bureau Veritas and has been requested by RBC

3. The draft report compiled in 2005 be forwarded to Nicola Rogers

A hard copy report from the Greater Manchester Hazards Centre was handed in on the night and this is the copy that has been received to date.

4. Investigate the Emergency Plan 'trigger points' and provide details to the Forum

A site specific plan was developed with partner agencies following fires at the site to provide information and guidance to responding officers within Rochdale Council. The plan provides an overview of the site, information on contaminants, partner agencies roles and responsibilities and key contacts for response to emergency incidents. This plan does not replace the response plans each agency has in place to deal with emergencies and incidents but provides additional information about the site.

The trigger points for activating any emergency plan would be judged by appropriate staff trained to make such judgements.

Attached is the public version of the plan (contact telephone numbers redacted)

5. Investigate if the TBA Working Party could be re-established and the outcome be forwarded to the Forum

The Council Constitution summarises the rights of the public to attend meetings and to participate in the formal meetings of the Council and its Committees.

The Council Constitution does not include reference to meetings of the TBA Working Party or the Save Spodden Valley Group. The TBA Working Party was not a formal Committee. It was not serviced by the Council (ie the Council did not chair the meetings and did not take minutes). The Council did support the group by providing a venue for the group to meet and officers did attend meetings.

With regards to the request for re-establishment; The Council's Township Committees may establish informal arrangements in their areas. Whilst there are a number of area based forum meetings within Rochdale, it is suggested that residents make a formal request to Rochdale Township Committee if they wish to establish an ongoing group.

6. The concerns raised regarding the TBA site not being determined as contaminated land be reported

Residents' concerns that the site is not formally declared a contaminated land have been reported to the Director of Public Health and Well-being and senior elected members (Cabinet members).

7. A request that the legal advice received by the Council in relation to responsibilities for the site be made available to the public be investigated and findings reported back to the Forum.

Rochdale BC has sought legal advice regarding the former TBA site. This advice is

classed as legal professional privilege (LPP). LPP protects confidential communications between lawyers and clients and is a fundamental principle of English law.

Section 42 provides an exemption under the Freedom of Information Act for information protected by LPP. Disclosure of the Council's legal advice regarding this site has not been provided for this reason

8. A request that Central Government be contacted to ascertain if they are willing to assist in progressing issues relevant to the TBA site be passed on and any response be made available to the Forum.

This request has been raised with senior elected members and senior Council officers.

Steve Rumbelow, the Council's Chief Executive has already met with Mr Rory Stewart, Parliamentary Under Secretary of State at the Department for Environment, Food & Rural Affairs (DEFRA) accompanied by Councillor Richard Farnell (Leader of Rochdale Borough Council). Mr Stewart explained that there was no government funding available at that time to assist in dealing with the issues on site.

9. Rochdale Council's enforcement powers in relation to the site should be investigated and findings reported back to the Forum.

The table below provides a summary of enforcement powers;

Enforcement	Applicability of legislation	Process
Building Act 1984 Section 77 Dangerous Buildings	Applicable when the buildings present risk of danger to the public	The Council applies to the Magistrates' Court, for an order which requires the owner to: <ol style="list-style-type: none"> 1) Execute work to remove the danger, or 2) Demolish the building and remove the demolition materials <p>This order will be set within a time limit deemed reasonable by the Council / Court.</p>
Building Act 1084 Section 78 Dangerous Building – Emergency Measures	Applicable when the buildings present imminent risk of danger to the public	The Council may take immediate direct action considered necessary to remove the imminent danger without the need for application to the Magistrate's Court.
Building Act 1984 Section 79 Ruinous and Dilapidated buildings and neglected sites	Applicable when it appears to the council that the building or site is, by means of its ruinous or dilapidated or neglected condition, seriously detrimental to the amenities of the neighbourhood	If the Council may require by notice, the owner of such a building / site to: <ol style="list-style-type: none"> 1) Execute such works of repair or restoration or: 2) Demolish the building <p>NB any demolition would need to be in accordance with section 80 of the Act.</p>
Health and Safety at Work Act Section 3	Applicable to employers and self-employed persons to protect any person from being exposed to risk by the work activity	No current work activity on site
Control of Asbestos Regulations 2012 Section 3	Applicable to employer, employee and self-employed persons to protect any person affected by the work activity	No current work activity on site

Enforcement	Applicability of legislation	Process
Environmental Protection Act 1990 Part 2 A Contaminated Land	Applicable when there is an evidenced source of contamination, evidenced pathway /route and evidenced effect on receptor – person, flora / fauna or resource such as groundwater	After sufficient and satisfactory evidence is gathered and assessed, the Council may formally determine a site as contaminated land. Remediation can be required by the service of remediation notice(s)

10. RSK Group to be asked if they have completed the intrusive site survey and findings be reported back to the Forum.

RSK have been contacted.

A response has been received by the site owners representatives confirming that the information is voluminous and largely digitally based. They have confirmed that they want to carefully consider the information received. They wish to discuss the report with the Council before giving access to the public. They have not provided a timeframe when these discussions will take place with the Council.

Supplementary questions confirmed in writing by the Chair of Norden Forum;

Who in the Council authorised the expenditure of funds for the perimeter air sampling and why?

Nicola Rogers discussed the specification and negotiated the price with the contractor and placed the order. The order was approved by Mark Widdup, Director of Economy and Environment at that time.

Approval was given as perimeter sampling could be used as background data for the Council which could be used as a comparator should any future fires take place on site. It would also provide evidence of the likely impact or effect the site was having on the immediate vicinity of the site which would enable an indication of risk posed. This was hitherto unknown and thought to be value to the Council and local residents.

Can you clarify the terms of reference for the report and key deliverables?

Attached is the specification for the sampling works undertaken. Personal details and commercially confidential information has been redacted out.

Can residents have confidence in the report?

Yes, Bureau Veritas is a renowned and experienced Company with suitably qualified, competent and experienced staff to undertake such works.

The sampling methods do not represent best practice and the most up to date rigorous science available. Why is this?

The sampling methodology used was line with recognised standards. There are a range of analytical methods using a variety of microscopy available. The methods used during this sampling were appropriate and enabled a sufficiently low enough limit of detection to draw conclusions from the sampling undertaken.

Queries around the wisdom of using the former JW Roberts factory in Armley as a standard for comparison?

The Council is satisfied with the inclusion and comparison of the sampling at the former JW Roberts site as that survey looked for asbestos fibres in the air around a former asbestos manufacturing site. The Council viewed that there were sufficient similarities in that survey and the Council's survey to include it as a comparator.

How did information around the types of asbestos processed at the TBA factory get missed by Bureau Veritas?

Information about the types of asbestos manufactured at the former TBA site did not get missed by Bureau Veritas. The report states the principal asbestos utilised on site was chrysotile (white asbestos) but the report also recognises amosite and crocidolite (brown and blue asbestos) were also used.

Why have the GMFRS monitoring results during the two significant fires on site never been released to the public?

Greater Manchester Fire and Rescue Service did not undertake air sampling during the fires on site.

Why are Council officers not aware of information about the site? Does the Council have an archive of information? If no why not?

Documents were mentioned during the meeting which the Council did not appear to know to know about? How has this happened?

The Council does have a record of all information held by the Council about the site.

There was only one report which the Council officer Nicola Rogers was not aware of; the report by the GM Hazards Centre said to be from 2005. A hard copy has been passed to her and the record has been updated to include this document.

Was a deal done in 2004 between the Council and the land owners to allow development of the site?

No deal has been done between the Council and the site owner (current or past).

A planning application (reference 04/D44701) submitted by the site's former owner was refused by the Council on 13 January 2011.

Four quotes were read out from Council officers about the site, do these represent the Council's view about the site?

The source of the quotes read out was unknown. The quotes as stated do not represent the views of the Council.

Why has the site never been classified as contaminated land?

A draft determination document was produced in 2004 by the Council's Contaminated Land Officer at that time; Paul Bradford.

The draft determination has been reviewed by current officers. There is insufficient confirmed evidence of the pathway links between contamination on site and the receptors (ie residents or groundwater). The draft determination relies on hypothetical assumptions. This explains why the draft determination was never progressed to determination of the site.

Why is the Council not insisting the site is secure?

The Council has brought residents' concerns about site security repeatedly to the attention of the site owners representatives. Improvements in security, repairs to fencing and improved signage have all been completed by the site owners representatives.

How can anyone have confidence in the owner's ability to fully resource safe remediation?

The Council cannot comment on the financial standing of the site owner.

Remediation works on site would require appropriate planning consent. The planning process would enable the Council to place conditions on the remediation to ensure it was suitable and sufficient for the intended end use of the site.

Does the Council have a contingency plan if the site owners walk away from the site?

There is no written contingency plan but the Council has considered the risks.

If the Council is to make decisions where public health is paramount, why does it consider that development is the only way forward?

The Council is not in control of the site as it remains in private ownership.

There is no local authority budget, public money, Central Government or EU funding available at this time to deal with issues on site.

The only available option appears to be funding remediation through the redevelopment of the site by the land owner. The Council wishes to encourage acceptable proposals for redevelopment of the site which will appropriately deal with the issues on site.

Has the Council examined the possibility of using a similar solution to that found for the former Cape Works, Hebden Bridge?

The Council will consider any proposal for remediation proposed by the site owner and will determine the suitability of any such proposal through the planning process.