



FORMER BERRY HILL QUARRY SITE - SUMMARY AND CONCLUSIONS

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Berry Hill Quarry Landslip - Summary and Conclusions

Terms of Reference

I have been commissioned by the Monitoring Officer at Mansfield District Council to undertake a desk top review of the files which relate to the building and maintenance of the housing development on the former Berry Hill Quarry site in Mansfield and the open space land which sits at the top of the quarry face behind the properties abutting Berry Hill Road and Berry Hill Lane.

The desktop review has been requested following a substantial landslip, in November 2019, on the southern side of the quarry which resulted in the evacuation of a number of residents from their homes. This landslip occurred following an exceptionally heavy period of rainfall. Fortunately, the landslip resulted in no loss of life and urgent action taken by the Council has allowed all residents to return to their homes and remedial work is underway to ensure as far as possible there is no repeat of such an incident.

Clearly the landslip raised a number of questions from both residents, elected members and the general public as to whether all reasonable actions had been taken by the Council at the time planning permission was granted and subsequently. In addition, elected members were keen to understand the process further and learn lessons for the future.

It is important to note that my professional qualifications are as a solicitor. I am not a geologist or planner and I do not hold myself out as having expert technical knowledge in these fields. I have produced this report based on my understanding of the issues as they appear from the files shown to me. I have over 30 years' experience working in Local Government and of managing large audit, legal, planning and environment teams. I was the Corporate Director for Resources and Monitoring Officer at a large County Council for over 10 years prior to taking early retirement in 2018.

As well as the written material which has been made available to me, I have also met twice with the Monitoring Officer and the Head of Planning and Regeneration. I have also undertaken a site visit with the Head of Planning and Regeneration on March 16th 2020.

Following my initial read of the paperwork provided I sent a list of questions to the Monitoring Officer to seek further information on matters within the files. It is acknowledged that not all the questions submitted were able to be answered in full. This is due to the fact that many of the officers involved in the site including CMT members are no longer employed by the Council. Additionally, due to the lengthy history of this matter, not all the papers relating to this matter have been retained or are available. It is also important to note at this stage that the desktop review is undertaken with the benefit of hindsight and without any detailed knowledge of the other issues occurring in the Council at the time which may have influenced decisions taken and the speed with which matters were attended to.

This document is a summary of the findings set out in a confidential report following the desktop review. It sets out the points the Council wished addressing followed by the conclusions reached in respect of each issue.

1. Were all conditions discharged in connection with the development, particularly in connection with the cliff face?

I consider that Condition 24 of the 2007 planning application should not have been discharged, in relation to the requirement for a maintenance plan for the long-term maintenance of the quarry face and embankments, based on the proposal put forward. Whilst not unlawful to substitute the requirement for a maintenance plan with a proposal to insert a maintenance clause into the purchaser of each plot's contractual documentation, it was in my opinion unenforceable. There is no evidence to suggest that any legal advice was sought at the time on this point and it is my view that if it had been this is unlikely to have occurred.

2. At the point that the properties were built what did the Council know about the cliff face, had all planning requirements been met/conditions discharged? Was anything missed?

The Council acted reasonably in granting outline planning permission for the development of the former Berry Hill Quarry site. However, ideally, with the benefit of hindsight, no development should have been permitted on the site until the stabilisation of the quarry face in both the short and long term had been secured. If this had not been possible, at a minimum, a full report on the issue of the stability of the quarry face should have been obtained prior to the granting of the outline planning permission.

A consistent approach should have been adopted by the planning department in processing all and any planning applications received for the site particularly in relation to the requirements for reports on the stability of the quarry face.

In the future any large-scale long-term project/s should be undertaken using recognised programme management processes under the guidance of a qualified programme manager responsible for the overall programme.

3. *At the point that the Council adopted the cliff face what factors/considerations did the council take into account, did the Council undertake any due diligence, was the authority put at risk?*

It is highly questionable as to whether the Council should have adopted the cliff top. In the event that it did wish to proceed with the adoption of the cliff top it should have taken all reasonable steps to ensure that it fully understood both the financial and legal implications of such an adoption by undertaking the required due diligence .

Whilst there may have been a number of actions which the Council could have taken to avoid the situation in which it currently finds itself. One action could have been to insist that the developer establish a Management Company to be responsible for the maintenance of the Quarry faces and the buffer zones. Whilst a management company was suggested in relation to the management of the flats which were never built, it seems no consideration was given to this in any other respect. The Council did request a management plan for the maintenance of these areas but what was accepted was unenforceable.

4. *Once the land was adopted, was there any action the council should have taken /were obliged to take?*

The Parks Department should have been informed without delay of the adoption.

In the future no land should be adopted by the Council without full consideration of the potential legal and financial implications of adoption being fully understood and proper due diligence taking place PRIOR to any adoption. Additionally, sufficient funding for

maintenance of the adopted area should be made clearly available and budgeted for prior to adoption or other arrangements such as adequate insurance cover organised to ensure the Council is not put at risk.

5. *Provide an assessment of what has /has not been appropriately achieved based on the previous technical studies and liabilities for the Council. What, if any, works ,should have been implemented and when.*

It is important to say that there was nothing in the four technical reports received at the date of adoption that suggested that there would be any major landslips in the quarry area. However, the Council should have acted much quicker when considering and then implementing the recommendations made originally within the Halcrow report particularly as it is clear that senior officers were aware in 2012 of the potential damage a major landslip would cause.

It is apparent from reading all the files that all the decisions made on matters affecting the development and ongoing maintenance of the Berry Hill site were made by different people at different times with little if any reference to matters which had been dealt with previously on the site. Additionally, there was insufficient thought given to the effects that these individual decisions may have on the Council overall.

I would recommend that in large-scale long-term projects such as this, a programme management approach is adopted and a programme manager is appointed who can take an overarching view of all the potential consequences of actions taken or not taken. It seems to me more than possible that if a programme manager had been in place on this project, they would have more easily recognised the risks to the Council of adopting the cliff top and face as they would have been aware of all the technical reports. They would have therefore more easily recognised the need to undertake due diligence prior to adoption of the cliff. They could have recognised the potential links between a report on one planning permission and another adjacent one and ensured a more coordinated approach to such permission without contravening basic planning rules.

Written and prepared by:
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