

## **NEWRY, MOURNE & DOWN DISTRICT COUNCIL**

**NMC/SC**

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### **Minutes of Special Council Meeting held on 25 March 2024 at 6.00pm in Downshire Chamber and via Microsoft Teams**

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**In the Chair:** Councillor V Harte

**In attendance in Chamber:**

Councillor T Andrews	Councillor C Bowsie
Councillor P Byrne	Councillor P Campbell
Councillor W Clarke	Councillor L Devlin
Councillor C Enright	Councillor K Feehan
Councillor D Finn	Councillor A Finnegan
Councillor C Galbraith	Councillor M Gibbons
Councillor O Hanlon	Councillor G Hanna
Councillor J Jackson	Councillor G Kearns
Councillor C King	Councillor D Lee-Surginor
Councillor A Lewis	Councillor O Magennis
Councillor D McAteer	Councillor A McMurray
Councillor D Murphy	Councillor K Murphy
Councillor S Murphy	Councillor S O'Hare
Councillor A Quinn	Councillor H Reilly
Councillor M Rice	Councillor G Sharvin
Councillor J Tinnelly	

**In attendance in Chamber: (Officials),**  
Mrs M Ward, Chief Executive  
Mr A Cassells, Outgoing Director of Sustainability & Environment  
Ms S Murphy, Incoming Director of Sustainability & Environment  
Mr A Patterson, Director Active and Healthy Communities  
Ms S Trainor, Head of Environmental Health  
Miss S Taggart, Democratic Services Manager (Acting)  
Ms F Branagh, Democratic Services Officer

**Also in attendance in  
Chamber:**

#### **NIEA**

Mr Brian McVeigh, Principal Scientific Officer

#### **Warrenpoint Harbour Authority**

Mr David Holmes, Chief Executive  
Mr Herard O'Hare, Chair of Warrenpoint Harbour Board  
Mr David Graham, PWS Consultant

#### **Re-Gen**

Mr Joseph Doherty, Chief Executive  
Mr John Murphy, Director of Business Development  
Mr Adrian Thompson, Technical Director for Taggarts.

**SC/004/2024**

**APOLOGIES & CHAIRPERSON'S REMARKS**

Apologies were received from Councillors Brennan, Howell, Kelly, Larkin, Mathers, McEvoy, Ruane, Taylor and Truesdale. Councillor Sharvin advised he had another meeting to attend and would need to leave at 7pm.

The Chairperson welcomed everyone to the meeting advising it had been called as a result of the Notice of Motion regarding smells at Warrenpoint Harbour. She advised Members she would be taking the presentations in the order as on the agenda and then would invite questions from Members to each of the delegations in turn.

**SC/005/2024**

**DECLARATIONS OF INTEREST**

There were no interests declared.

**SC/006/2024**

**COUNCIL RESPONSE TO NOTICE OF MOTION**

Ms Murphy outlined the Council's Environmental Health response following the complaints referenced in the motion, and detailed the investigations taken in line with the complaints procedure and relevant legislation. She further detailed the results of the investigations, and how the conclusions were reached.

The Chairperson thanked Ms Murphy for the presentation and invited questions and comments from Members as follows:

- How would residents and the local community be assured that issue would not arise again?
- What was the threshold for a nuisance being met, as the report advised that the nuisance threshold for odour was not met, despite odours being detected at various times and locations?
- Was consideration given to other sources of smells within the area during the Council investigations, such as silage or slurry spreading, chimney smoke etc as was detailed in another report?
- Was the Council content with the bale storage time limits?
- Did Council believe they should have been informed with regard to the non-compliance as assessed by NIEA?
- Clarification was requested on the contradictory view of the wording in the report, regarding a correlation between the foul odour, but the threshold not being met?
- What was an "abatement notice", and how was it enforced?
- What equipment was used in relation to the ongoing smell tests during the investigations?
- Many residents complained they had no officer calling at their door, were the officers tasked with leaving a calling card if no one was in the properties they visited?
- What were the next steps to ensure there was no recurrence?
- Members noted their hopes that all stakeholders were committed to following the recommendations to ensure the situation did not arise again.
- Was Environmental Health department happy with the contents of the reports as presented, or did a further review need to be scheduled to allow recommendations to be actioned?

Ms Murphy responded as follows:

- The threshold was not just a standard threshold but was dependent on the outcome of 8 factors as outlined within the report when considered together during all of the ongoing investigations.
- With regards to correlation of smells related to activities within the harbour, the same Environmental Health Officers carried out the investigations and noted that the smell decreased the further away from the Harbour, given to natural dispersion and dilution.
- Other sources of smells were noted within the individual Environmental Health Officers investigation reports and were defined separately from the RDF smell.
- There was no equipment used for odour testing other than the human olfactory system which was in line with regulations and similar to NIEA testing.
- An abatement notice would be issued when a threshold was met, the serving of the notice on a subject required the receiving party to abate the issue within a set period. Should further breaches occur, the Environmental Health Department would proceed to legal action. In this instance, other legislation noted in the regulations apply and the Department would be consulted prior to instigating legal proceedings.
- The bale management storage was regulated and monitored by NIEA, and Environmental Health would revert to NIEA for guidance and action.
- All complaints received had been actioned and any new complaints would be actioned accordingly.
- The normal procedure for calling on residents who were not home was to leave a card or a note, however the issues raised by Members regarding the lack of correspondence would be fed back to the Environmental Protection Team. Visits would have taken place at various times throughout the day and in the vicinity of residential areas relating to complaints, therefore officers may not have gone to specific properties to engage with residents.
- The Notice Of Motion being debated related to odour, but the detail in relation to noise complaint can be reported back to the relevant Committee.
- Waste management licenses were managed by NIEA, but Council were content that the positive steps taken by Re-Gen in relation to bale wrapping were positive and should further complaints arise, further investigations would be actioned.
- It was stressed that all complaints be forwarded to Environmental Health to enable them to be investigated and actioned.

**SC/007/2024**

**NIEA RESPONSE TO NOTICE OF MOTION**

The Chairperson welcomed Mr Brian McVeigh from Northern Ireland Environment Agency and invited him to present to the meeting.

Mr Brian McVeigh detailed the regulatory overview of the last financial year, April 2023 to March 2024 and noted the error on the submitted document relating to the dates. He advised the requirement for NIEA issuing waste management licenses was the provision of valid planning approval, which he noted Re-Gen did hold. He noted the details of the license that Re-Gen held regarding capacity at the site, and dwell time on site. He outlined the regulations that NIEA used to monitor and evaluate the site, and detailed the monitoring of the area, which included both scheduled and unscheduled visits. He noted that Re-Gen was compliant with the required regulations on 7 of the 14 inspections.

He outlined the compliance and non-compliance data as recorded within the report and noted that NIEA would allow authorised operators to make attempts to return to compliance in line with the Department's Enforcement Policy, which happened in this instance by October 2023.

Mr McVeigh then detailed the response to the odour complaints and outlined the results from the testing carried out. He summarised by outlining the engagement of NIEA with other authorities such as the Warrenpoint Harbour Authority, Council Environmental Health, Re-Gen and the Health and Safety Executive NI, alongside elected representatives.

The Chairperson thanked Mr McVeigh for the presentation and invited questions and comments from Members as follows:

- NIEA did not share detail of the license breaches with anyone other than the license holders, was this believed to be conducive to public confidence, and were changes needed to the protocols regarding this?
- In September 2023, the storage capacity and dwell time was increased, despite the number of complaints received. Could this decision be explained?
- Could the 3-month storage time and 20,000 tonnes be amended at any time, and what were the requirements for these to be changed?
- How was the non-compliance data shared, and why it was not shared with all stakeholders?
- Did the protocol need to be changed in relation to sharing information, timeframes for storage and the capacity of the site?
- What guided the capacity and storage time of the bales on site and if they would be amended should the odour issue arise again?
- What were the next steps to ensure this doesn't happen again?

Mr McVeigh responded as follows:

- The Department were in receipt of a judicial review application in relation to the amendments to storage and dwell times and it was therefore not appropriate to discuss that matter.
- Storage on site and dwell times was taken from industry best practice and was written into a number of waste management licenses across the UK and Northern Ireland.
- The storage time and 20,000 tonne capacity could be amended under two circumstances, those being an application from a license holder or an amendment from NIEA, with the caveat that this must be backed up with significant non-compliance with a license agreement.
- NIEA's statutory responsibility lay with the license holder, not any other stakeholders or landowners. While NIEA did engage with landowners, reports would only be shared with the license holder. This was due to the content of the report, and GDPR guidelines. A sharing agreement may be in place, but the statutory responsibility remained with the license holder.
- The number of compliance assessments would be reassessed in the upcoming financial year, and they would likely be increased. Inspections were unannounced unless staff were required to provide access to certain areas or equipment.
- NIEA must work within the associated Department framework when sharing reports on investigations and inspections. There was now a sharing agreement in place relating to assessment reports, but it was stressed that this was managed by the licence holder, not NIEA.
- There were no plans to change the license requirements for waste management regarding dwell time or storage capacity at this time.

The Chairperson welcomed the delegation from Warrenpoint Harbour Authority.

Mr O'Hare noted that in August 2023 when the Harbour Authority became aware of odours, they immediately apologised and took steps to improve the situation, advising they worked tirelessly with Re-Gen introducing new procedures to mitigate issues. He advised that by the end of September engaged an independent consultant to address how the issue had arisen and suggested steps to ensure it didn't happen again.

Mr David Graham, Independent Consultant for Practical Waste Solutions (PWS) presented the findings of the independent report stressing that it was independent with clear terms of engagement between the main stakeholders, PWS and Warrenpoint Harbour.

Following this, Mr Holmes advised Warrenpoint Harbour Authority and Re-Gen had committed to implementing the recommendations contained within the report and the process to establish a community forum, on top of the existing elected representative forum had begun. He further noted the enhanced controls and resources on site to reduce any further issues occurring.

The Chairperson thanked the delegation for the presentation and invited questions and comments from Members as follows:

- Why did it take three months to get to an independent review, especially during summer months when smells naturally increase?
- It was stressed that stakeholders must always remember that residents were at the heart of the issue.
- The improvement in community engagement was welcomed, however had this been accepted by the community?
- It was one thing to be compliant with regulations, but all stakeholders should be mindful that issues could still impact on the community, regardless of compliance.
- How could we be sure that this issue did not happen again?
- Why was an Environmental Health Officer not in place prior to the beginning of the contract on site?
- How could the bale management system be verified and monitored on behalf of the public?
- NI Water had been mentioned within the report and it was noted that there was a possibility of discharges as a contributory factor as their pipelines are within the area, was this a consideration?
- How independent was the commissioned report?
- The independent report did not absolve WHA from its responsibility and Members thanked them for their engagement and openness.
- The word "target" contained within the report was aspirational and needed to be more concrete, as targets could easily be ignored.
- Who would monitor compliance of the stakeholders within the proposed targets?
- A Member noted that 12 members of WHA staff had contacted them to advise of ongoing headaches and difficulty concentrating, alongside complaints of bluebottle flies, due to the smell. Could the delegation comment on this?
- What actions had been taken to ensure the noise complaints had been addressed?
- Members noted that it was best practice to respond and update residents that had complained, and to forward complaints to the relevant bodies to action.

The delegation responded as follows:

- Action was taken immediately following the complaints, however the independent review had a 12-week procurement process, hence the unfortunate delay.
- The community was stressed to be at the heart of all actions taken, and several community forums were in operation, alongside an elected representative forum. The WHA also highlighted its community support fund.
- Ongoing meetings were scheduled with all stakeholders to address any issues or concerns.
- An Environmental Officer was always due to be in place, not just in response to the complaints and concerns and there had been delays in recruiting same, however, the role was now filled.
- The targets within the report had been accepted and committed to, in writing, by all stakeholders and would be strenuously worked towards.
- While it was not the duty of Warrenpoint Harbour to monitor compliance, as landlord the Environmental Officer would assist in the process. PWS had also been retained on a bi-weekly monitoring basis until the end of 2024.
- The report was independent as it went through a procurement period, to ensure it was robust and scientifically correct, and was able to be used as a working tool for actions going forward.
- It was further noted that the Council's Environmental Health, the NIEA and PWS were all independent bodies and were involved in the investigations that contributed to the report.
- In relation to communication, a new community forum was to be set up, but the open-door policy of the Harbour Authority was emphasised. Members of the public were also able to sit on the Board and their quarterly meetings were open to all. Elected Members that sit on the Board were also available to address issues within the Elected Members Forum.
- The Harbour Authority's Christmas Fund was highlighted, offering support to 70 organisations within the locale.
- WHA was unable to comment on the 12 members of staff complaining as it had not been highlighted to them. The delegation requested that all complaints be forwarded to them to be actioned and investigated.
- Independent noise monitoring had been carried out, and the results indicated that the port was reported to be safe with recognised decibel limits.
- In response to the query regarding flies, Mr Graham noted that bluebottles were not associated with RDF waste and stressed that lay people could find it hard to distinguish between house flies and bluebottles.
- Mr Graham advised that he had invited residents to the Harbour for a meeting and noted that it was poorly attended.
- Complaints were welcomed by the delegation as it allowed them to action any issues arising.
- The delegation advised they would be content to attend further special council meetings, but requested Members to attend the existing forum that meets every three months.

The Chairperson welcomed the delegation from Re-Gen Waste.

Mr Adrian Thompson, independent advisor for Re-Gen, took Members through a presentation detailing Re-Gen's surveys and responses in relation to the Notice of Motion. He outlined the details of the investigations, and the outcomes of the same, in relation to odour and flies. He further advised that the site had always been compliant with all regulations in relation to noise.

The Chairperson thanked Mr Thompson for his presentation and invited questions and comments from Members as follows:

- The digital bale management system and the additional bale wraps were noted as excellent and proactive in managing the ongoing complaints and issues.
- It was noted that engagement with the public was of paramount importance to restoring confidence with the local community.
- What were the next steps to ensure this did not happen again?
- What impact did the industrial action have on the waste arriving on site and could this have been a contributing factor to the issue?
- Could the lack of marine transport during a certain period of time have been a contributing factor to the issue, resulting in excess dwell time for bales?
- Was the organisation content that the mitigating measures would be effective in reducing the issues that existed?
- It was noted that communicating with those who had complained would offer reassurance that they were being listened to.
- It was accepted that there was a major issue, but it was also accepted that everyone involved was taking measures to ensure that it did not happen again.

The delegation responded to queries as follows:

- NIEA and Environmental Health officers were taken through the bale management system and advised it could be reviewed any time. This was hopefully a level of scrutiny that should reassure the public.
- The increased shipping schedule, and the increased bale wraps, were noted as improvements to mitigate the issue arising again.
- Re-Gen noted the open and ongoing stakeholder discussions to action any issues immediately.
- Onsite monitoring was ongoing, and all stake holders had access to the reports.
- In relation to next steps, the bale management system was working well, and as a live system would always represent what was onsite. It could be audited by the relevant bodies at any time.
- A large improvement had been noted with the increased bale wrapping.
- If materials arriving on site were more odorous than usual, regardless, Re-Gen must treat what was received, and the result could have been a factor to the issues that had arisen.
- The improvements had been clear over the past few months due to the steps taken, and this was due to the commitment given to improve actions, and the ongoing engagement with stakeholders.

- The delegation stated that they believed the measures put in place would go a long way to ensuring the issue did not arise again, and the continual monitoring would help to ensure the site remained compliant.
- In terms of communication, the delegation advised they did leaflet the local residents highlighting the issue, and what actions had been taken to mitigate it.

**Councillor Enright and Sharvin left the meeting during the above discussions – 7.00pm.**

**AGREED:**

**On the proposal of Councillor Reilly, seconded by Councillor Kearns, it was agreed to note the contents of the reports and presentations.**

**On the proposal of Councillor Devlin, seconded by Councillor Hanlon, the following was agreed:**

- **Council write to the DAERA Minister to examine the legislative framework with a view to creating a mechanism for NIEA to share issues with relevant landlords/stakeholders in a redacted format.**
- **That Council write to NI Water and ask that they commence collecting data in respect of discharges into the sea.**
- **That Council monitor activity over spring and summer and give consideration to inviting all of the stakeholders to a further Special Council meeting to review progress.**

On a point of clarification, Mr Cassells confirmed that there was no bin strike, there had been industrial action taken short of a strike over two fortnightly periods last year during which the trade unions worked to rule, so there was no strike per se. He noted that following those two fortnights of industrial action, the situation was recovered in both instances within a fortnight.

The Chair ended the meeting by highlighting that communication was key between all parties involved.

**There being no further business, the meeting concluded at 7.53pm.**

For adoption at the Council Meeting to be held on Monday 8 April 2024.

**Signed:**

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**Chairperson**

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**Director**