

## Site Waste Management Plans – a Local Authority initiative to practical enforcement

### The project

The aim of the project was simple. To work with a Local Authority to put in place an enforcement process to gain compliance with Site Waste Management Plan legislation.

### The legislation

The legislation, which came into force in April 2008, has to be commended as one of the simplest pieces of legislation to understand. It gives a clear requirement that one is required for any construction project with a value higher than £300,000, of what is required in a SWMP and also clearly shows what the offences are and what the penalties could be.

Where it unfortunately falls down is to show who is specifically responsible for the enforcement side of it. Without clarity, enforcement has fallen by the wayside, resulting in a complete lack of enforcement throughout the country.

### Enforcement

The legislation states that enforcement is done by either the Environment Agency or Local Authorities including County. However, within the Local Authorities there has been no consideration to which department would be responsible for enforcing or how they would actually do it. In addition, because the EA was also named, many authorities have taken the view that the EA are going to do it and it is not their problem. The EA should in fact be taking a strategic view on SWMPs and the LA would do it tactically on the ground, calling in the EA if required and it is part of a bigger problem.

Because of the issues above, no Local Authority is enforcing SWMPs (as far as we are aware) on a regular basis, i.e. they have not built the enforcement into any existing processes. Due to the lack of enforcement, the significant majority of SME construction firms are not undertaking the implementation of a SWMP for a project over £300,000 because no one is asking for them.

### Brighton – the beginning

Brighton and Hove City Council have striven to implement policies that seek to encourage sustainable development and in conjunction with East Sussex, formally adopted an award winning supplementary planning document on construction and demolition waste in 2006. This document outlined the aspirations to reduce construction and demolition waste in the region due to the lack of available landfill.

The council wanted to put in place initiatives that reduced waste to landfill and with construction waste being a large component of waste arisings, steps to reduce this were needed. As part of this commitment to reducing construction waste a condition was attached to approved planning permissions requiring the submission of a SWMP before developments commenced. It was felt that this alone was not achieving the desired outcomes of reducing waste as the submissions received to discharge the condition, were often simply generic plans and did little to change construction companies' habits or behaviour on site in terms of waste disposal.

Internally there were issues as to which team would be tasked with enforcing the SWMP regulations. Would it be planning, building control, environmental health or another department? Eventually involvement came from the Planning Enforcement side of the council. The initial view was that they were reluctant to participate, because rightly they did not want to take on additional workload on top of an already heavy requirement and after all SWMPs were being submitted to satisfy planning conditions.

This project had very clear goals that any enforcement process had to be done within the confines of the existing processes and that it had to be done in partnership with the construction community.

### **Implementation**

Brighton did not want to start any enforcement from a heavy handed approach. Therefore it was decided to adopt a "carrot and stick" approach. This was done by creating a full communications plan, including creating a page on the Councils website for SWMPs, letters sent out to clients, contractors and architects, articles in local press, press releases into national publications and a training programme to educate the construction industry locally about what a SWMP was, how to create one and the financial savings that could be made. All this was done before the first site visits commenced.

By adopting an initial "softy softly" approach, the team went onto construction sites to ask to see the SWMP. Where one did not exist, the site manager was informed as to what it was, what was required and tools and training to help them implement one for that project. Visits to site were done over a 5 month period to ensure that as much exposure was given to the stance that Brighton was now taking with regards to SWMPs and what the council would now require.

As part of the process, back office systems were put in place to track letters sent, visits made and findings, so that these could be used to track projects

and companies visited. In addition to this, the team worked with the council's legal department to put in place the process for issuing fixed penalty notices, none of which appear to have been issued in the country with respect to non-compliance with SWMPs.

When all avenues had been exhausted, persistent offenders were then issued with fixed penalty notices, the first in the country.

### **Findings**

The majority of sites visited did not have a SWMP in place, despite all the communication and local initiatives undertaken. Most were aware of the need to have one and had received communication from the council. However, after the first visits, firms could see that the council was serious about enforcing the legislation and started to put one in place.

There were some organisations who did have SWMPs in place and were those that had attended the training sessions that the project team put on. Their feedback that they gave when visiting their sites was very encouraging. By putting the process in place, training the site professionals and improving the waste management techniques on site, they were increasing their profit margin, above and beyond what they had originally priced. This was specifically due to the SWMP and the lessons that they were learning from the plan, which were carried over to the next project that they were working on.

Internally, the council generated benefits as well. Apart from the desire to improve the partnership with the construction companies by creating a level playing field of requiring all companies to have a SWMP and asking to see them, it improved the working relationship between Planning Enforcement and Building Control, by the fact that more information was shared between the two departments.

In addition, Planning Enforcement were taking a more pro active role in ensuring that sites were complying with planning conditions early on rather than being reactive to problems that arose. They began sending generic letters to contractors and their clients, following the submission of building control commencement notices. These letters reminded those involved of the need to ensure that planning conditions were adhered to and to ensure that they had a SWMP in place. These letters in conjunction with periodic site visits have ensured that breaches of planning control have been identified at an early stage. When a breach is established early in the build it is a lot easier, quicker and less expensive for the contractor to rectify.

The site visits and letters gave the construction industry locally a greater awareness of planning enforcement. As well as this regular visits to construction sites also served to increase public confidence in the planning system as officers were now pro-actively ensuring that developments were being carried out in accordance with approved planning permissions.

Support for the project of SWMP enforcement came from both the senior management team at the council and political leaders who could see the positive benefits the enforcement of SWMP was generating.

Martin Randall Head of Service for Planning and Public Protection, Brighton and Hove City Council:

“This pilot project has been a great success and one which I am proud to be able to say that this Council has been involved with. Hopefully the way we have incorporated enforcing SWMP regulations within the day to day workings of the planning enforcement team will encourage other authorities to follow our lead.

I know from speaking to people within the construction industry locally that they have benefited from the training courses and site visits which have been carried out. Prior to the pilot project most people within the construction industry local particularly those in SME's were unaware of SWMP regulations. The work carried out has highlighted the need to have a SWMP and indeed of the savings that reducing and reusing waste can have on the bottom line.”

### **Benefits**

In order to get organisations complying with the legislation, the benefits were highlighted. There are two main benefits to firms.

Firstly their improved environmental performance and the fact that they can demonstrate an improved responsibility when dealing with waste material.

However, although the above statement is morally good, it is the financial benefits that got companies interested. Feedback from companies who had attended the SWMP training and were then putting the learning into practice showed that they were improving their bottom line by at least 1% on projects, above and beyond the margins that they were already working to. Although 1% may not seem a lot of money, when you take into account the economic climate and the fact that companies are working to a planned 1.5% overall margin, being able to improve the bottom line by an additional 1% from following the advice and lessons given in producing a SWMP and managing it properly.

Put it another way. If the amount of economic activity in the South East in the Construction Industry is worth £18billion, then a saving of 1% on the bottom line would be worth £180million to the industry.

The savings generated by using a SWMP properly are only a small part of the bigger picture of the tools available. A recent project by SECBE has calculated that a construction project could have between 10%-17% of waste (in terms of materials, logistics and resources). If some of the waste can be saved, by using tools such as SWMPs, Process Flow Diagrams for waste management, improved resource management tools, a considerable amount of economic benefits could be realised.

The Council has benefitted from the project in a number of different ways. It is ensuring compliance with the SWMP legislation, it has improved work practices in dealing with planning enforcement by being in a position to preempt any breaches and get corrections done far earlier on, thus saving time and money further on. In addition it communicates more with construction firms and this is helping to improve their image in the locality.

### **Conclusion**

Brighton and Hove City Council has now put in place a SWMP enforcement regime which does not increase workload, and indeed has helped to potentially reduce it by addressing planning conditions infringements earlier on in the build cycle. The public will increasingly gain confidence that developments are carried out in accordance to the approved planning permissions as Council officers are monitoring developments at an early stage and not just when a problem is identified.

Council officers are also ensuring that clients are fully informed of what their contractors are required to do, because the legislation holds the client and contractor equally liable if a project commences without a SWMP in place. Make the client have more ownership of the project has made it easier to ensure that deviations from the approved plans are rectified quickly.

This project has assisted in helping to change the perception that Brighton and Hove City is a difficult place to bring forward development. Officers visiting sites are engaging with contractors and their clients and this has helped to show that the Council is keen to assist the construction industry by running training sessions on SWMP and visiting on the ground to help them improve plans and ultimately realise cost savings.

Profits have been improved by those organisations who have put a plan in place and they continue to learn from each project they do, which they use for the next commencement.

A condition is no longer being attached to planning permissions requesting SWMP as the planning department is confident that procedures are now in place to ensure that contractors and their clients comply with the SWMP regulations.

Overall, this project has put an enforcement process in place that not only has benefited the construction industry in terms of improving their bottom line, but, as a by product, the planning enforcement team have realised benefits internally as a result of an improved working relationship with Building Control and by taking a pro-active approach to enforcement. This is freeing up officer time and providing the public with confidence that the Council is committed to ensuring developments are carried out in accordance with approved plans.

Gerard McCormack, Planning Investigations and Enforcement Manager,  
Brighton and Hove City Council

“When I was first asked to get involved with this pilot project I was reluctant as I could not see how enforcing SWMP was going to benefit the planning enforcement service. However as a result of the project I have realised how easy it is to incorporate enforcing the SWMP within the day to day workings of a planning enforcement. The changes we have made to our procedures as a result of the project has allowed us to take a pro-active approach to conditions monitoring and ensuring that developments are carried out in accordance to approved plans. In addition the enforcement officers have greatly improved their working relationships with other officers within the Council and the construction industry in general.”

## Contact

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