

Rugby Cement Plant Engagement

Task Group Meeting

10 February 2009

Transcript Report

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Note on the Transcript Report

This document is a transcript of the flip chart notes produced by The Environment Council during the meeting in view of the attendees. It is intended as an aide memoir for participants. Since it is based upon the flip chart records its meaning may not be clear to people who did not attend the meeting. Please contact The Environment Council for clarification if necessary. The flip chart record is used to summarise the main points of the discussions and is not presented as a verbatim account of the proceedings.

The points here are reproduced as they were recorded by the facilitation team during the meeting, with the following exceptions:

- Paragraphs in *italics* describe the meeting process and aid recall of the context in which the participants' contributions were made.
- Words or phrases in [square brackets] have been added by the facilitators where the original meaning is unclear but can be deduced.
- Spellings have been standardised, abbreviations spelled out and grammar and punctuation inserted where it may help to clarify meaning.

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1. Introduction

1.1 Context

The Task Group meeting continues a review of the stakeholder engagement arrangements around the Rugby Cement Plant, which is owned and managed by CEMEX. The Environment Council is conducting this review at the invitation of CEMEX, the Environment Agency and Rugby Borough Council. Some background information from these funding organisations about their role and the engagement activities that they currently undertake was circulated to the Task Group in advance of its meeting to inform the discussions. This information can be found at appendix 1.

The Environment Council produced a report and recommendations on the present stakeholder engagement arrangements as part of the review in May 2008. A workshop followed in September 2008, which was convened by The Environment Council for interested parties. At this September Stakeholder Workshop, it was agreed that a small group of stakeholders would volunteer to formulate proposals on the future engagement process for the Rugby Cement Plant for the wider stakeholder group to consider: this is the Task Group. A further meeting of the wider stakeholder group is planned for 10th March 2009 to consider the Task Group's proposals. Further information on this process is set out at appendix 2.

For further information on the stakeholder engagement review or to see The Environment Council's May 2008 Report and Recommendations or the September 2008 Stakeholder Workshop meeting report please visit The Environment Council's website at www.the-environment-council.org.uk or contact The Environment Council.

1.2 Attendees

For a list of Task Group meeting attendees, please see appendix 3.

1.3 Task Group Meeting Purpose

The Task Group meeting purpose is to formulate proposals on the future engagement process for the wider stakeholder group to consider.

1.4 Agenda

The agenda for the Task Group meeting is as follows:

- Purpose of the process
- Planning the future process
- Ways of working
- Funding
- Next steps
- Feedback

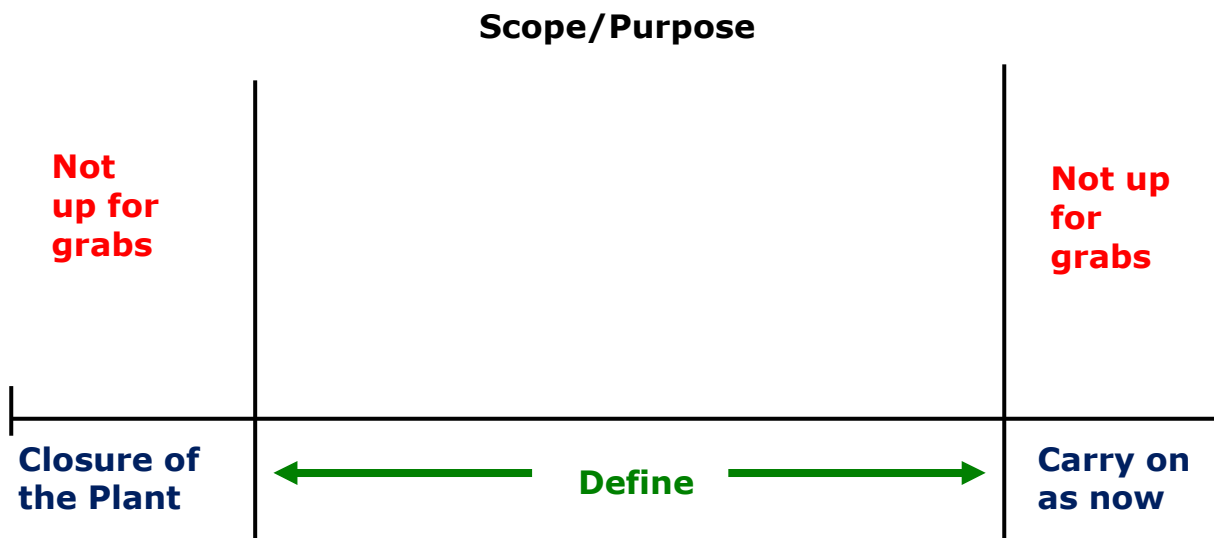
1.5 Groundrules

The following groundrules for participants in the Task Group were proposed by the facilitation team during the meeting to help make the discussions as constructive and productive as possible.

- We are not here to talk about the Community Forum (this is something that the Forum can sort out itself).
- Keep comments to one minute maximum at a time.

2. Scope of the Engagement Process

The meeting facilitators produced the following diagram to set out to the Task Group the scope of the future engagement process and the opportunity that exists to improve the current situation. In order to move forward, as illustrated by the May 2008 report and the discussions of the September 2008 workshop, the present state of engagement cannot continue, nor is the option of plant closure being offered. The Task Group needed to define the future engagement process within these boundaries. The group agreed to proceed on this basis.



Comments on the Rugby Cement Community Forum (RCCF)

A number of comments on the Rugby Cement Community Forum, which was not the focus of the meeting, were made during this opening session and later on in the Task Group meeting. These comments were recorded and are transcribed below.

- The community us not to blame for the way [the Forum] is currently working.
- Let's have a fresh conversation today - not focus on the forum.
- We need to sort out engagement for the future – then see whether the Forum can morph itself to fit that.
- There is a fear that if any engagement is conducted under [agreement to] confidentiality, this can be used by the company to say that they have already consulted without going more widely/openly.

3. Purpose of the Engagement Process

The Environment Council circulated the following draft list for the purpose of the future engagement to the Task Group for consideration prior to the meeting. The list is derived from stakeholder comments on the purpose of the engagement process in the Report of the September 2008 Stakeholder Workshop. The list has been numbered for ease of reference.

Draft list for the purpose of the future engagement:

1. Enable CEMEX and the Environment Agency to:
 - i) Interact directly with stakeholders
 - ii) Be transparent and accountable
 - ii) To report back to stakeholders about their plans and actions.
2. Enable stakeholders to ask questions and to raise concerns.
3. Enable common, shared understanding about issues / needs.
4. The provision of timely, clear, full and transparent information.
5. For stakeholders to be able to influence decision-making.
6. Acknowledge issues of concern and address them.
7. Improve relationships and build a sense of pride in the community about the local industry.
8. To ensure that the process is widely publicised so that anyone who wants to be can be involved in some way.

The Task Group were asked to comment on the list saying whether they felt it was appropriate and whether anything needed to be added or changed. The discussion is transcribed below.

- Cannot find anything wrong with the list.
 - Funding is needed.
 - Goodwill needs to be added.
- Transparency and accountability are important.
- Would like a response from stakeholders as well as providing them with information.
- Tie point 1., sub-point ii., with point 4.
- County Council needs to be included as part of the process.
 - They are not in the room now so cannot respond – so capture this as a desirable.
 - (Warwickshire County Council planning officers didn't attend the September workshop.)
- Warwickshire County Council planners are needed – any difficulties would need to be referred to them.

An action was then agreed to pursue the involvement and attendance of appropriate Warwickshire County Council representatives at the 10th March Stakeholder meeting.

- Identifying stakeholders is a supplementary question/task.
- Rugby Borough Council does not have the same level of involvement as the Environment Agency and CEMEX – there's a hierarchy of responsibility.
- All these organisations and the way they interact with the plant are connected: CEMEX, the Environment Agency and Warwick County Council planners are equally involved.

- CEMEX and the plant are there all the time – the Environment Agency monitor – Warwickshire County Council are involved intermittently – so organisations have a greater/lesser involvement.
- Ownership belongs to everyone involved in the engagement including community who are part of it.
- Everyone needs to have an equal value but a different stake – useful to acknowledge this.
- Interests of community, EA, CEMEX are not the same(?)
 - ‘Ownership’ is not a helpful term because of this.
- It is about everyone working together and being part of the same engagement process.
- The residents’ needs are to ask questions and get information; this need is different to that of CEMEX.
- CEMEX wants to have a good relationship with the community and needs to continue operating – that is its need of the Purpose.
- The Purpose needs to be to enable stakeholders to communicate with the Environment Agency, CEMEX and engage in future for a better understanding of what’s going on and why.
- Would be helpful to find out what the interests are of everyone involved – need a clear picture of this – at the start.
- Point 5. – How do people see this happening?
 - Collaborative working can enable this.
 - Confidentiality can make it difficult for stakeholder to influence early thoughts.
 - Trust needs to be improved among all parties.
 - This will then help further understanding.
- How does this process engage the wider community –needs to be more explicit.
- It needs to be realistic, needs to be understanding of what the boundaries are, and what it is people want to get out of it.
- We need a mechanism for how people feed back what happens in the engagement process to the wider community.
 - Re-visit under [the agenda item] “ways of working”.
 - Need to realise this is a costly process and needs funds.
- Health and environmental impacts are the underlying purpose for engagement.

At the close of this session the next steps to formulate the proposal for the purpose of the engagement were discussed as follows:

- Use the draft list as a starting point.
- Add anything new or any reinforcements to the list to develop it from today’s discussion.
- We need to home in on the list and distil it – otherwise it will simply grow – not useful to the present in that form to the 10th March meeting.
- The list will be typed up.
- One participant here would have preferred to have gone through this list point by point.

An action was agreed that to formulate a proposal on the purpose of the process, the draft purpose list would be used as a basis, with anything new from the Task Group’s discussion to be added into the draft list. All actions from the Task Group meeting are set out in section 8 of this report.

4. Planning the Future Process

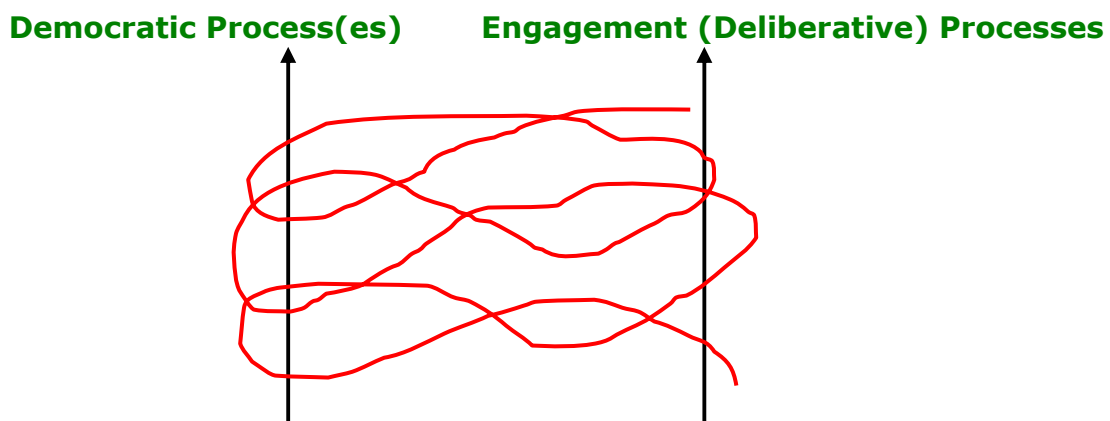
The Task Group then mapped out the components for a future engagement process proposal using the planning framework of "Purpose, Process, People, and Pace". This was to identify:

- **Why engagement would be undertaken; whether, for example, it would be for information-giving, or for consultation (purpose)**
- **What engagement activities would be carried out; for example whether via a website or a face to face meeting (process)**
- **Who the engagement would be directed at (people)**
- **What considerations about the timing of the engagement needed to be taken account of (pace).**

This mapping of the future process has been reproduced overleaf on page 7. The accompanying discussion is set out below.

- Pace and Planning and Pollution Prevention and Control applications: People need sufficient time to consider and respond to any information that's given.
 - In the future, if engagement is working well and information, or plans are being brought to people's attention well in advance, pace will be less of a worry.
 - Pace is a significant issue.
- You need funding to accomplish these things.
 - You need a functional engagement process to get funding, and to make things happen.
- Applications require a huge amount of space because of the volume of detail – this could only be dealt with by a website.
- A website should be for information – not a blog.
- Radio?
 - What would this be for/how used?
- Need specific level of information for a specific audience.
- A web forum would provide insight to the Environment Agency or to CEMEX – enable people to discuss worries, a means of expression.
- A 'one stop shop' for questions etc – one single route would be useful.
- Councillors could be one route for engagement.
 - May only engage with people every four years.

At this point in the discussion, the meeting, to help the Task Group, the meeting facilitator suggested that democratic process(es) and engagement (deliberative) processes, while distinct and separate, can feed into and inform each other. The facilitator produced the following diagram to illustrate this.



- Need face-to-face engagement.
 - This needs the involvement of knowledgeable people who understand the issues.
 - [There are] different levels of commitment and understanding.
 - Useful to have a more expert group.
 - Purpose would be for consultation (though needs information for this).
- It would be better to build capacity within the community and empower people.
- Public meetings could be ongoing rather than only covered in the case of a 'hot topic' – doesn't have to be adversarial.
- A range of methods is needed to reach people.
- Different levels of information are needed to engage people, for example the general public may be most interested in personal impacts.
- A website could cope with handling more complex information.
- Need explanation and interpretation of the information flowing in and out through the process.
 - A group or meeting could be used to 'filter' information.
 - [Something] deliberative
- Road shows: Questions and answers, one to one, have different interpretations – these need a health warning.
- Need an agreed format for any new type of engagement group.
- Avoid dilution through multiple strands of engagement.
- Any engagement group needs to be independent to create ownership.

The group's discussion then focused on a possible mechanism to drive a engagement process into being and to potentially monitor and support it in the future.

- Need a steering group to steer it into being – to put process, following 10th March, into action.
 - This could be a temporary group that then disbands once its job is done.
- Needs to be a representative group.
- Could have more than one group in future, for example one group could focus on the engagement process itself.
- The group could continue to monitor the process in future – have this as an option and review at a later date.
- Could ask the wider group of stakeholders for a mandate.
- Steering group /Coordination Group – either temporary or permanent.
 - Smaller than this group.
 - Membership needs to be representative but specifics remain to be seen.

An action was agreed that the planning discussion and mapping captured in the meeting record would be utilised to produce the proposals. For a full list of actions from this meeting please refer to section 8 of this report.

A Mapping of the Components for a Future Engagement Process

Purpose [Why: information giving, information gathering, consultation]	Information giving	Information gathering		Dialogue	Information giving/gathering	Dialogue	
Process [What are you going to do]	Website that can be accessed by everyone - a <u>dedicated</u> one	A newsletter or 'hard copy facility' for those who don't have internet	Newspaper insert would make it easier to gain wider circulation	A <u>properly moderated</u> website forum	Question and answer sessions linked to a meeting or topic	Public meetings Continuation of Forum Locality forums (but WCC holds the agenda?) Road shows	A new type of meeting - an engagement group Steering group
People [Who is your target? How are you going to get people together?]	The wider community	General public			General public	General public	
Pace [Timing]	Website can be updated daily	Quarterly or more frequent if there is a need					Every couple of months

5. Ways of Working

The Environment Council circulated the following draft list of ways of working to the Task Group for their consideration prior to the meeting. The list is derived from stakeholder comments on future ways of working for the engagement process in the Report of the September 2008 Stakeholder Workshop. The list has been numbered for ease of reference.

Draft List of ways of working:

1. All meetings should have draft agendas; then agree these at the meetings.
2. The timings of meetings should be changed from time to time to make them accessible.
3. Anyone representing an organisation needs to state so clearly and describe how they are doing this (bringing views in and feedback from the process)
4. Should try to decide or agree by consensus but if this isn't possible, then to state why.
5. It should be jointly agreed if any specialist input is required, and who will provide it and how it will be paid for.
6. Jargon should be avoided if possible; and if not it should be clearly explained.
7. All participants to treat each other with mutual respect.
8. Any successes should be identified and celebrated as a way of building relationships.
9. There should be a joint agreement on what, if any information is needed; and who will provide it.
10. Reports and decisions from the process should be made public unless there is an over-riding reason that they cannot.
11. Participants are discouraged from re-stating known positions and are encouraged to re-frame them as needs.
12. If any information or decision needs referral to the elected, democratic system this will be jointly agreed and then it will be agreed how this will be done.
13. Sub-groups are recognised as a useful way of more efficiently getting work done (on behalf of the wider stakeholder group).

The Task Group were asked to comment on the list saying whether they felt it was appropriate and whether anything needed to be added or changed. The discussion is transcribed below.

- What meetings would this apply to? (Point 1.)
 - Any meetings
- Who decides when experts are brought in?
 - Those involved do – considering why and how this is wanted
- Point 10. – Take out “unless there is an overriding reason”.
 - This is too restrictive – may be legal reasons for example.
 - Better to have all meetings open – if anything is confidential – don't include it.
 - Confidentiality, if asked for, needs to be respected.
 - Concerned that this is just going to lead to secrecy, secret meetings etc.
 - This could actually restrict openness – for example CEMEX will not share information more widely if they cannot ask for confidentiality to be more respected when consulting up front.
 - Point 10 talks about reports and decisions from the process – need to be clear whether this is about engagement outputs or company information.

- Point 3: There should be a shared responsibility to take views in/out of the engagement.
- Representatives need to have a mandate
 - Need to demonstrate this.
- Training for community representatives would be helpful – to be supported by funding organisations – this would be helpful to build capacity?
 - Take this suggestion forward for consideration at the next meeting.

The next steps were agreed to formulate the proposal on ways of working as transcribed below (see also the action list in section 8 of this report).

- Write up draft list, plus points discussed.

6. Funding

The following discussion was undertaken with regard to the funding of the engagement process in the future.

- Have some sort of secretariat, to be funded, by one or more funders.
- Need funding or provision of venue.
- The Environment Agency is prepared to put forward interim funding for the next 12 months while the proposals start to gel and are agreed.
- Look at Landfill Tax Credits, CEMEX, benevolent funds, for further sources of funding.
- CEMEX is also prepared to commit to enable this process go forward, like the Environment Agency.
 - This funding from EA and CEMEX is not limitless or without boundaries.
- Can we generate a costing?

An action was then agreed that a costing of the engagement plan as mapped by the Task Group would be developed as part of the proposals going forward.

7. Way Forward

To deliver the actions generated during the meeting, volunteers from the Task Group and timescales were identified and agreed. These are set out in section 8.

The following points were raised during the meeting that could not be explored at the time. These were noted as items to carry forward and consider in future.

Future Process

- Need to understand what it is that people want to get out of it, and what boundaries are.
- Future session needs to take place to understand what people bring to the process, what they expect to get from it and what their powers are.

8. Actions

A list of the actions generated during the course of the Task Group meeting are set out below.

Actions	Who	When
Need to get Warwickshire County Council to attend 10 th March stakeholder meeting (Copy request to Task Group and councillors? Up to Claire's discretion).	Claire Watson	11 February
"Purpose" list will be typed up.	The Environment Council	11 February
Anything new from the Task Group discussion will be added into the draft "Purpose" list.	Chris Holman [with an offer of help from Lilian Pallikaropoulos if needed]	20 February
Write up planning notes	The Environment Council	11 February
Turn the planning notes into a set of proposals.	Diane Pask	23 February
Write up ways of working notes.	The Environment Council	11 February
Turn ways of working into proposal	Carolyn Robbins	20 February
Prepare a draft costing for proposed process.	Rachel Cowlshaw	23 February

9. Feedback

To conclude the facilitator asked the group to reflect on the experience of the meeting. The comments made are transcribed below.

- We've achieved a lot.
- Feel better about it now than an hour and half ago.
- Not as depressed as I might be.
- Thank you for patience/time.
- Good to have actions/product coming out of it.
- Was frustrating at times.

Appendix 1: Background information from funding organisations

CEMEX

Engagement

- Community Matters Newsletter - published three times per annum; delivered to 13,500 households in Rugby; feedback surveys on this publication and other issues have been conducted
- RCCF - have participated and now organise the Forum meetings - now at six times per annum
- Exhibitions - associated with particular projects or issues, public exhibitions have been held eg Oct 08, Climafuel plant, June 06, Climafuel as an alternative fuel
- Public Question Time - included local MP, EA, RBC, CEMEX and Friends of the Earth - public event in the Benn Hall (2006) re alternative fuels
- Website - contains community sections
- Plant Visits - the plant hosts regular visits to the plant from a wide variety of community groups and schools. Participated in the National Heritage Open Day programme September 08
- Dunchurch Locality Panel - invited to present to this panel at every meeting
- Press - regular liaison and provision of information to local media.
- Local Borough and County Councillors - regular briefings
- Community support - CEMEX Foundation, CEMEX Community Fund and the Rugby Group Benevolent Fund supports a wide range of local projects from churches to schools, charities to community associations.

Briefing note for Working Group – 10 February 2009

David Hudson – Environment Manager

1. The Environment Agency's role at the Cemex Rugby Plant

Our role is to regulate the emissions from the cement works so that they do not cause harm to the environment. We include in that protection of human health.

To fulfil this responsibility we operate under the system of Environmental Permits which means we issue a permit to Cemex to operate the plant subject to conditions that are designed to protect the environment.

Our work includes:

1. Setting permit conditions. We do that by consulting other statutory bodies and the public to establish the limits of pollution emissions and to ensure that the company use Best Available Technology (BAT) in the operation of the plant.

Best Available Technology is required to be considered in order to avoid or reduce the impact on the environment as a whole. BAT takes into account the balance between the costs and environmental benefits.

2. Carrying out audits and inspections at the plant to check that the permit is being complied with.
3. Enforcing compliance with the permit conditions, including taking action through the courts if necessary where they are not complied with.
4. Carrying out our own emission tests to check that the measurements made by Cemex are credible.

customer service line

08708 506 506

www.environment-agency.gov.uk

incident hotline

0800 80 70 60

floodline

0845 988 1188

5. Informing the public about all of the above through:
 - a. a public register that is held at our office and copied to Rugby Borough Council. (It is available during office hours for the public to inspect); and
 - b. requiring Cemex advertise all major changes at the plant where we have to modify the permit
6. Responding to complaints from the public made to us on our 24/7 hotline 0800 80 70 60.

2. The areas of our work that can be influenced by the public through this stakeholder engagement process

It must be made clear the Environment Agency's regulatory role with respect to any future stakeholder engagement.

We cannot pass our powers or duties to anyone else under the various pieces of legislation that we are bound by.

Decisions made on permit conditions or on compliance and enforcement actions must remain those made by the Environment Agency working through its own processes.

We cannot, however, know everything about the local environment. We are reliant on the public to inform us about particular sensitive parts of the environment or people that might be affected by the operation of the plant and to tell us when things go wrong that have consequences for local residents.

We also need the public to have confidence in us carrying out our duties so we have a duty to explain what we are doing, what our objectives are and how we will measure the success of changes that are made.

3. How we will work

Our decisions must be made on the basis of evidence and sound science. Where we make judgements on environmental impacts they are supported by facts and by techniques such as computer modelling to explain the consequences of measured pollution emissions.

Where we take enforcement action and this is tested in the courts then we must show that the charges we make are supported by evidence that proves them "beyond reasonable doubt". This is a high test of proof and we will always apply the public interest test to prosecutions as laid out in our Enforcement and Prosecution Policy.

We work on the basis of environmental risk. Where the risks are high we apply more resources to bring about improvements to manage the risk or the consequences of that risk.

We are funded in part by central government and in part from the companies we regulate through the payment of fees for the regulation of their sites. This includes Cemex who is required to pay us a fee for the regulation of their Rugby Cemex site each year. We also recharge them for monitoring work that we carry out to monitor that site.

4. What we want to see from the new stakeholder process

We want to see a clearer and more accessible way of sharing of information. (See following section on our suggestions).

We want the stakeholder group to have a shared view on things when they are discussed. Whilst it might not be possible to reach consensus, some form of reporting on the position of the group should be found.

We want the stakeholder group to inform the wider public.

5. Our suggestions for information sharing

We propose that Cemex operate a website to make information available to the public. The following table represents the information that we believe we can provide and an indication of the timescales it can be provided in. We provide this now, not necessarily for discussion at the meetings in February or March 2009 but to indicate some of the things we think might be taken forward in stakeholder engagement.

	Item	Timescale
	Information relating to applications made by Cemex as follows:	
1	Every application made to the Environment Agency under the Environmental Permitting (England and Wales) Regulations 2007. This will include applications: <ul style="list-style-type: none"> - for environmental permits; and - to vary and make changes to an environmental permit to reflect changes to the industrial process used at the plant. 	Cemex to supply within 14 days of the Agency accepting the application as legally duly made
2	Requests made by the Environment Agency for supporting information to applications made.	14 days

3	Information that the company send to the Environment Agency responding to or supporting an application listed in 1. above.	Cemex to supply within 14 days of receipt by the Agency
	Information relating to the permit granted to Cemex by the Environment Agency as follows:	
4	Notices that the Environment Agency issues confirming determination of: <ul style="list-style-type: none"> - environmental permits; and - variations to permits. 	14 days
5	Notifications from the Environment Agency that an application has been received in full and is duly made.	14 days
	Information relating to enforcement action the Environment Agency takes against Cemex will include the following:	
6	<ul style="list-style-type: none"> - Enforcement notices detailing enforcement action being taken against the operator; - Revocation notices revoking (ending) the operator's permit; - Suspension notices suspending the operator's permit to operate until certain requirements are met; and - Withdrawing any of the above notices. 	14 days
7	In relation to any appeals made by Cemex against enforcement action taken, every <ul style="list-style-type: none"> - Notice of appeal; - Documents and supporting information relating to the appeal; and - Decision made by the appropriate authority, including any report accompanying this. 	14 days

	Information relating to monitoring of emissions (substances released) from the plant will include the following:	
8	<ul style="list-style-type: none"> - The results of monitoring taken by the Environment Agency; and - The results of monitoring required to be submitted to the Environment Agency as a condition of the permit. 	<p>14 days of verification of data</p> <p>Cemex to supply within 14 days of receipt by the Agency</p>
	All information supplied to the Environment Agency as requested and as required by the following:	
9	<ul style="list-style-type: none"> - a condition of an environmental permit; - an enforcement notice; and - a suspension notice. 	Cemex to supply within 14 days of receipt by the Agency
10	Every report published by the Environment Agency which assesses the potential effects on the environment by the type of operation carried out at the plant.	14 days
11	Every direction given to the Environment Agency by the Secretary of State under the Environmental Permitting (England and Wales) Regulations 2007 with respect to this site.	14 days
12	All reports of assessments of compliance with the conditions of the permit, including inspections and compliance audits, carried out by the Environment Agency (Compliance Assessment Report (CAR) forms).	6 weeks from the visit unless the content may be subject to legal proceedings (<i>sub judice</i>)

Information will not be included when:

- the Secretary of State has given directions for it to be excluded from the public registers in the interests of national security; or
- on the rare occasions that the Environment Agency has determined that it is confidential because:
 - it is commercial or industrial information;
 - its confidentiality is provided by law to protect a legitimate economic interest; and
 - the public interest in maintaining its confidentiality outweighs the public interest in including it in the public registers;

but this exclusion may not be applied to information relating to emissions.

6. Funding for the engagement process

We have had conflicting messages on funding for this process. Some people feel that to be independent the public bodies and Cemex should not be paying for it. Unfortunately, to date, alternative funding has not been suggested.

Because we feel that public engagement is important we are prepared to contribute to the initial phase of engagement. The new group should make it a priority to find an alternative means of sustaining itself after 12 months. We hope that this will allow the development of a clearer position on funding.

I hope that this will be accepted as a constructive set of proposals that will help us move forward. However, our commitment to this process is subject to review of its effectiveness. Our aim is to put resources into a structure that operates to inform and represent a wider public.

ROLE AND RESPONSIBILITY OF RUGBY BOROUGH COUNCIL IN RELATION TO THE CEMEX RUGBY CEMENT PLANT

It must be made very clear at the outset that Rugby Borough Council is not the regulator of the Cemex Cement plant in Rugby. In general the Council has no control or direct influence on the activities that are conducted on the site or towards the impacts (real or perceived) that it has on the community or the environment.

NUISANCE

The Council has virtually no powers of enforcement under any environmental legislation at the cement works; this includes the laws relating to statutory nuisance. Under section 79(10) of the Environmental Protection Act 1990 (as amended), the Council **CANNOT** take any action in respect of smoke, dust, steam, smell or other effluvia, accumulations or deposits, and noise from any part of the installation which is permitted under the Pollution Prevention and Control Act 1999.

SMOKE CONTROL AREAS

It is important on this aspect to be clear regarding the terminology and definitions; Rugby is not a smokeless/smoke free zone.

The legislation regarding this matter are the Clean Air Acts, the current one being the Clean Air Act 1993. Under this Act, ***smoke control areas*** can be declared by order by the Council. This Council has declared a number of these covering most of the urban part of Rugby town. The area in which the cement works is located is within a smoke control area.

The main purpose of the smoke control areas was to ensure UK compliance with the EC Air Quality Directive on sulphur dioxide and suspended particulates 80/779/EEC. Following the reduction of potentially polluting industries in the town, together with other environmental control legislation such as the Environmental Protection Act and the Pollution Prevention and Control Act, the main focus of the smoke control areas is to determine if unauthorised fuels are being used by domestic premises. Officers therefore only take action if they spot potential illegal use of authorised fuels or if the Council is notified of a potential problem, e.g. by an affected neighbour.

DARK / BLACK SMOKE AND THE APPARENT VARIATION IN APPEARANCE OF EMISSION FROM THE STACK

The following commentary is **NOT** intended to be a technical analysis of what chemical components are in the plume etc, but to clarify why the appearance of the plume changes depending on the weather. The chemical composition of the exhausts gases that are emitted from the chimney are continuously monitored by the company and are not specifically relevant to this single issue.

In order to separate the two components; the visual appearance of the plume and its physical composition, I shall focus on the appearance of clouds to illustrate the point.

We have all seen clouds and commented on how dark they look, or how they change colour in different lights. Clouds are made up of masses of water droplets and ice crystals.

They are formed through a process beginning when warm moist air rises. As the air cools it is unable to hold the water vapour. Some of the water vapour condenses and forms tiny water droplets. Clouds are made up of these droplets. This is exactly the same process that occurs when the plume from the Cement works is visibly formed.

The colour of a cloud is related to how much water is in it and to where we are standing in relation to it. From a distance, when the sun shines directly onto clouds they appear bright white. This is because sunlight is reflecting off them – all of the colours of light are reflected equally making it appear white.

If we are below a thick water laden cloud it will appear dark and grey because the sunlight is being blocked from travelling through it. If there aren't as many water droplets – it won't be as grey and the thinnest of clouds will appear a colour close to white because more of that sunlight from above is able to travel through it. Therefore if the air temperature is higher and the water vapour in the plume does not condense as quickly it will appear lighter, conversely, if the air temperature is very cold, i.e. during winter months, the water vapour in the plume will condense very quickly and appear darker.

It is because of this natural process that the plume is more visible in the winter than in the summer. The exhaust gases from the plant remain reasonably constant throughout the year; the only variables are the air temperature and the angle of the sun.

As the winter sun is much lower in the sky its lighting effects become much more pronounced. Clouds that appear dark gray do so because the sun is behind them. Therefore the part of the cloud that you see is shadowed. As the sun's angle is lower it is a much more common occurrence for the sun to create this shadow effect through the dense water vapour in the plume. If you could see the other side of the very same cloud (or plume), it would appear bright white. That is why any clouds viewed from an airplane window always appear to be bright white.

To make accurate observations of the colour of smoke is a precise process which is summarised below

DARK SMOKE LEGISLATION

This is generally controlled and covered by the Clean Air Act 1993, which came into force in August 1993 and consolidates the 1956 and 1968 Clean Air Acts (which were repealed); it also incorporates clean air legislation contained in other Acts such as the Control of Pollution Act 1974, the Control of Smoke Pollution Act 1989 (which is also repealed) and the Environmental Protection Act 1990. Regulations made under the earlier Acts still apply.

It MUST be noted that Parts I, II and III of the Act do not apply to processes prescribed for control under Part I of the Environmental Protection Act 1990 or to installations regulated under the Pollution Prevention and Control Act 1999 from the date on which an authorisation or permit has been granted, refused or refusal confirmed following an appeal. (Sections 41 & 41a, as amended by the Pollution Prevention and Control Regulations 2000 – see schedule 10 paragraph 13)

Part 1: Dark Smoke

Prohibition of Dark Smoke from Chimneys (s.1)

This section prohibits the emission of dark smoke from a chimney of any building; it also applies to chimneys not attached to a building serving furnaces of fixed boilers or industrial plant, and could include incinerators and crematoria. The Secretary of State may, by regulation, exempt prescribed lengths of emission from action under this section.

There are four defences available in any proceedings for dark/black smoke emission. These are that the alleged emission was:

- a) Solely due to lighting a furnace from cold and all practicable steps had been taken to minimise emissions;
- b) Solely due to unavoidable mechanical failure of part of the plant, that this could not reasonably have been foreseen or if foreseen could not reasonably have been provided for and that the emission could not have been prevented after failure occurred;
- c) solely due to unavoidable use of unsuitable fuel, suitable fuel not being available and the best available fuel being used; and all practical steps were taken to minimise the emission;
- d) due to any combination of a, b and c.

It should be noted that these are not absolute defences and are available only if every practical effort is made to avoid and/or minimise emissions.

Prohibition of Dark Smoke from Industrial or Trade Premises (s.2)

Subject to certain exemptions, it is an offence to cause or permit the emission of dark smoke from industrial or trade premises – e.g. via bonfires.

Unless the contrary is proved, an emission of dark smoke is deemed to have taken place if material is burned on those premises in circumstances where the burning would be likely to give rise to the emission of dark smoke.

Meaning of “Dark Smoke” (s.3)

Where legal standards of emission are prescribed for smoke, they refer to “dark” and “black” smoke.

Dark smoke is defined by reference to a shade on the British Standard Ringelmann Chart (see Appendix 1) and means smoke which if compared... with the Ringelmann Chart would appear to be as dark as, or darker than shade 2 on the chart.

Black smoke (defined in the *Dark Smoke (Permitted Periods) Regulations 1958* and in the *Dark Smoke (Permitted Periods) (Vessels) Regulations 1958*) means smoke which, if compared ... with the Ringelmann Chart, would appear to be as dark as, or darker than shade 4 on the chart.

Although legislation defines dark and black smoke by reference to colour shades on the Ringelmann Chart, the use of the Chart is not compulsory. The 1993 Act says, “for the avoidance of doubt, it is hereby declared that ... the court may be satisfied that smoke is or is not dark smoke... [even if] there has been no actual comparison of the smoke with a chart of the type mentioned”.

The Dark Smoke (Permitted Periods) Regulations 1958 (SI 498)

These regulations were made under s1(2) of the 1956 Act.

Specified permitted periods of emission are as follows:		
a) Aggregate emissions of dark smoke		
Number of furnaces served by the chimney	Permitted emission of dark smoke in any period of eight hours	
	If not soot blowing during period	If soot blowing during period
One	10 mins	14 mins
Two	18 mins	25 mins
Three	24 mins	34 mins
Four or more	29 mins	41 mins
Where a single boiler or unit of industrial plant is fired by more than one furnace discharging into the same chimney, those furnaces shall be deemed to be one furnace.		
b) Continuous emission of dark smoke		
The continuous emission of dark smoke in excess of four minutes, caused otherwise than by soot blowing, is prohibited.		
c) Aggregate emission of dark smoke		
No emission of black smoke exceeding two minutes aggregate in any period of thirty minutes is allowed. There are thus three standards of emission, which are acceptable in relation to any one chimney.		
(Soot blowing is a method of cleaning deposited carbon from the internal surfaces of large industrial boilers. It includes the use of a jet of steam onto heat exchange surfaces on a regular, usually daily basis).		

The above provides a comprehensive commentary on the legislative controls on the emission of dark smoke from chimneys or bonfires from premises NOT controlled under IPPC or PPC.

In relation to Rugby Cement Limited ALL pollution controls on emissions are detailed in the PPC permit issued and regulated by the Environment Agency.

AIR QUALITY MONITORING

The provisions of Part IV of the Environment Act 1995, establishes a national framework for air quality management, requiring all local authorities in England, Scotland and Wales to conduct local air quality reviews. Where the reviews indicate that objectives set out in the National Air Quality Strategy will not be met, the relevant authority is required to designate an Air Quality Management Area.

Under Section 88(1) of the Environment Act 1995 ('the Act'), the Department for Environment, Food and Rural Affairs (Defra), the Scottish Executive and the Welsh Assembly Government have published *Local Air Quality Management Technical Guidance LAQM.TG(03)*. This is statutory guidance, which councils must consider. Section 88(2) of the Act sets out a system of local air quality management in which local authorities take the lead. Section 82(1) of the Act requires local authorities to undertake reviews of the current air quality in their area and of the predicted air quality in future years and to assess them against standards and objectives prescribed in the Strategy and in The Air Quality (England) (Amendment) Regulations 2002.

The Air Quality Strategy establishes the framework for air quality improvements. Measures agreed at the national and international level are the foundations on which the strategy is based. It is recognized, however, that despite these measures, areas of poor air quality will remain, and that these will best be dealt with using local measures implemented through the LAQM regime. The role of the local authority review and assessment process is to identify these areas, where it is considered likely that the Air Quality Objectives will be exceeded.

Air quality reviews and assessments are carried out on a 3-year cycle. The first step of the review and assessment process is an Updating and Screening Assessment, which has to be undertaken by all authorities. This is based on a checklist to identify those matters that have changed since the previous round was completed, and which required further assessment. Where the Updating and Screening Assessment identifies a risk that an air quality objective would be exceeded at a location with relevant public exposure, the authority is required to undertake a Detailed Assessment. The aim of this Detailed Assessment is to identify with reasonable certainty whether or not a likely exceedance is likely to occur. The assumptions within the Detailed Assessment have to be considered in depth, and the data collected or used, is required to be quality-assured to a high standard. This is to ensure that the Council is confident in the decisions it reaches. Where a likely exceedance is identified, then the assessment has to be sufficiently detailed to determine both its magnitude and geographical extent. Local authorities must not declare an Air Quality Management Area (AQMA) unless a Detailed Assessment has been completed.

Under section 83(1) of the Environment Act 1995 local authorities have to designate those parts of their areas, where the prescribed Air Quality Objectives are not likely to be met by, or at any point beyond the relevant deadline, as air quality management areas (AQMA). This applies only to those locations where members of the public might reasonably be exposed. Under section 83(1) of the 1995 Act, local authorities have to designate these AQMA 'by means of an order'.

The Detailed Assessment by Rugby Borough Council of June 2004 had identified that traffic pollution in the centre of the urban area of Rugby town was likely to result in an exceedance of the nitrogen dioxide annual air quality objective. The Council recommended in the report that an air quality management area should be declared for nitrogen dioxide and Defra, following consultation, agreed with this recommendation.

The Council made an order under the Environment Act 1995 on 16th December 2004. Councillors had considered a number of options regarding the extent of the AQMA from individual properties to the whole of the urban area of the town. Because of the limited number of north-south routes in Rugby town and the proposed Rugby Western Relief Road they decided that strategically the AQMA should cover the whole of the urban area of Rugby town because any action to control traffic or pollution could have a significant affect on other parts of the town.

On 18th April 2005 Cabinet considered a report from officers, which asked them to consider the Detailed Assessment of Particulate Matter and the comments from Defra. Cabinet considered the report and decided not to declare an AQMA for particulate matter.

Where a local authority declares an air quality management area, the local authority is required within 12 months of the declaration to complete a Further Assessment of air quality to confirm that the declaration was appropriate. The Council's Further Assessment was published for consultation on 15th December 2006.

The further assessment considered the two main pollutants of concern in Rugby under the air quality review and assessment system, which are PM10 and nitrogen dioxide. It has used monitoring data and modelling of multiple sources including road traffic and emissions from Cemex. It has also considered the potential impact on air quality of the proposed Rugby Western Relief Road. It has concluded that, using the current nitrogen dioxide and PM10 air quality objectives that no exceedances of the PM10 objectives are predicted, but there is the probable exceedance of the nitrogen dioxide objective around the Warwick Street gyratory system. Therefore, the recommendation is that the air quality management area should remain.

PLANNING CONTROLS

Rugby Borough Council is not the planning authority for the Cement plant. This is the function of the County Council as the minerals and waste planning authority. The borough Council is a consultee on any application. There are potentially very limited minor matters where the Borough Council could be the planning authority, but these would not be on issues related or ancillary to the main purpose of the site, it is not possible to give an example as they would be an extraordinary occasion.

COMMUNITY ENGAGEMENT

The Councillors of Rugby Borough Council have an individual role in representing the concerns etc of their communities and constituents. Any councillors that wish to become involved in the stakeholder engagement processes around the cement plant tend to do so through a personal or constituency interest. There are no routine internal arrangements within the Council for these to be brought in to the main stream council business, i.e. the council nominated representatives on the RCCF are not required to report back to any committee.

The current level of Council representation on the RCCF is a legacy from the period when it was facilitated by the Council and probably needs to be revisited, as some nominations are based on the position held within the Council, which no longer exist.

Rugby Borough Council does not specifically engage with the local communities around the plant in relation to the activities undertaken on the site. It is not proposed to do so in the future, as it would be a case of either duplicating or create confusion about responsibility with what either Cemex, the Environment Agency may be proposing or the Planning Authority (Warwickshire County Council) may do in respect of specific applications.

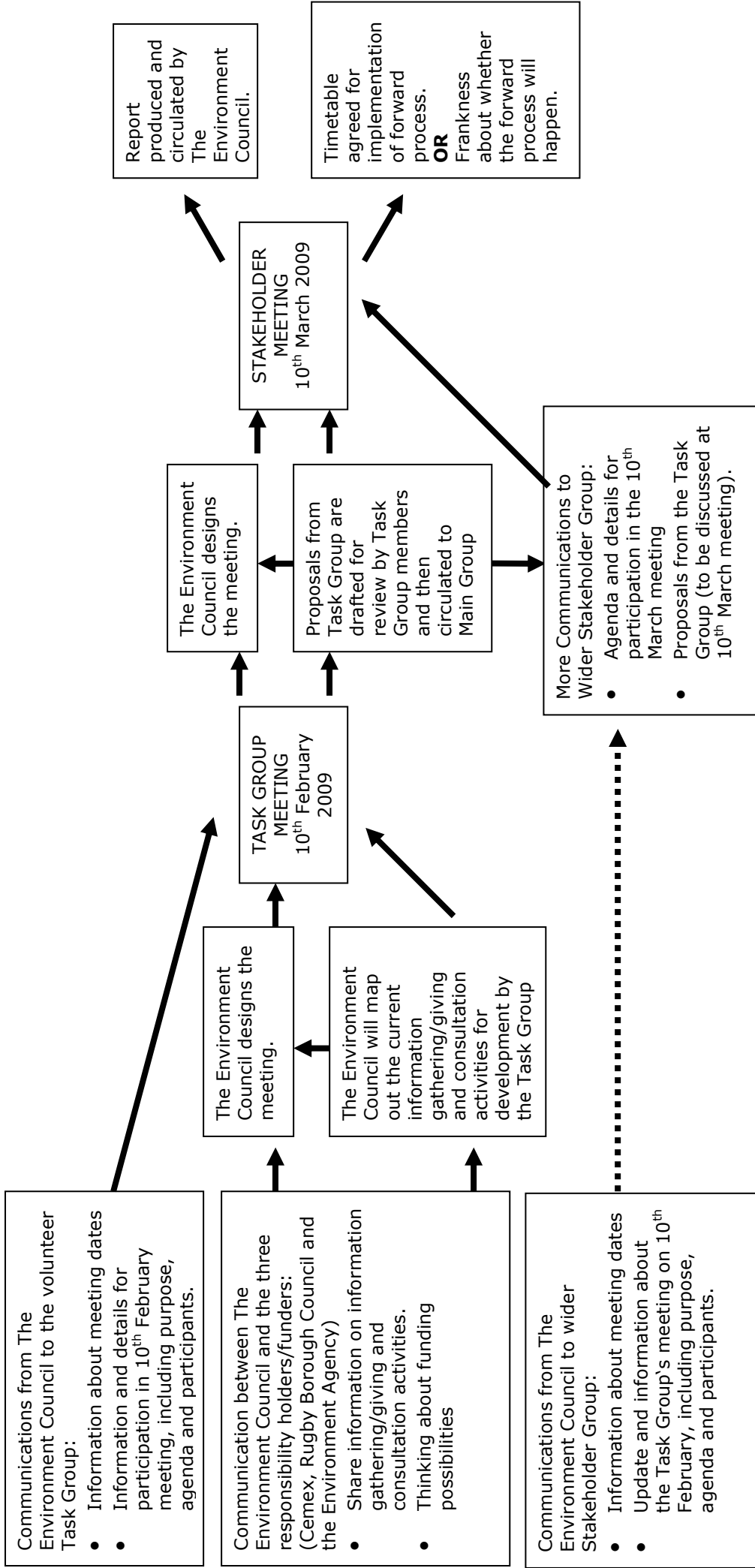
ONGOING FUNDING FOR THE RCCF

Rugby Borough Council took a decision in 2007 to withdraw from the role as facilitator of the RCCF. Whilst an officer will continue to attend meetings and supply information to or at the Forum, where relevant and possible, this will be the sole extent of the resources deployed in support of the RCCF.

The Council has contributed to the Stakeholder engagement review undertaken by the Environment Council and will see this process through to its conclusion at the end of March. There is no ongoing funding within the Councils budgets to extend any form of direct or indirect financial support beyond 31st March 2009.

The Councils position is that the process of community engagement related to the Cement Plant is one that should be the responsibility of the Plant operators (Cemex) potentially assisted in some way by the regulator, The Environment Agency.

Appendix 2: Rugby Cement Plant Engagement PROCESS PLAN – Key Activities



This plan shows how planning activities and the work of the Task Group will feed into the following meeting of the wider Stakeholders Group meeting on 10th March. It also shows what else need to take place before and after each meeting to enable progress.

Appendix 3: Attendees

Attendees

First Name	Organisation
Rachel Cowlshaw	Environment Agency
Martin Eversfield	Rugby District Trades Union Council
Chris Holman	Councillor, Caldecott Ward
David Hudson	Environment Agency
Sean Lawson	Rugby Borough Council
Tom Mahoney	Borough Councillor
Ish Mistry	Councillor, New Bilton Ward
Lilian Pallikaropoulos	Rugby in Plume
Diane Pask	Sustainable Rugby
Carolyn Robbins	Councillor Brownsover North Ward
Roy Sandison	New Bilton Community Association
Ian Southcott	CEMEX
Claire Watson	Councillor, Lawford and Kings Newham Ward
Patricia Wyatt	Parish Cllr, Long Lawford

Apologies

First Name	Organisation
Claire Edwards	Councillor, Brownsover South Ward

The Environment Council Facilitation Team

- Rob Angell, independent facilitator
- Erica Sutton, The Environment Council