

ENVIRONMENTAL AND DEVELOPMENT SERVICES COMMITTEE

10th July 2003

**PRESENT:-**

**Labour Group**

Councillor Southerd (Chair), Councillor Taylor (Vice-Chair) and Councillors Carroll, Isham, Jones, Shepherd, Southern (substitute for Councillor Whyman M.B.E.) and Stone.

**Conservative Group**

Councillors Bladen, Ford, Mrs. Hood (substitute for Councillor Atkin), Martin and Mrs. Wheeler (substitute for Councillor Mrs. Hall).

**APOLOGIES**

Apologies for absence from the Meeting were received from Councillor Whyman, M.B.E. (Labour Group) and Councillors Atkin and Mrs. Hall (Conservative Group).

EDS/11. **MINUTES**

The Open and Exempt Minutes of the Meeting held on 27th May 2003 were taken as read, approved as true records and signed by the Chair.

**MATTERS DELEGATED TO COMMITTEE**

EDS/12. **AMENDMENTS TO SCHEME OF DELEGATION AND AUTHORISATION OF OFFICERS**

It was reported that under the previous Scheme of Delegation, new enforcement powers within the Pollution Prevention and Control Act and subsequent regulations were not covered. Similarly, the Scheme of Delegation omitted powers under the Environmental Protection Act 1990, relating to contaminated land. The Committee's authority was sought to delegate these powers to the Director of Community Services, the Environmental Health Manager and to other appropriate Officers.

The Environmental Protection Act 1990 provided that certain industrial processes required an authorisation to operate. The Pollution Prevention and Control Act 1999 brought in a new regime and was being phased in over a period of several years. This would mean that certain industrial processes would require a permit to operate and there would be new controls relating to emissions. The Pollution Prevention and Control Regulations 2000 were made under this Act and contained all the regulatory powers for the new regime.

The Committee was reminded of the existing delegation arrangements approved by the Council and the former Policy and Resources Committee. Both the Director of Community Services and Environmental Health Manager had previously been delegated with general authority to act under the legislation and given approval to authorise certain other Officers in writing, to undertake powers within the legislation. In order to clarify the powers to be

conferred onto Officers, a table was submitted outlining the statutory powers and the proposed level of authorisation. This was in addition to the original Scheme of Delegation for the Division approved by the former Housing and Environment Committee in June 2000.

Consideration was given to the contaminated land regime and Members were reminded of the existing Scheme of Delegation and the general authority delegated to the Director of Community Services and Environmental Health Manager. A table was submitted outlining the statutory powers and level of authorisation proposed.

**RESOLVED:-**

- (1) That the Director of Community Services and the Environmental Health Manager, pursuant to existing delegated authority granted by the Policy and Resources Committee on 10th July 1997 and the Council Meeting on 28th January 1999, be authorised to act on behalf of the Council under the provisions of the Pollution Prevention and Control Act 1999 and any Regulations made under the Act and for that purpose the Officers identified within the report be authorised under the Act.***
- (2) That the Director of Community Services and the Environmental Health Manager be authorised under the aforementioned scheme of delegation to delegate to the Officers identified within the report, powers conferred under Part 2 of the Environmental Protection Act 1990.***

EDS/13. **REVIEW OF COMMITTEE TERMS OF REFERENCE**

It was reported that as part of the Asset Management Best Value Review, the Review Team had considered the level of Member involvement in asset management matters. There had been guidance and reports from a number of bodies highlighting the lack of Member involvement as a national issue. The Review Team had considered how Members could become more involved in asset management and several Members had been consulted on this issue. Historically, asset management had been covered by a number of committees. Councils which operated the Cabinet system now had one Member responsible for asset issues. The Review Team's main suggestion was that all non-housing related matters should be reported to a single committee, probably Finance and Management. This would lead to greater knowledge, expertise and ownership of all asset matters. It was an action point in the Improvement Plan approved by the Finance and Management Committee at its Meeting on 18th February 2003.

Under the existing Terms of Reference, the Finance and Management Committee had responsibility to oversee the management of the Council's assets, including the commercial portfolio, the Council Offices and other corporate assets. Housing and Community Services Committee had responsibility for a range of housing asset matters, the provision and management of leisure facilities, cemeteries, public parks and open space. The Environmental and Development Services Committee was responsible for the provision and management of public conveniences, bus shelters, the Swadlincote Bus Station, public car parks and the Swadlincote Market contract.

It was suggested that Housing and Community Services and Environmental and Development Services Committees continued to be responsible for the services which were run from the assets listed above. However, responsibility for the non-housing assets themselves would be transferred to the Finance and Management Committee. It was proposed to include a note at the top of each committee's Terms of Reference explaining this. With regard to reference CS/01, relating specifically to housing, it was suggested that the responsibility to sell, lease or purchase housing land/property should rest with the Finance and Management Committee.

There would be a need to continue to consult with Members of the Housing and Community Services and Environmental and Development Services Committee as appropriate over issues under consideration. In practice, many asset issues were linked to service delivery and the matter would be reported to both committees. The Chairs of both these committees sat on Finance and Management and could report the views of their Members to that Committee. In situations where the matter for consideration did not have service delivery implications, it was suggested that the report author consulted with the relevant committee Chair, to decide whether the matter should also be referred to that Committee for consideration. It was noted that the Council alone was permitted to vary committee Terms of Reference.

**RESOLVED:-**

***That the Council be recommended to transfer responsibility for all non-housing asset matters to the Finance and Management Committee.***

EDS/14. **TOURISM STRATEGY FOR THE EAST MIDLANDS**

It was reported that Regional Development Agencies were now responsible for the strategic development of tourism. The East Midlands Development Agency (emda) was preparing a tourism strategy for the East Midlands, intended to be launched on 9th October 2003. This would guide spending decisions from 2004/05 and the Council's views had been invited.

The consultation paper was not a draft strategy and it posed many questions which consultees might wish to address. Officers had highlighted key issues within each "strand" of the document and the first concerned branding and marketing. It was felt that the "National Forest and Beyond" and "Derbyshire" brands should both feature in the future "brand map" of the East Midlands and the National Forest could be a pilot project for developing new destinations. Emda should recognise that product development was best done locally, where there was a good working relationship with and understanding of issues relating to communities and businesses.

Under infrastructure issues, perhaps the most important contribution that emda could make was to ensure that the needs of the tourism industry were considered fully in regard to wider infrastructure matters, such as transport networks. In particular, Members recognised the need for continued support for rail links like the National Forest line. A Member commented that canals had not been included within the document, referring particularly to the Derby and Sandiacre Canal and that recently constructed in North-West Leicestershire at Moira. Members expressed a view that the East Midlands Airport should not be renamed Nottingham Airport.

With regard to skills and business support, access to dedicated tourism advice was needed, preferably through a “One Stop Shop” related to the future delivery structure. Under the heading of Organisation, it was felt that an audit of current structures should have been undertaken. Many of the criticisms had been addressed in the Derbyshire and National Forest partnership arrangements. The future structure should relate to destinations rather than to destination management organisations, linked closely to the sub-regional partnerships, as suggested. This would create major difficulties for the National Forest which was located in three partnership areas. Local authorities must be consulted fully on changes and the new structure should be agreed mutually. It was felt that “The National Forest and Beyond” area should be considered as a special project to develop this destination further as an exemplar of green or eco-tourism. A further comment submitted was the need to recognise and support seasonal campsites.

**RESOLVED:-**

***That the report be endorsed and that the East Midlands Development Agency and the East Midlands Tourism Advisory Group be requested to engage fully with local authorities in developing a new structure for the delivery of tourism in the Region.***

EDS/15. **MEDIATION SERVICES**

It was reported that mediation services were now well established throughout the United Kingdom, supporting numerous organisations and local authorities. This was a process by which third party mediators sought to resolve disputes between people. It could involve anything from resolving conflicts between neighbours, family members or amongst school children, to mediating between victims of crime and their offenders. Through the Crime and Disorder Partnership’s Anti-Social Behaviour Action Team, a feasibility study had been undertaken into the possibility of establishing a mediation service within South Derbyshire. Two options had been considered, the first being to set up an in-house service where permanent staff were paid directly by the local authority and any partners. The mediators would be trained volunteers with the likely cost for such an arrangement being in the region of £40-60,000, dependant upon the number of full-time staff required. With this option, there was a further issue in that trained volunteers were difficult to recruit and there tended to be high staff turnover rates.

The second option was to enter into a “pay by use” arrangement with an existing mediation service. This arrangement would be easier to establish, would cost considerably less and could be operated for a trial period to determine its effectiveness. Discussions had taken place with Tamworth Mediation Service, which was willing to enter into an agreement and already operated a “satellite” family mediation service based at the CVS Offices within Swadlincote. The cost of a “pay by use” referral service would be in the region of £100 per consultation visit. On average, most cases would require 2 – 3 visits, although this could be increased if necessary. Potential funding sources included the Crime and Disorder Partnership fund, monies available through the Council’s Homelessness Strategy work and possibly through “Connexions”.

Examples were given of the service areas that might benefit from access to a mediation service and the merits of a “pay by use” agreement were highlighted. The success of such a service was difficult to predict, but with regular feedback, it could be monitored. The provision of a mediation service was also part of an inspection focus within the Comprehensive Performance Assessment. Members’ approval was sought in principle and in terms of funding, the initial anticipated budget was £5,000. The Crime and Disorder Partnership had already allocated £2,000 towards providing a service.

Members felt that the scheme should be operated for a trial period with up to £5,000 allocated. It was questioned whether some staff training was needed to enable them to deal with minor disputes, but Officers advised that the service needed to be neutral.

**RESOLVED:-**

- (1) That the Committee approves negotiations with Tamworth Mediation Services to establish a mediation service for South Derbyshire on a “Pay by Use” service level agreement.***
- (2) That a further report be submitted to the appropriate Committee should the success of the scheme necessitate an application for further funding.***

**EDS/16. PROPOSED DIVERSION PUBLIC FOOTPATH NO. 31 (PART) SWADLINCOTE**

It was reported that an application had been received to divert a section of the above Public Right of Way. The diversion was necessary to enable development, following a successful planning application. A previous application to divert this path, via a different route, was rejected by the Committee in January 2003. This followed strong opposition from a local Member and six residents who would have been affected by the proposal.

The Committee was advised of the current definitive line, the proposal now submitted and the assessment of the Public Rights of Way Officer. An informal consultation period had been completed and no objections had been received.

**RESOLVED:-**

***That an Order be made under the provisions of Section 257 of the Town and Country Planning Act 1990, to divert part of the definitive line of Public Footpath No. 31, Swadlincote.***

**EDS/17. UPDATING OF BUILDING CONTROL PERFORMANCE STANDARDS**

It was reported that the Office of the Deputy Prime Minister (ODPM) had recently updated the National Building Control Performance Standards for building control bodies. These specified levels of performance for building control bodies to meet and to offer guidance on the means to achieve them.

The standards stemmed from the Building Act 1984 and Regulations made under it. There were different procedural frameworks applicable to Local Authority Building Control (LABC) and Approved Inspectors (AI's). The

standards and supporting guidance established the minimum level of performance considered necessary to enable the Council to adequately discharge its duties and responsibilities under the Act. The ODPM took the view that competition between LABC and private AI's provided the stimulus to greater efficiency and higher standards of service to the customer. It had been recognised that the same market forces had the potential to drive down building control standards. To avoid this possibility, the standards had been formulated and recently updated. The revised standards were appended to the report for the Committee's consideration.

The main change required a complaints procedure and it was considered that the Council's Complaints Procedure fulfilled this requirement. In addition, a formal policy for the provision of the Building Control service had to be published. A Policy document was to be prepared and would be submitted to a future meeting of the Committee for consideration.

Due to recent recruitment problems, a number of the previously adopted performance standards had been aspired to, rather than fulfilled. Once the newly recruited Officers were in post, it was anticipated that, in normal circumstances, the performance standards could be met.

**RESOLVED:-**

***That Committee adopts the revised national building control performance standards, as submitted.***

**EDS/18. LOCAL PLAN INQUIRY – PROPOSED CHANGE OF POLICY – BURNASTON CROSS**

The Committee was asked to consider a revised position adopted at the Local Plan Inquiry in regard to an objection promoting employment use of Burnaston Cross. The Mill Group objected to the omission from the Plan of an allocation for employment use for an area of land to the south-east of the A38/A50 junction. At the Inquiry, the objectors proposed an amended policy to that which they had been seeking to introduce into the Plan. After discussion of the matter between the Advocates for both sides, assisted by their advisors, a policy was agreed between the parties. This was put to the Inspector as acceptable to the Council and a copy of the proposed altered policy was set out within the Committee report.

The basis for this policy insertion was general compliance with Economy Policy 6 (E6) of the Structure Plan. This provided for large developments on exclusive sites in addition to the general provision for employment uses and where they could not be accommodated on that provision. Supporting their case, the objector provided a large volume of evidence and an outline was given of the issues demonstrated.

Immediately prior to the Inquiry the Mill Group secured a letter of strong support from the East Midlands Development Agency for its proposal, on the basis of known interest from inward investors. The investors required reassurance as to the likelihood of obtaining permission to carry out the development. The objector also challenged a report from G.V.A. Grimley, commissioned by the Highways Agency on the basis of conflict of interest. Whilst disputing that any conflict arose, G.V.A. asked the Council not to rely on this report. The report found fault with many of the conclusions of the

objector on a range of issues. The objector drew attention to a statement in the Structure Plan that it was a matter for local authorities to determine whether or not to make specific allocations for E6 type uses in their Local Plan. Finally, they drew attention to letters from the Chief Executive advising that the Council would consider proposals that genuinely met with the requirements of E6. On the day they brought forward further evidence in rebuttal of the Council's position. Of particular note was expert evidence of the feasibility and viability of the rail connection.

E6 of the Structure Plan contained certain criteria which must be met in addition to the requirement that the development could not be accommodated within the general provision. These criteria were set out in the report together with the Council's case to the Inspector.

The reason for compromise on the day was due to the promise of genuine inward investment, substantially complying with E6 and the ability within the Structure Plan guidance to make specific provision available. In the face of the apparent strengthening of the objectors' case, Officers considered that a pragmatic approach was needed, leaving the issues of actual compliance with the policy for the planning application stage. A strategic rail connected distribution facility, providing intermodal operation, potentially servicing Toyota by rail, would be a significant economic development for the District. On the other hand, because of rules for SRA grant eligibility, requiring that the rail connection be constructed at the outset would preclude any chance of obtaining a grant. The Council could also not insist upon continued operation of the connection.

The change had been put to the Inspector on the basis that the Council was content to see the Plan modified. However, such a significant change did not fall to Officers to determine. Should Members not agree with the revised policy, the objectors' conditional withdrawal of the objection would be revoked and a rearranged appearance would follow. Delay in achieving adoption of the Local Plan could follow. If approved, the draft modifications to the Plan had to be published and these might be the subject of objection from third parties and a further Inquiry might need to be arranged.

The Mill Group had submitted further information in support of its position and this was circulated.

Note: At 6.55 p.m. the Meeting was adjourned to enable Members to consider the submission made. At 7.00 p.m. the Meeting was re-convened.

Officers provided supplementary information and confirmed that the Inspector's recommendation would need to be considered by the Council. The Council would be required to publish any modifications to the Plan, which could attract further objections. If these objections were sustained, the Council would need to hold a further Public Inquiry and adoption of the Local Plan could be delayed until the end of 2004 or early 2005. It might be possible to deal with the planning application immediately if it qualified under Structure Plan Policy E6. The Chair confirmed that the Council would welcome any inward investment opportunities and would not prevent any major investment which accorded with the E6 exceptions policy of the Structure Plan. Nevertheless, Members were concerned about restricting use of this site to warehousing and distribution and considered that with the

Structure Plan Policy in place, there was no need to alter the Local Plan in this regard.

**RESOLVED:-**

***That the Council be recommended to reject the proposed amendment and that this Council's position on the Local Plan remain unchanged.***

T. SOUTHERD

CHAIR

The Meeting terminated at 7.30 p.m.