

ENVIRONMENTAL AND DEVELOPMENT SERVICES COMMITTEE

29th January 2004

PRESENT:-

Labour Group

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

Conservative Group

Councillors Atkin, Bladen and Ford.

In Attendance

Councillor Lane (Labour Group).

APOLOGIES

Apologies for absence from the Meeting were received from Councillor Carroll (Labour Group) and Councillors Mrs. Hall and Martin (Conservative Group).

EDS/55. **MINUTES**

The Open Minutes of the Meeting held on 13th November 2003 were taken as read, approved as a true record and signed by the Chair.

EDS/56. **MEMBERS' QUESTIONS AND REPORTS**

The Chair welcomed the recent announcement that JCB were going to develop on the Dove Valley Business Park. He spoke of the benefits for the local economy, the job opportunities and he congratulated the Officers involved. The Chair had been made aware of two additional items and he was of the opinion that both should be considered as matters of urgency.

MATTERS DELEGATED TO COMMITTEE

EDS/57. **PROPOSED DIVERSION OF PUBLIC FOOTPATHS NOS. 4 AND 5 (PART) AND EXTINGUISHMENT OF PUBLIC FOOTPATH NO. 3 (PART), PARISH OF SMISBY**

It was reported that an application had been received to divert part of Public Footpaths Nos. 4 and 5, Smisby and to extinguish part of Footpath No. 3, Smisby. The diversion and extinguishment were viewed as necessary to enable the proposed expansion of activities at this farm as a nature conservation area and visitor attraction and to afford increased security at the farm buildings.

The Committee was advised of the current definitive line of each footpath, the proposal and the assessment of the Rights of Way Officer. Two separate informal consultation periods had been undertaken, as the original proposal had attracted strong objections. A meeting was held between the applicant and the complainants and revised routes and proposals were provisionally agreed. A further informal consultation took place, after which Smisby

Parish Council raised concerns about the potential for flooding of part of the proposed diversion. The landowner was prepared to undertake any necessary works and this had been accepted by the Parish Council. All objections to the proposals had been resolved.

RESOLVED:-

That an Order be made under the provisions of Section 119 of the Highways Act 1980, to divert part of the definitive line of Public Footpath Nos. 4 and 5, Smisby and that a further Order be made under the provisions of Section 118 of the Highways Act 1980 to extinguish part of the definitive line of Public Footpath No. 3, in the Parish of Smisby.

EDS/58. **REVISION OF CONTAMINATED LAND INSPECTION STRATEGY**

The Committee was reminded of provisions under the Environmental Protection Act, which placed a statutory duty on local authorities to inspect their area for contaminated land. Councils were required to formulate an inspection strategy and this Council's strategy had been approved in June 2001. The Council's main duties within this regime were explained. The strategy outlined how work was to be undertaken and periodic reviews were required. The inspection process required a significant amount of data collection and analysis. Following the appointment of a Pollution Control Officer for contaminated land, the Division had been able to review the strategy and to progress inspection work. Appended to the report were details of the amendments made to the strategy. Most were made as a result of revised guidance issued by the Government and information collated by the Division. Of particular significance were publications on contaminated land reports issued by DEFRA.

One of the main changes to the strategy was an amendment to the inspection timetable and this was detailed within the report. Specifically, it had proved necessary to revise the deadline for collation of information and this would now be completed by the end of 2004.

Specific site investigation work would then commence and hopefully be completed by 2005. It was noted that numerous sites were being dealt with through the planning process. Development of "brownfield" land would result in the remediation of sites with old industrial contamination. It was not anticipated that a lot of sites would be identified that were strictly within the definition of "contaminated land". However, those identified would require further work and possibly site intrusive investigation work.

The main progress in the implementation of the strategy was reported and further reports would be made to the Committee. The Division was having to respond increasingly to enquiries and searches in relation to sites, particularly as part of property transactions. The Council participated in a Derbyshire-wide contaminated land group and details were provided about this group.

The financial implications were reported and at this stage, it was difficult to predict the financial resources that would be required. It might be necessary to undertake site intrusive investigation work and the initial estimated cost was in the region of £20,000 per site, dependant upon its size, nature and

the extent of contamination. If the Council was found to have a responsibility to undertake remediation of a site, this could involve significant resources, possibly of over £100,000, dependant upon the extent and nature of the contamination found. The Council would be able to recover reasonable costs for remediation work where it was possible to find the person or company that had caused the contamination. However, in most cases, any contamination would have been caused by industries that had long ceased trading. Additional resources, such as information technology equipment might be required to assist the implementation of the process, together with staff training. This might require the submission of a Service Development proposal in due course.

Adam Spencer, the Contaminated Land Officer was introduced to Members. Councillor Bladen enquired whether the Officer would be involved in prioritising the development of brownfield sites identified within the Local Plan. It was clarified that the role of Environmental Health Division was to secure the remediation of such sites. Councillor Taylor asked how the Council would ensure that any incidental contamination identified during development was dealt with. A guide was provided to developers on how to deal with contaminated land and they were required to certificate that remediation had taken place. In response to a question from Councillor Atkin, information was provided about the number of potential contaminated sites within South Derbyshire and the current monitoring arrangements. Councillor Jones enquired about the enforcement powers available to the Council if developers did not remediate contaminated sites and details were provided.

RESOLVED:-

- (1) That the Committee notes the amendments made to the South Derbyshire District Council Contaminated Land Inspection Strategy.***
- (2) That the Committee notes the progress made in the implementation of the Inspection Strategy.***
- (3) That Members approve the revised timetable submitted for the inspection of the District, in line with the Strategy.***

EDS/59. **APPROVAL OF CONDITIONS FOR ADULT PERFORMANCES**

It was reported that applications had been received from the owners of premises within South Derbyshire to hold adult performances. In addition, one premise had been found to hold striptease on an infrequent basis. There were presently no specific conditions relating to this type of entertainment and technically, the Council could not refuse applications or apply conditions. The Committee received a report which proposed conditions to safeguard the public from this type of entertainment in places that were considered inappropriate. Specifically, the conditions sought to protect children, to protect performers and to inform the Derbyshire Constabulary in order that recommendations with regard to Crime and Disorder were adhered to.

The Local Government (Miscellaneous Provisions) Act 1982 allowed local authorities to make conditions on places where public entertainment took

place. Some local authorities had banned such types of entertainment, but it was considered that such action could result in a judicial review and that each application should be judged on its own merits. Anyone seeking to organise such adult performances would be required to apply separately to the Council and fulfil the suggested licensing conditions appended to the report. Where objections were submitted, the matter would be considered by the Appeals and Licensing Committee, together with any representations made by residents, the Police, the Fire Authority and/or the Environmental Health Division.

It was confirmed that the conditions proposed were used throughout Derbyshire and applicants could apply for an occasional or annual licence. Councillor Isham was initially disturbed by this proposal, but felt reassured by the stringent conditions proposed and she did not realise that previously no such conditions were in place. She hoped that the process would deter applications, but requested that all such applications be considered by the Licensing and Appeals Committee. The Leader of the Council sought clarification and it was confirmed that any such applications would be brought to the attention of all Members. A comparison was made to the current Planning Delegation Scheme and if any Member objected to an application, it would be considered by the Committee. The Leader considered that the conditions were stringent and he commended the report's author. Councillor Ford asked whether such performances constituted a change of use and required planning consent. Councillor Atkin questioned whether this item should have been considered during the Exempt part of the meeting and an explanation was provided in response.

RESOLVED:-

- (1) That the Committee approves the report submitted and the alteration of Entertainment Licence Standing Conditions, to provide for all applications for Adult Performances to be prohibited unless a separate application is made.***
- (2) That the revised conditions submitted for Adult Performances be adopted.***
- (3) That any applications received for such entertainment be brought to the attention of all Members, so that they might review the application and raise objection at the Licensing and Appeals Committee, should they so wish.***
- (4) That approval of non-contentious applications be delegated to Officers (where all conditions are met and no objections are received).***
- (5) That where objections are received, the matter be referred to the Licensing and Appeals Committee, for determination.***

EDS/60. **VEHICLE DISPOSAL SCHEME**

The Committee was asked to consider a proposal to introduce a pilot scheme for the collection and disposal of unwanted vehicles within South Derbyshire. The scheme sought to tackle the increasing anti-social problem of unwanted abandoned vehicles throughout the District. Historically, in the region of 500

vehicles were reported to the Police, the Council or the Fire Service throughout the year. Research had shown that 90% of these vehicles were simply unwanted rather than stolen and of the reported figure, approximately 10-15% were ultimately subjected to arson.

The average cost of dealing with burnt out abandoned vehicles was estimated to be in the region of £2,000. The scheme aimed to deal with these vehicles before they became burnt out, saving an estimated £80,000 per annum of public money. The cost of the scheme was estimated to be £80 per vehicle.

The sum of £6,500 had been allocated to this project by the District Council and the Crime and Disorder Partnership. Subject to the scheme's effectiveness, further funding applications would be submitted.

With the approval of the Chair, Councillor Lane spoke to this item. He referred to new legislation which placed increasing duties on vehicle owners and questioned how this would impact on the scheme. The Officer was aware of the revised legislation, but felt it might be possible for some vehicle owners to evade its requirements. It was considered that this scheme would contribute to reducing the number of abandoned vehicles within South Derbyshire. Councillor Lane then asked whether the Council would seek to reclaim costs where a vehicle owner could be identified. The Deputy Chief Executive commented that this joint project sought to take a holistic approach, providing an effective solution in reducing the costs for the various public services involved. He reminded that this was a pilot scheme and felt that if such schemes were successful, the Government might ultimately consider an initiative such as charging vehicle manufacturers to make a contribution towards the final disposal costs. Councillor Ford asked about the timescale for the introduction of the scheme and if approved, it was hoped that the scheme would start within two months. Several Members praised this initiative and discussed the need for appropriate publicity, through the local media and using the Council's Area Meetings. Councillor Shepherd questioned whether joint working with Derby City Council was possible to alleviate the problems caused in parts of his ward. He suggested that Officers approach Derby City Council to show this initiative as an example of good practice.

RESOLVED:-

That the Committee approves the Vehicle Disposal Scheme, as submitted.

EDS/61. **SWADLINCOTE TOWN CENTRE STUDY AND MASTERPLAN**

The Committee was asked to consider the method of procurement for professional services for the production of the Swadlincote Town Centre Study and Masterplan. It was asked to consider the allocation of funds for works carried out "at risk" and the appointment of an in-house project manager.

As part of the Section 106 Agreement attached to the planning consent for the Morrison's Supermarket, the Company had offered the services of its architects, Race Cottam Associates to undertake a Swadlincote Town Centre Study and Masterplan, to the value of £90,000. The Council's Financial Procedure Rules required that contracts in excess of £25,000 were the

subject of competitive tender. Costings had been provided by the architects linked to a comprehensive and detailed brief. These had been checked and were considered to represent good value for money. There were financial and design advantages to Race Cottam Associates and their qualified team undertaking the work and it was proposed that the offer from Morrison's be accepted.

The detail of the report confirmed the requirements of the Section 106 Agreement with Morrison's, including the agreed brief for this study, which was appended to the report. The scope of the study and Masterplan was reported together with details of the costings and the professional team, including Marilyn Hallard from the District Council, as its Project Manager. The estimated costs of professional services were also reported. The production of the study was triggered by the commencement of development under the terms of the Section 106 Agreement. Before this could start, a road closure was required and Hepworths had to vacate the site. The earliest date by which this could happen was July 2004 and the very competitive price obtained for the land survey would be increased significantly if delays occurred. It had been advised that the survey had been commissioned "at risk" and the Council had been asked whether it would be willing to underwrite the sum of £4,800 in the unlikely event of the Section 106 Agreement not being triggered. The financial and community implications were reported.

The Leader of the Council welcomed this item and awaited the completion of the study. He asked about the development of a protocol for Section 106 Agreements and specifically sought the inclusion of local Members in the process. Reassurance was provided that the results of this study would be formulated in conjunction with Members.

RESOLVED:-

- (1) That the architects Race, Cottam and Associates and their team be commissioned by Wm. Morrison Supermarkets to undertake the Swadlincote Town Centre Study and Masterplan, to the value of £90,000.***
- (2) That the Council allocates £4,800 to cover the cost of the land survey in the event that the terms of the Section 106 Agreement are not triggered.***
- (3) That the Design and Conservation Officer acts as the Council's Project Manager to oversee the production of the Swadlincote Town Centre Study and Masterplan.***

EDS/62. **TREES AND DEVELOPMENT (SUPPLEMENTARY PLANNING GUIDANCE)**

It was reported that Supplementary Planning Guidance (SPG) was employed by local planning authorities to add detail to and aid the application of policies contained in the Local Plan. The Council was required to consult widely as to the format and content of such guidance prior to its adoption, in order that it would carry weight when applied in the determination of planning applications or as a material consideration set before an Inspector on appeal. SPG's were a material consideration when applications were considered.

The purpose of this SPG was to ensure that trees were afforded due consideration in the planning process, so that they could be effectively integrated into new development. The SPG provided information to key participants in the development of the standards that the Council expected from new development proposals. To continue to promote the benefits of trees throughout the District, it stated that planning permission would not normally be granted for a range of reported issues.

The SPG would provide developers with technical information to guide them towards providing housing layouts that avoided direct damage to existing trees and avoided future conflicts with householders. It also provided the necessary information for avoiding conflict with new tree planting. The SPG required developers to provide accurate site and tree survey information to inform the design process and to submit with a planning application, or relevant information pertaining to the assessment of trees and landscaping.

Consultation on the SPG would take place over a six week period and the results would be reported to a future meeting of the Committee.

Councillor Shepherd commented on future maintenance problems and suggested the use of ornamental trees in appropriate locations. Councillor Lane asked how the Council would enforce the SPG where damage was caused to existing trees through new development. The Officer explained the requirements placed on developers and where existing trees were protected by a Preservation Order and were subsequently damaged, legal proceedings could be taken, but there was a burden of proof. In response to a comment from Councillor Taylor, there was a discussion about the selection of species. The Officer felt that care was needed in determining the appropriate species for each site. The Council took advice from an expert arboriculturist and wherever possible, native local trees were planted.

RESOLVED:-

- (1) That the draft supplementary planning guidance note relating to trees and development be circulated for public consultation, to such parties as deemed appropriate.***
- (2) That the results of the consultation exercise be reported to a future Meeting of the Committee.***

EDS/63. **REPORT FROM THE COMPOST SCHEME REVIEW WORKING PANEL**

It was reported that the Compost Scheme Review Working Panel was established in August 2003. This followed public concerns regarding the alternate week waste collection system, especially during hot weather conditions. The main difficulty expressed by residents concerned the insufficient capacity of the black bin when it was only emptied fortnightly. This had resulted in some cases in foul smells and, in the worst extreme, the waste becoming infested with maggots. The Panel had considered these concerns together with the requirements placed on the Council to meet statutory recycling targets. Visits had been undertaken to neighbouring Lichfield and East Staffordshire Councils and the report of the Working Panel was submitted.

The Chair voiced his thanks to Panel Members and Officers for their support. He felt that providing a weekly collection of refuse was contrary to the Council's waste minimisation aims and there were ways of overcoming the reported problems. He considered that Lichfield District Council's approach to recycling was an exemplar, but at significant cost. Councillor Wilkins praised the quality of literature provided to the public and hoped that this would be reissued in the future. In particular, he commended the guidelines provided which should help residents overcome the reported problems.

Councillor Bladen endorsed the Chair's comments that the Council should not revert to a weekly collection of refuse. He felt that the District Council should provide additional recycling centres. He then commented about the recent literature provided to residents on the various recycling initiatives and felt this had caused some confusion for residents of Repton. In response, the Direct Services Manager explained the publicity arrangements and he advised that there were approximately seventy recycling centres throughout South Derbyshire. Many centres were located on privately owned land and it was often difficult to get consent to place glass and plastics recycling banks on these sites.

Councillor Shepherd had found the review interesting and informative. He spoke of the Government targets, the merits of the schemes visited at Lichfield and East Staffordshire and particularly praised the Lichfield weekly collection of dry recyclable materials. Councillor Isham felt there was a need to recognise the volume required for recyclable plastics as these could not be crushed unlike cans. Following a question from Councillor Atkin, there was a discussion about the misuse of recycling centres located adjacent to public houses. It was confirmed that separate arrangements were made for commercial recycling and the Council sought to direct people with commercial recyclables to appropriate outlets.

The Leader of the Council reported that fly-tipping had taken place at the Hatton recycling centre and in one case, this had involved poultry carcasses. Public spirited residents had identified the perpetrator from a neighbouring East Staffordshire village. The issue had been brought to the attention of Officers, but it appeared that no action had been taken. The Direct Services Manager spoke about the problems caused by fly-tipping, but to date no real enforcement had taken place. Securing sufficient evidence to gain a prosecution was the key issue. The Deputy Chief Executive related to the Comprehensive Performance Assessment. Parish Councils had praised the Clean Team for its responsive service but complained about the need for repeat visits because of the lack of enforcement. He spoke of a covert Crime and Disorder Project and there might be an issue for Members to agree a protocol. He endorsed the need for sufficient evidence to secure a prosecution. The Chair suggested that a report on this issue be submitted to a future meeting of the Committee.

The Leader of the Council commented on the capacity of wheeled bins as compared to the former domestic refuse bin. He reminded of the need to minimise the landfill of waste and to recycle more effectively. The Chair commented about changes in society which he felt had led to more waste being generated. Councillor Stone added that packaging was the waste product and this should be made of biodegradable materials.

RESOLVED:-

That the Committee accepts the report and conclusions of the Compost Scheme Review Working Panel.

EDS/64. REFUSE COLLECTION SERVICE – EXTENSION TO COMPOST SCHEME (2004/05)

The Committee was informed of proposed extension plans to the Compost Scheme for 2004/05. This would increase the number of households on the Compost Scheme to over 20,000 by March 2005. The additional percentage recycled was vital in Council's efforts to increase its current recycling rate to meet the Government's statutory standard of 21% in 2005/06. The areas remaining in the District that were not serviced by the compost scheme lay in the north-east of the District and in the urban core. Waste from the households in the north-east of the District had been earmarked to date for the Brightstar contract. Now that the contract was being allowed to expire, there was no reason not to expand the compost scheme to those households. However, given the recent rescheduling of the refuse collection rounds, due to the closure of the Bretby landfill site, it would be more suitable from an operational perspective to delay implementation of the compost scheme until there was more certainty about future disposal arrangements.

The implementation of the compost scheme was broadly cost neutral. However, costs were likely to increase significantly in 2005/06 when new regulations regarding the processing of waste to compost took effect. This increase could be as much as £140,000 per annum and the issue had been highlighted in the Technical Services Division Service Plan. The Leader of the Council sought further information about the additional budget provision required. Information had been received earlier in the day about a potential increase in the recycling credit, which might offset some of the costs involved.

Councillor Atkin noted the position on the Brightstar contract and enquired when the compost scheme would be expanded to the Aston-on-Trent area. It was hoped to introduce the composting scheme to the Findern and Aston Wards within the next few years.

RESOLVED:-

That the Committee approves the proposed extension plans to the Compost Scheme for 2004/05.

EDS/65. VOLUNTARY CODE OF BEST ENVIRONMENTAL PRACTICE FOR THE FAST FOOD INDUSTRY AND NEW BEST VALUE PERFORMANCE INDICATOR FOR STREET CLEANSING

It was reported that the Government had published a draft Voluntary Code of Practice for consultation. Its main aim was to reduce fast food litter and waste that became litter, in the local environment. The Code of Practice outlined recommendations for actions to be taken by all relevant businesses. It defined different fast food operator categories and placed differing requirements on the outlets to reduce litter. The report explained the range of requirements to be introduced. The Code of Practice would require considerable support from local authorities. The main question of principle

contained in the consultation document concerned the voluntary nature of the Code of Practice. Views were sought on whether the Code should be voluntary or mandatory or the Government should implement a reward for businesses participating in the Code of Practice.

The success of the Code of Practice needed to be measured. From April 2003, all local authorities were required to measure levels of litter and detritus against a new Best Value Performance Indicator (BVPI 199). Councils were now required to carry out 300 inspections every four months to measure levels of litter and detritus. The inspections were spread between ten different types of land use and the inspection regime took account of the multiple deprivation index for Council Wards. Details were provided of the grading structure and BVPI.199 specified the most robust, rigorous and demanding regime for measuring street cleanliness yet seen. The national benchmark was based on the results of the 2001/02 Local Environmental Quality Survey of England. The overall percentage of inspections that fell below a Grade B, in terms of grading assessments for litter and detritus combined for the ten BVPI land uses, was 28%. The Government was to reduce the target by 15% by 2005/06. For South Derbyshire, 500 inspections had been carried out to date and the results were below the acceptable grading at 40%. A Service Development Proposal had been submitted in the budget process to address the current shortfall and move towards the target for 2005/06. Regrettably, this Service Development had not been approved.

With the approval of the Chair, Councillor Lane spoke to this item. He agreed that initially, a voluntary approach should be taken and felt that a key issue would be engaging the public. He suggested the use of Area Meetings to publicise this initiative and to seek public participation to help with the inspection of sites. He spoke of the benefits seen in Swadlincote with a fast food retailer participating in a voluntary scheme. The Chair agreed that this item should be included on the agenda for Area Meetings. Councillor Wilkins agreed that a voluntary scheme should be pursued, but it should include a time limit for compliance. Councillor Ford spoke of the problems caused by litter being dropped some distance away from the fast food outlet. The Direct Services Manager explained that, dependent upon the size of the outlet, differing approaches could be taken. For example, the company might be required to work with the District Council to tidy known litter “hotspots”. Councillor Bladen noted from this and earlier items that the Council needed effective enforcement powers to deal with problems like litter.

RESOLVED:-

- (1) That the Committee notes the voluntary Code of Practice for the fast food industry and the new Best Value Performance Indicator for street cleansing (BVPI 119).***
- (2) That Members’ comments be taken on board in introducing a voluntary scheme for South Derbyshire including time limits for compliance by local fast food outlets.***

(Note: At 7.55 p.m. Councillor Wilkins left the Meeting).

EDS/66. CORPORATE ENVIRONMENT POLICY – CONSULTATION BY DERBYSHIRE COUNTY COUNCIL

Further to Minute No. EDS/56 above, the Committee received this urgent item, in order to meet the deadline for responses to Derbyshire County Council.

It was reported that Derbyshire County Council had invited comments on its Draft Revised Corporate Environment Policy Statement. A copy of the document had been circulated and this policy underlined the County Council's commitment to putting the principles of sustainable development into action, in everything it did. The policy did not include objectives, targets, responsibilities or timescales at the present time. These were being developed and would be included in a separate implementation document.

Members were reminded that the Council's recently approved Corporate Plan included targets and milestones relating to environmental policy and performance. In view of the importance of this issue, it was suggested that the document be circulated to all Members for a draft response to be prepared in consultation with the Chair of the Committee and that this be submitted for agreement to the Council Meeting on 26th February 2004.

RESOLVED:-

That the document be circulated to all Members, to enable a draft response to be prepared, in consultation with the Chair of the Committee for approval by the Council at its Meeting on 26th February 2004.

EDS/67. LOCAL GOVERNMENT ACT 1972 (AS AMENDED BY THE LOCAL GOVERNMENT [ACCESS TO INFORMATION] ACT 1985)**RESOLVED:-**

That, in accordance with Section 100(A)(4) of the Local Government Act 1972 (as amended), the press and public be excluded from the remainder of the Meeting as it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that there would be disclosed exempt information as defined in the paragraphs of Part 1 of the Schedule 12A of the Act indicated in brackets after each item.

BRIGHTSTAR: WASTE RECOVERY CONTRACT (Paragraph 7)

The Committee noted the latest position regarding the Brightstar Contract.

REPUBLISHING AND FUNDING OF WALKS LEAFLETS (Paragraph 8)

The Committee approved proposals to produce higher quality walks literature.

HATTON FLOOD ALLEVIATION SCHEME (Paragraph 8)

The Committee was informed of a successful application to fund a project for flood alleviation works in Hatton.

T. SOUTHERD

CHAIR