

MINUTES of the MEETING of the  
SOUTH DERBYSHIRE DISTRICT COUNCIL  
held at Civic Offices, Civic Way,  
Swadlincote on 11th August 2005  
at 6.00 p.m.

**PRESENT:-**

**Labour Group**

Councillor Jones (Chair), Councillor Lauro (Vice-Chair) and Councillors Bambrick, Bell, Carroll, Dunn, Harrington, Lane, Mrs. Mead, Mulgrew, Murphy, Pabla, Richards, Southern and Wilkins.

**Conservative Group**

Councillors Bale, Bladen, Ford, Mrs. Hall, Harrison, Mrs. Hood, Hood, Lemmon, Nalty and Mrs. Wheeler.

**APOLOGIES**

Apologies for absence from the Meeting were received from Councillors Isham, Shepherd, Southerd, Stone, Taylor and Whyman, M.B.E. (Labour Group), Councillors Atkin, Mrs. Littlejohn, Mrs. Renwick and Shaw (Conservative Group) and Councillor Mrs. Walton (Independent Member).

CL/50. **MINUTES**

The Open Minutes of the Meeting of the Council held on 30th June 2005 (Minutes Nos. CL/32 - CL/47) were taken as read, approved as a true record and signed by the Chair.

CL/51. **DECLARATION OF INTEREST**

Councillor Bambrick declared a personal interest in Minute No. HCS/29 of the Housing and Community Services Committee held on 14th July 2005 relating to the sports pavilion at Newhall Park, as a Member of the Friends of Newhall Park.

CL/52. **CHAIR'S ANNOUNCEMENTS**

The Chair advised Members of a visit by school children to the offices on 20th July 2005. The Chair also advised Members of several events he had recently visited, including Chatsworth Hall and a VJ Day commemoration event in Melbourne. The Chair advised that a Last Night at the Proms Concert would be held at Gresley Old Hall on 21st October 2005.

CL/53. **QUESTIONS BY MEMBERS OF THE COUNCIL PURSUANT TO COUNCIL PROCEDURE RULE NO. 11**

- (a) It was reported that in accordance with Council Procedure Rule No. 11, Councillor Bale had given notice of the following question:-

"Why didn't this Council show more interest in the World Pony Driving Championships at Catton Park on 17th July 2005?"

The Deputy Leader of the Council responded, advising that it was not possible for the Council to support all events within the district. She also advised that an official invitation to the event had not been extended to the Council and the Chair was unable to attend events unless invited formally.

(b) It was reported that pursuant to Council Procedure Rule No. 11, Councillor Bale had given notice of the following question:-

"Has there been any further development by this Council relating to the invitation from HRH The Prince of Wales to his sponsored Environmental Village of Poundbury in Dorset?"

The Head of Planning Services responded, advising that following the appointment of Design and Heritage Champions, the invitation was now considered appropriate for these Members together with the Chair of the Environmental and Development Services Committee.

#### CL/54. **REPORTS OF COMMITTEES**

##### **RESOLVED:-**

***That the Open reports of the following Committees be received and noted and any recommendations contained therein be approved and adopted, subject to any matters annotated.***

***Environmental and Development Services Committee, 7th July 2005 (Minutes Nos. EDS/11 - EDS/16).***

***(Minute No. EDS/13, Ragwort and Japanese Knotweed - Councillor Harrison referred to proposed action to remove problems associated with this matter and the Vice-Chair of the Committee advised that each case would be dealt with as reported.***

***Minute No. EDS/14, Critical Ordinary Watercourses - Councillor Harrison requested further information on responsibility for flood defence in Shardlow and the Vice-Chair of the Committee agreed to provide Councillor Harrison with a written response).***

***Licensing and Appeals Committee, 11th July 2005 (Minutes Nos. L/1 - L/5).***

***Development Control Committee, 12th July 2005 (Minutes Nos. DC/24 - DC/32).***

***Licensing and Appeals Sub-Committee, 14th July 2005 (Minutes Nos. LA/4 - LA/5).***

***Housing and Community Services Committee - 14th July 2005 (Minutes Nos. HCS/25 - HCS/31).***

***Finance and Management Committee, 21st July 2005 (Minutes Nos. FM/20 - FM/27).***

*Community Scrutiny Committee, 25th July 2005 (Minutes Nos. CYS/5 - CYS/10).*

*Licensing and Appeals Sub-Committee, 27th July 2005 (Minutes Nos. LA/6 - LA/10).*

*Standards Committee, 28th July 2005 (Minutes Nos. SC/6 - SC/13).*

*Finance and Management Committee (Special), 28th July 2005 (Minute No. FM/34).*

*(Minute No. FM/34, Statement of Accounts 2004/05 - Councillor Harrison expressed his disappointment that the section of the overview relating to future issues had remained unchanged and felt that this matter should be reconsidered.)*

*Corporate Scrutiny Committee, 1st August 2005 (Minutes Nos. COS/6 - COS/10).*

*(Minute No. COS/7(b), Special Project to assess the Council's Best Value Review Process - With regard to the final sentence of the first paragraph of this Minute, the Chair emphasised that he had expressed his disappointment that the officers concerned did not attend nor had tendered their apologies.)*

*Development Control Committee, 2nd August 2005 (Minutes Nos. DC/34 - DC/40).*

*Overview Committee, 8th August 2005 (Minutes Nos. OV/4 - OV/8).*

*(Minute No. OV/7, EMRLGA Members' Development Charter - The Council approved the recommendations of the Committee relating to the adoption of the East Midlands Regional LGA Members' Development Charter.)*

CL/55. **SEALING OF DOCUMENTS**

**RESOLVED:-**

*That the Sealed Documents listed at Annexe SMB1 to the Signed Minute Book, which have no specific authority, be duly authorised.*

CL/56. **COMPOSITION OF COMMITTEES, SUB-COMMITTEES AND WORKING PANELS**

There were no amendments to the compositions of Committees, Sub-Committees and Working Panels.

CL/57. **SUBSTITUTE PANELS**

Councillor Mrs. Wheeler advised of several amendments to Substitute Panels to fill vacancies in respect of the Conservative Group.

**RESOLVED:-**

***That the Groups' nominations of Members to serve on Substitute Panels for the remainder of the municipal year, as set out at Annexe 'A' to these Minutes, be received and noted.***

CL/58. **REPRESENTATION ON OUTSIDE BODIES**

The Council reviewed representation on outside bodies and considered the appointment of a Member to the Groundwork Derby and Derbyshire Board.

**RESOLVED:-**

- (1) That Councillor Taylor be appointed to the Groundwork Derby and Derbyshire Board.***
- (2) That Councillor Murphy be removed from the Council's representation on Homestart and Councillor Stone remain as this Council's sole representative.***

CL/59. **SCRUTINY FUNCTION**

Councillors Murphy and Harrington made a presentation to Members on the Council's scrutiny function. The presentation dealt with the purpose of scrutiny, the role of Overview and Scrutiny Committees in fourth option Councils, the value of scrutiny, a Contributors Charter, reasons for a review, the process involved in scrutiny, terms of reference and subsequent recommendations. The work programme for 2005/06 was also covered, together with direction and areas for review.

A matrix containing Drivers for Scrutiny was circulated and Members were requested to indicate their priorities on the various areas included. It was intended to produce a scrutiny information pack in due course and hopefully, this would also be included on the Council's website.

CL/60. **PLANNING POLICY POSITION STATEMENT**

Further to Minute No. CL/46 of the Council Meeting held on 30th June 2005, Members considered a Planning Policy Position Statement which would form the basis for the determination of planning applications prior to the completion of new Development Plan documents that would make up the Local Development Framework.

The Head of Legal and Democratic Services advised Members of correspondence received from Wragge & Co, Solicitors, on behalf of RWE Npower Plc and Hallam Land Management Ltd. The Head of Planning Services reiterated that all applications would be dealt with consistently on their merits and that informal meetings would continue to be held with various developers on planning proposals, without prejudice. In response to a query, the Deputy Chief Executive confirmed that the possibility of producing a "plain English" version of the Statement would be explored.

**RESOLVED:-**

- (1) That the Planning Policy Position Statement attached at Annexe 'B' to these Minutes be approved as the policy context for determining planning applications prior to the adoption of new documents required under the Planning and Compulsory Purchase Act 2004.***
- (2) That resolution (1) above now supersedes the Council's previous position set out in the fourth bullet point of Minute No. EDS/80(1) of the Environmental and Development Services Committee held on 14th April 2005, subsequently approved by the Full Council on 19th May 2005, in so far as it relates to the materiality or otherwise of the Local Planning Inspector's report in the Development Control decision making process.***

CL/61. **CONSTITUTION**

It was reported that a full copy of the Constitution had been circulated to Members which had recently been reviewed and updated to take account of the review of the establishment, the inclusion of various Protocols approved by the Council and amendments to terms of reference recommended by policy committees and approved by the Council. The updated Constitution would be placed on the Council's website and would also be available for Members to access electronically via the Council's intranet. Updated sections would be circulated to Members periodically to insert in their folders.

Councillor Harrison queried function 23 of Full Council contained in Article 4.02 relating to Personal Bills and the Monitoring Officer agreed to provide Councillor Harrison with a response in due course.

**RESOLVED:-**

***That the updated Constitution, as circulated, be approved and adopted.***

CL/62. **LICENSING PROTOCOL AND PROCEDURE**

The proposed Licensing Protocol and Procedure had been circulated for Members' consideration. This had been written having regard to the Council's commitment to the principles of good enforcement, particularly openness and consistency that were included within the National Enforcement Concordat.

The Licensing and Appeals Committee exercised licensing and registration requirements under the Licensing Act 2003. Applications were referred for Members' consideration where objections had been lodged by relevant parties that were not deemed to be frivolous or vexatious and where officers had reservations about the appropriateness of an application or the suitability of an applicant. These applications and appeals would be dealt with by a Sub-Committee of the Licensing and Appeals Committee. Those applications which were not subject to an objection were determined under powers delegated to the Director of Community Services.

The purpose of the Protocol was to set out how Members should act, together with the procedures which should be followed to ensure that Members not only acted in a fair and proper manner but were also seen to do so. The Protocol had been prepared with a particular emphasis on Members who served on the Licensing and Appeals Committee/Sub-Committee but its content was also relevant to all other Councillors and also to officers in all other services.

This Council, along with all other local authorities, had adopted a Code of Conduct which specified the obligations imposed on Members and defined personal and prejudicial interests and how these would affect the way a Member behaved. This Code of Conduct, which every Member had signed up to, was the statutory base to which this Protocol was added. In some areas, this Protocol would extend, or go further than the Code of Conduct.

At its Meeting held on 11th July 2005, the Licensing and Appeals Committee had accepted the Protocol and Procedure and referred the matter to the Standards Committee for any recommendations to the Full Council. At its Meeting held on 28th July 2005, the Standards Committee had recommended that the Protocol and Procedure be approved and adopted.

**RESOLVED:-**

***That the Licensing Protocol and Procedure be approved and adopted.***

CL/63. **INCREASE IN MEMBERSHIP OF THE STANDARDS COMMITTEE**

Members were reminded that at the Special Meeting held on 16th June 2005, the Council had appointed three Independent Members to the Standards Committee for a period of four years. On 19th January 2005, the Committee on Standards in Public Life had published its tenth report entitled "Getting the Balance Right: Implementing Standards of Conduct in Public Life". The summary report made a series of recommendations to the Government to improve the effectiveness of arrangements introduced to ensure high standards of conduct in Local Government. One of the recommendations directly affecting this authority stated that the Government should introduce, as a matter of urgency, secondary legislation to require a majority of Independent Members and an Independent Chair for Standards Committees and Sub-Committees in England. In 2004, this Council had amended its Constitution to reflect the need for the Chair of the Standards Committee to be an Independent Member of that Committee. It was now suggested that this Authority should adopt further changes to the Constitution to increase the membership of the Standards Committee from eight to ten Members, as follows:

- (a) Three District Council Members
- (b) Five Independent Members
- (c) Two Parish Members

An increase to five Independent Members would ensure that these Members had a majority on the Committee, thereby enhancing and reinforcing the important role of the Independent Members of the Committee. This would reiterate that the Council was proactive in raising the standards of ethical conduct amongst Members and had in place arrangements that were designed not only to promote and ensure probity and propriety in the

conduct of its business, but also be seen by the public to be doing so. It was also anticipated that such a move would be relevant when assessing the Council's performance in the key lines of enquiry for the new “use of resources” block, which would be one of the main elements of the revised Comprehensive Performance Assessment regime.

If it was agreed to increase the number of Independent Members, it would be necessary to advertise in at least one or more newspapers circulating in the area of the Authority. It was suggested that the advertisement, the overview of the role together with the person specification approved by the Council on 7th April 2005 should be utilised again in the additional appointments for four years. It was also suggested that the same recruitment procedure as undertaken recently should apply.

**RESOLVED:-**

- (1) That a further two Independent Members be appointed to the Council's Standards Committee to increase the membership of the Committee to ten Members, in the composition outlined above.***
- (2) That the Chief Executive be authorised to shortlist and interview applicants for the additional two positions of Independent Members using the advertisement, overview of role and person specification approved by the Council on 7th April 2005.***
- (3) That a further report be submitted to the Council following the recruitment process recommending the appointment of a further two Independent Members to the Standards Committee.***

CL/64. **LOCAL CODE OF CORPORATE GOVERNANCE**

Members received a report on the advice and guidance produced by the Chartered Institute of Public Finance and Accounting (CIPFA) and the Society of Local Authority Chief Executives and Senior Managers (SOLACE) with regard to the adoption of a Local Code of Corporate Governance.

Corporate Governance as a concept began in a company context and was restricted to issues relating to financial reporting and accountability. During the early to mid 1990s, the principle spread to the public sector to address concerns relating to the lack of accountability of public bodies and media interests in sleaze in public life. CIPFA and SOLACE expanded the original financial principle into more far reaching principles applicable to Local Authorities and incorporated them into a single framework of Corporate Governance, especially for use by Local Authorities. CIPFA and SOLACE had recommended that a Corporate Governance framework be adopted by every Local Authority, with the aim of integrating the principles in its day-to-day activities.

Corporate Governance was defined in the CIPFA/SOLACE publication ‘Corporate Governance in Local Government – A Keystone for Community Governance’ as “the system by which Local Authorities direct and control their functions and relate to their communities”. Three principles underpinned Corporate Governance, being openness and inclusivity, integrity, and accountability. To comply with the principles of Corporate Governance, it was important that these were reflected in every dimension of

the Council's business. For the purposes of Corporate Governance, five dimensions had been identified, being community focus, service delivery, structures and processes, risk management and internal control and standards of conduct. The CIPFA/SOLACE guidance had recommended that a Local Authority's performance against these five dimensions should be reported both internally and externally as part of its published accounts and its Best Value Performance Plan. The report needed to take the form of an assurance, approved by the Council and signed by the Leader and Chief Executive, that the Council's Corporate Governance arrangements were adequate and were operating effectively. If there were any gaps or improvements that had been identified, then the steps being taken to address these should be explained.

A draft Local Code had been circulated to Members, which was basically a summary of the Council's commitment to high standards of Corporate Governance. In 2005, Heads of Service and Unit Managers were invited to take part in an audit, based on the CIPFA/SOLACE guidance. A report of the self assessment undertaken had also been circulated and this provided the evidence of how the Council had fulfilled or intended to fulfil the Council's commitment to high standards of Corporate Governance. It also established the Council's baseline position relating to compliance with the three principles and five dimensions of Corporate Governance referred to above. Many of the action points contained within the Code were Corporate Plan Milestones and would be monitored through the Corporate Plan processes and the rest of the action points via Service Plans.

The report had been considered by the Standards Committee on 28th July 2005 and it was suggested that this Committee should receive half-yearly reports on progress relating to compliance with the action points and should report the findings to Full Council. This would help to ensure that the Committee had a pivotal role in promoting and maintaining high standards of conduct throughout the Authority. As Corporate Governance was an all-encompassing concept, it appeared appropriate for the Leader of the Council and the Chief Executive to have overall responsibility for implementing the Code and monitoring the Council's performance against the commitments contained within it. However, it must be recognised that the Code should be owned by all Members and Officers.

Members considered the recommendations of the Standards Committee.

**RESOLVED:-**

- (1) That the Local Code of Corporate Governance attached to the report be adopted.***
- (2) That the Standards Committee review and report half-yearly to the Council on progress in achieving the action points set out in the Code.***
- (3) That the Member responsible for implementing the Code and monitoring the Council's performance against the commitments set out be the Leader of the Council.***



***(4) That the Officer responsible for implementing the Code and monitoring the Council's performance against the commitments set out be the Chief Executive.***

**CL/65. LOCAL GOVERNMENT OMBUDSMAN - ANNUAL LETTER 2004/05**

It was reported that on 27th June 2005, the Council received the Annual Letter for the period 2004/05 from the Local Government Ombudsman. This contained the Ombudsman's reflections on the complaints received against the Council and dealt with by the Ombudsman's Office during the last year. In addition, the Council had received a table of statistical data covering a three-year period from 2002 to 31st March 2005 together with a note to help with the interpretation of the statistics. A copy of these attachments had been circulated to Members.

The number of complaints during the year 2004/05 had risen from eight to thirteen. The Ombudsman had commented that this was a variation well within what could normally be expected. It was also noted that five complaints had been excluded by the Ombudsman, of which one was outside the jurisdiction of the Ombudsman and the remaining four on the basis that the complaints were premature. As a general rule, the Ombudsman did not consider a complaint unless an authority had firstly had an opportunity to deal with the complaint itself. No reports had been issued against the Council in 2004/05. Two complaints had been settled without the need for a report, as the Council had taken action which was accepted by the Ombudsman as a satisfactory outcome for the complainant.

The time taken for this Authority to respond to first enquiries from the Ombudsman's Office had fallen from 25 days to 18 days. This was a testament to the good working relationships between the Council's Liaison Officer in the Legal and Democratic Services Division and departments throughout the Council, which had worked hard to ensure that information was relayed to the Ombudsman's Office as soon as reasonably practicable. This turnaround time placed the Council in the top 22% of all District Councils. However, whilst the Ombudsman hoped that response times could be maintained, she recognised that it could be difficult for Councils to meet the current target of 21 days and provide good quality and comprehensive responses to the Ombudsman's enquiries. Accordingly, from 1st April 2005, this target had been revised to 28 days.

The Ombudsman had been informed that the Council had been reviewing its Complaints Procedure and an update would be provided at the Meeting of the Finance and Management Committee to be held on 1st September 2005. However, the Ombudsman had identified that the Council's website was not particularly helpful in informing citizens about the Council's own Complaints Procedures or the Ombudsman's Office. Accordingly, the Ombudsman had requested the Council to consider improvements in these areas and in particular, to provide a direct link to the Ombudsman's own website. Members were reminded that the Council had recently re-launched the website and these issues had already been addressed as part of the reviewing process. The Ombudsman had now received confirmation of the steps which the Authority had taken on this issue and a copy of the Annual Letter together with the attachments had also been posted on the Council's website for the benefit of internal and external customers.

**RESOLVED:-**

***That the Local Government Ombudsman's Annual Letter for 2004/05 be accepted.***

CL/66. **REVIEW OF FULL COUNCIL MEETINGS**

It was reported that a Corporate Plan 2005 Milestone provided for a review of the way in which Full Council operated. During late 2004 and early 2005, Member Working Panels had been created by each of the three Policy Committees and these reviewed how the Committees made policies and took decisions. They also submitted proposals to streamline decision-making and enable the Committees to perform a more strategic, policy orientated role.

The parent Committees recognised that the establishment of a proposed Work Programme was a means of providing the Committee with "time and space" to focus on planning for the future, developing policy and managing performance management. Other suggested amendments to the Constitution were recommended to Full Council which agreed their implementation to aid the effectiveness of the Policy Committees.

In order to review the operation of Full Council, it was suggested that a Working Panel be established, with recommendations being submitted to a Special Meeting of Full Council on 15th December 2005. It was suggested that the Panel should comprise of the Leader and Deputy Leader of both Groups together with the Chair and Vice-Chair of the Council. The Panel would be supported by Members of the Corporate Management Team together with officers from the Legal and Democratic Services and Policy Divisions.

It was envisaged that it would be necessary to hold at least three meetings of the Working Panel to consider the following issues:-

- The analysis of the work undertaken by Full Council since the introduction of alternative arrangements in May 2002.
- The development of a Work Programme for Full Council.
- Decision-making, including the present scheme for delegating decisions to Policy Committees.
- The Council's procedure rules, setting out how meetings were conducted as well as the way in which meetings were minuted, with a view to making the best use of questions and motions and ensuring that the agenda was structured in such a manner to facilitate public involvement.
- The working environment of the Council Chamber.

**RESOLVED:-**

***That the Leader and Deputy Leader of both Groups (Conservative Group substitute - Councillor Mrs. Littlejohn) together with the Chair and Vice-Chair of the Council be appointed to a Working Panel to review the operation of Full Council and report to a Special Meeting of Full Council on 15th December 2005.***

CL/67. **REVIEW OF AREA MEETINGS****RESOLVED:-**

***That consideration of any revised structure for Area Meetings be deferred to enable further discussions to be held.***

CL/68. **PROPOSED BT PAYPHONE CHANGES - CONSULTATION**

It was reported that British Telecom (BT) had an obligation to provide access to public payphones to meet the needs of customers. However, the use of alternative methods of communication had grown, with the result that the use of public payphones had continued to decline. BT wished to continue to work with the Council to realign public payphone provision more closely to existing demand and was now consulting the Council on a list of proposed modifications within the district.

The increase in mobile phone ownership, coupled with the fact that nearly 99% of UK homes had a phone at home, had resulted in the number of calls from payphones halving in the last four years. BT had indicated that two thirds of the public payphones did not now cover their costs and the company had only managed to maintain a viable business by careful management and new initiatives focussed on growing new revenue schemes (kiosk advertising and internet enabled payphones).

The Office of Communications (OFCOM) was currently undertaking a Review of Universal Service and BT, as part of that consultation exercise, had requested the removal of the obligation to provide cash payment facilities at all public payphones. In practice, this would involve the payphone retaining its ability to make emergency calls, operator controlled, reverse charge credit card and Chargecard calls, but not cash payment. BT's argument was based on the premise that there may be a clear demand for a payphone (usually for emergency services) but not necessarily with the ability to pay for calls with cash. As providing cash payment facilities accounted for the bulk of the cost of operating the payphone and accounting for the associated theft-related vandalism, BT wished to be allowed to remove this facility with the agreement of the relevant local bodies.

There were currently 71 street based payphones in South Derbyshire. BT had indicated that two of these (located at the junction of Lincoln Way/Burton Road, Midway and Woods Lane/Burton Road, Newhall) were seldom used and were therefore proposed for removal. A further 14 payphones had been identified as having very low use but which may be needed for community use. These were therefore proposed for conversion to cashless payment. It was noted that these actions would only be necessary if the OFCOM review removed the present obligation for BT to provide cash payment facilities.

Any comments or objections needed to be submitted to BT by 15th August 2005 with appropriate reasons. BT had also advised that there was a potential, with local authority support and funding, to upgrade payphones to broadband enabled multi-media kiosks, not only retaining the voice service but also offering internet access and e-government services. However, the current average cost was approximately £4,000 per kiosk.

Members considered that it was important to retain cash payment public payphones, particularly in the event of emergencies.

**RESOLVED:-**

***That the proposed removal of cash payment public payphones be opposed by this Council.***

CL/69. **LOCAL GOVERNMENT 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 for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined under the paragraphs of Part 1 of Schedule 12A of the Act as indicated in the reports of Committees.***

**MINUTES**

***The Exempt Minutes of the Meeting of the Council held on 30th June 2005 were duly received and approved.***

**REPORTS OF COMMITTEES**

***The Exempt reports of the following Committees were received and noted and any recommendations contained therein approved and adopted:-***

***Environmental and Development Services Committee, 7th July 2005***

***Development Control Committee, 12th July 2005***

***Housing and Community Services Committee, 14th July 2005***

***Finance and Management Committee, 21st July 2005***

***Licensing and Appeals Sub-Committee, 27th July 2005***

R. JONES

CHAIR