

ENVIRONMENTAL AND DEVELOPMENT SERVICES COMMITTEE

13th July 2006

PRESENT:-

Labour Group

Councillor Taylor (Chair), Councillor Dunn (Vice-Chair) and Councillors Jones (substitute for Councillor Isham), Pabla (substitute for Councillor Carroll), Shepherd, Tilley and Whyman M.B.E.

Conservative Group

Councillors Ford, Mrs. Hall, Harrison (substitute for Councillor Bale), Mrs. Hood and Mrs. Wheeler.

Independent Member

Councillor Mrs. Walton

APOLOGIES

Apologies for absence from the Meeting were received from Councillors Carroll and Isham (Labour Group) and Councillor Bale (Conservative Group).

EDS/8. **MINUTES**

The Open Minutes of the Meeting held on 1st June 2006 were taken as read, approved as a true record and signed by the Chair.

EDS/9. **DECLARATIONS OF INTEREST**

Councillors Ford and Harrison declared personal interests in the Swadlincote Town Centre Study and Masterplan (Procurement Arrangements) as they were also Members of Derbyshire County Council.

EDS/10. **MEMBERS' QUESTIONS AND REPORTS**

The Chair reported that he had been advised of the need to consider an urgent item and he was satisfied with the grounds for urgency. The item related to the Swadlincote Town Centre Masterplan and there was a need to consider the procurement arrangements. This matter was urgent as funding had been secured from the East Midlands Development Agency, which had to be spent and claimed by the end of March 2007.

MATTERS DELEGATED TO COMMITTEE

EDS/11. **HERITAGE GRANTS SUB-COMMITTEE**

RESOLVED:-

That the Minutes of the Heritage Grants Sub-Committee Meeting held on 30th March 2006 be received.

EDS/12. **ENMAINMENT SUB-COMMITTEE**

RESOLVED:-

That the Minutes of the Enmainment Sub-Committee Meetings held on 30th March, 4th May and 19th June 2006 be received.

EDS/13. **PERFORMANCE 2005/06 AND TARGETS 2006/09 -
RECOMMENDATIONS FROM THE IMPROVEMENT PANEL**

It was reported that, at its Meeting on 14th June 2006, the Improvement Panel considered reports on summary performance in 2005/06 and targets for the period 2006/09. The summary performance report showed significant improvement across the Council and this was reflected in the outturn performance for this Committee's areas of responsibility. Performance data and proposed targets had been incorporated within the Council's Best Value Performance Plan for 2006, approved at the Council Meeting on 26th June 2006.

Within the target setting regime, a set of priority Best Value Performance Indicators was identified. This comprised 31 of the 93 indicators and the regime set specific improvement criteria. It had been identified that some targets relating to Waste Management and Planning fell below the proposed improvement criteria.

The target setting regime required all priority indicators to achieve upper quartile performance levels within the three year planned period. The proposed performance for waste collected per household remained in the bottom quartile throughout the period, whilst other indicators relating to recycling and the processing of planning applications would improve over the period, but only achieve second quarter performance levels. The Improvement Panel was mindful that there might be specific reasons why it was not practical to achieve upper quartile performance levels across all priority service areas. However, it had requested that this issue be reviewed by the Policy Committee.

The Leader of the Council spoke to this item as Chair of the Improvement Panel. The Council should not expect to achieve all targets and even local authorities considered "excellent" under CPA only achieved 75% of their respective targets. The Council had to determine how to use its resources in the best way to achieve its priorities. He felt these issues needed to be examined and the Community Scrutiny Committee could be asked to undertake this. There might be resource implications associated with achieving improved performance, which the Council would need to consider. He hoped that the Scrutiny Committee could look at this issue and provide its findings before the next quartile report was prepared.

Councillor Mrs. Wheeler felt that this proposal was sensible, but she questioned whether the Scrutiny Committee had sufficient time to undertake this project. This proposal had been raised with the Scrutiny Committee and the Chair looked forward to receiving its findings.

RESOLVED:-

- (1) That the Committee notes the summary performance for 2005/06 and the targets for the period 2006/09.**
- (2) That the Community Scrutiny Committee be requested to consider the recommendations from the Improvement Panel and to submit a report to a future Meeting of this Policy Committee, ideally before the next Performance report.**

EDS/14. **SWADLINCOTE TOWN CENTRE STUDY AND MASTERPLAN**

The Committee was asked to consider the area and extent of the first phase of implementation for the Swadlincote Masterplan for public realm improvements. The Masterplan identified areas that could be undertaken separately with indicative budget costings to enable a phased implementation. Each of the areas had been assessed in terms of budget cost, regenerative impact, timescale and other constraints and this was summarised in an Annexe to the report. The funding had been secured before proposals were developed and the options appraisal was heavily weighted towards finding a 'good fit' with the secured funding. The East Midlands Development Agency (EMDA) element of the funding was £247,000 and this had to be spent and claimed by the end of March 2007. This tight deadline would be difficult to meet. There was no such time limit attached to the contribution from Morrison Supermarkets plc in the sum of £114,000.

Works at the east end of the Town Centre offered the best opportunity of achieving the time constraints. Delivering a successful first phase would establish the Council's creditability and assist future funding bids. This was important as EMDA was the principle source of external public sector funding for the future.

The report considered options for the first phase of improvements and set out the scope of the recommended phase 1 works as follows:

- Widening the verge to the east end of Civic Way in front of the car parks
- Tree planting along Civic Way to screen car parks and the rear of High Street buildings
- Tree planting on Derby Road
- Constructing new locally distinctive retaining walls to the Council's Civic Way car park, along Civic Way and East End Drive
- Constructing a new, locally distinctive retaining wall to the Instore car park along Civic Way
- Resurfacing three jitties leading from the car parks to the High Street in blue clay pavers
- Providing better lighting and signing to the jitties
- Giving each jittie a name, presented on a sign or threshold strip
- Resurfacing Church Street

These proposals would clearly be visible as the Town was entered from the east, making a significant visual improvement and strengthening links with the Swadlincote Woodlands Forest Park. Some of the proposed works would be on private land and subject to obtaining permission from the owners. The erection of walls would require planning consent, but it was not foreseen that this would cause any difficulty. Discussions had also taken place with relevant Officers about anti-social and crime prevention issues. The report then considered maintenance issues associated with the proposals.

Essentially these were the additional maintenance for the enlarged verges with tree planting, maintenance of jitties and the granite kerbs proposed as part of improvements to Church Street. With regard to long term maintenance, Members were reminded of current responsibilities and discussions were being held with Derbyshire County Council.

In terms of financial implications, £361,000 of external funding had already been secured for phase 1 and no further Council capital funding was required for its implementation. The maintenance cost implications were also reported.

A further report had been circulated to consider the procurement procedure for implementing the first phase of the Swadlincote Masterplan. Members were reminded of the requirement of EMDA that its funding must be spent and claimed by the end of March 2007. A draft programme had been prepared, which revealed that this deadline could not be met if the Council's usual procurement procedures were followed.

Discussions had been held with Derbyshire County Council, which could deliver the professional services and contracting services required to achieve the time constraints. Partnership working with the County Council would bring clear benefits. It had extensive experience of highway works and particularly environmental improvement work in historically sensitive areas. The value of the phase 1 works did not reach the thresholds that triggered EU procurement rules.

The County Council used its direct labour organisation, for all highway works. It used its own consulting engineers with services from Scott Wilson to overcome problems with staff resources or for specialist works. Information was submitted that demonstrated how these arrangements had been market tested under EU procurement rules and represented best value for money.

The Chair felt it encouraging that the Council was able to move into the implementation phase of the Masterplan. He considered that the proposals were the "best fit" given the timescales and referred to the external investment that would enable the scheme to progress and improve this part of the Town Centre.

Councillor Mrs. Wheeler was delighted at the tree planting proposals for this gateway to the Town. She referred to the cleansing plans and the proposals to name jitties linking car parks to the Town Centre. She questioned whether the Chair could organise a competition to involve the local community in naming the jitties. The Chair agreed to take this idea forward. He also referred to the partnership working opportunities and the benefits for the private sector. With regard to the planting on the Civic Way verge, it was hoped to plant mature trees, so hopefully there would not be maintenance issues. The Leader of the Council felt this was a modest start, but he recognised the time constraints and was supportive of the proposals.

RESOLVED:-

- (1) That the first phase of implementation of the Swadlincote Master Plan comprises improvements to the east end of the Town Centre.***

- (2) That subject to cost and relevant approvals, these improvements might include new boundary walls to the Council's Civic Way car park and the Instore car park; planting to Civic Way/Derby Road; repaving, naming and lighting to the three jitties connecting the car parks to the High Street; and resurfacing Church Street, incorporating granite kerbs and channels.**
- (3) That the proposals be based on the approved master plan, modified as necessary, to ensure that the project can be delivered within the East Midlands Development Agency timeframe.**
- (4) That Contract Procedure Rules be suspended, with regard to the procurement of these works, to enable the design work to be carried out by Derbyshire Consulting Engineers and the construction works to be undertaken by AllRoads.**

EDS/15. **PLANNING POLICY GUIDANCE 17 (PPG17): PLANNING FOR OPEN SPACE, SPORT AND RECREATION**

Members were reminded of the presentation from Knight Kavanagh & Page (KKP) to the November Council Meeting. The presentation identified the rationale behind this study, the method of undertaking the review and the main findings and recommendations from it.

PPG17 was essentially about setting local standards, to ensure effective provision for open space and sport and recreation was made on new developments. For the first time it enabled contributions towards making up existing shortfalls. The standards should be based on robust assessments of existing and future needs, informed by both qualitative and quantitative research. The completed study would inform the preparation of planning policy documents to provide an objective, consistent basis for negotiations with developers. Specifically, KKP undertook detailed assessments of built facilities, outdoor sports facilities and open space. Action strategies were then produced for each of these areas and subsequent sections of the report gave details of the work undertaken.

In response to a question from the Leader of the Council, further information was provided on how the amount of required facilities had been assessed. The Head of Planning Services confirmed that the revised standards were an enhancement on the previous arrangements. There was also a discussion on the population base used to determine the amount of built facilities required. The Leader questioned why the whole District population had been used for this purpose. The Head of Planning Services outlined alternate methods of calculation and the impact on contributions that would be required. There was a wish to maximise the contributions received from development. Councillor Mrs. Wheeler praised the document. She referred to previous innovative Section 106 Planning agreements and also questioned the implications of the Barker Review for local authorities.

Councillor Shepherd noted the omission of the Stenson Ward from the breakdown of sub areas for outdoor sports facilities. He also sought reassurance about the proposals for creating offsite provision where developments were not of sufficient size to generate the required financial contribution. The Head of Planning Services explained the liaison that took place with leisure colleagues on this area and it was often necessary to

negotiate with developers. Councillor Mrs. Walton considered that a robust approach was required with developers and she reminded of the problems experienced in Hilton. She was pleased to see the stronger approach proposed and would like to maximise contributions. The Chair agreed with the sentiments expressed and recognised the need to secure appropriate facilities from development.

RESOLVED:-

That in the interim, pending production and adoption of new planning policy documents to comprise the Local Development Framework and the updating of existing and/or production of new leisure strategies, the Council be recommended to:

- ***Adopt the standards set out in Appendix A to the report as the Council's current standards for open space and outdoor sports pitches in relation to Recreation & Tourism Policy 4 of the adopted Local Plan; and***
- ***Agree the formulas set out in Appendix A to the report as the basis for negotiating financial contributions, where appropriate via Section 106 agreement, towards built facilities, open space and outdoor pitch provision, with regard to new developments and, where appropriate, the making up of any deficit in existing provision.***

EDS/16. **UNIFORMS FOR SAFER NEIGHBOURHOOD WARDENS**

The Committee's views were sought on the style and design of uniform to be worn by the Safer Neighbourhood Wardens (SNWs). The report set out those issues which would need to be considered, for the uniforms to be distinctive, visible and to account of weather conditions. The Wardens would need safe and comfortable footwear and the uniform should also reflect the Council's corporate image. Given the nature of the service, it was considered that uniforms should be relatively formal, conveying an appearance of authority. It was proposed that the SNWs be provided with dark trousers, white shirts and in keeping with the corporate colours green ties or cravats, which would be clip-on for safety reasons. It was proposed that the shirts have green epaulettes and for pullovers to be provided in a similar style to those of the Police, although in green. A high visibility waterproof jacket and fleece combination would also be provided. The report explained how the Council's crest would be embroidered together with the words SDDC Safer Neighbourhood Warden onto the uniforms. Images showing samples of the uniform had been circulated.

In response to a question from Councillor Mrs. Walton, it was confirmed that the high visibility clothing would not conflict with that of Police Officers. Councillor Harrison questioned whether there were proposals to provide headgear. This had not been considered necessary, but the Member felt this would protect the employees against the elements and make them appear more authoritative. The Chair suggested that this view could be submitted to the Housing and Community Services Committee, which would ultimately determine the style of uniforms purchased.

RESOLVED:-

That Members views be submitted to the Housing and Community Services Committee, to assist it in determining appropriate uniforms for the Safer Neighbourhood Wardens.

EDS/17. SETTING OF FIXED PENALTY NOTICE CHARGES

It was reported that the Clean Neighbourhoods & Environment Act 2005 introduced new powers for local authorities. These included the ability to serve fixed penalty notices for environmental offences and the Act made significant changes to the fixed penalty notice regime. It widened the scope for persons or bodies that might issue fixed penalties and in some cases it enabled the fixed penalty amount to be specified at a local level. Discounts might be offered for the early payment of penalties, although regulations limited the scale of such discounts. For South Derbyshire, it was recommended that a 30% discount be allowed for prompt payment of such penalties.

Fixed penalty notices were accepted as an effective and visible way of responding to low-level environmental crimes and the Government encouraged their use. DEFRA considered that the public generally welcomed the use of such notices, provided that they were issued sensibly, enforced fairly and seen as a response to genuine problems. Fixed penalties could be issued when an Enforcement Officer believed that an offence had been committed, to give the offender the opportunity to avoid prosecution.

The report included tables showing offences under this legislation for which fixed penalty notices could be served. The tables showed the amounts set by law and the proposed charge including discount for early payment. For those offences where the penalty could be set locally, details were provided of the proposed charge and that following discount for early payment.

The financial implications were reported. The various Acts under which fixed penalty notices were served, enabled local authorities to use the penalty receipts to meet the cost of certain specified functions. These generally related to the offence being committed, but in some cases were grouped with other offences. It was prudent to assume that the income generated from the service of fixed penalty notices would not be significant.

There were concerns about determining some of the fixed penalty charges before consideration of the policy framework for these respective areas. It was noted that the Council already had an environmental health enforcement policy and was suggested that fines be implemented where there was such a policy framework. The Head of Environmental Services clarified those areas where a policy framework was already in place. It was noted that the Council would continue to serve notices relating to dog offences under previous legislation. A wider review was proposed of this area.

The Chair commented that this Act was important for local authorities and he had monitored its development. It was considered that these powers, enforced by the Council's Wardens, could make a difference to the area. Councillor Harrison sought further information on the offence of unauthorised distribution of literature. Whilst this element was not proposed for implementation at this stage, an example was where literature was affixed

to vehicle windscreens. The Leader questioned how many penalty notices were served under the previous powers. The Head of Environmental Services confirmed that these powers related to dog fouling and performance in this area had been low, which led to the review undertaken. The Leader questioned whether the policies should be determined before considering charge levels. The Chair was concerned this would reduce the opportunity for the Wardens to be proactive at an earlier stage. Officers agreed that if policies were determined before fixed penalty charges were set, this would delay and restrict the Wardens' activities. It would be beneficial to authorise the Wardens to serve penalty notices for litter and waste transport offences.

In response to questions from Councillor Mrs. Wheeler, Officers confirmed that it was not proposed to introduce the fixed penalty provisions for graffiti and fly posting at this stage. There was a discussion on the previous proactive approach to disposal of abandoned vehicles and the power to serve a fixed penalty notice for this offence. It was likely that this power would be used rarely, as it was often difficult to find the vehicle owner. Clarification was provided with regard to the charge for offences under Dog Control Orders. Councillor Mrs. Wheeler understood that fly posting was one of the key reasons for this legislation being introduced and she urged early consideration of the policy framework for this area.

Councillor Ford spoke about the Council's education role and he hoped that this would be taken into account in determining policies. The Head of Environmental Services felt that time would be needed to determine policies and he used the example of dog control issues. There would be a need to consult with parish councils and others when determining such policies. Councillor Dunn questioned whether signage fixed to lampposts was classed as fly posting. This was an area where Council policy was needed. Councillor Mrs. Walton questioned whether the payment methods for fixed penalty charges would mirror those for payment of other fees. This was a further area to be agreed, but would be dealt with as quickly as possible. Councillor Mrs. Walton felt this aspect needed to be as simple as possible.

The Leader pursued the issues about graffiti and fly posting, giving an example elsewhere of a proactive approach adopted by a local authority. He noted that parking offences were being decriminalised and transferred to local authorities. This would be a County Council function, but it might be delegated to the District Council. The Head of Environmental Services confirmed that the proposals under this report did not relate to road traffic but, for example, Council verges where they were damaged, obstructed or used for the sale of vehicles.

RESOLVED:-

That the Committee approves the proposed charges for Fixed Penalty Notices served under the Clean Neighbourhoods & Environment Act 2005, for the following offences:

- ***Abandoning a vehicle***
- ***Failure to produce authority (waste transfer notes)***
- ***Failure to furnish documentation (waste carriers licence)***
- ***Litter***
- ***Street litter control notices and litter control notices***
- ***Offences under Dog Control Orders***

EDS/18. **AIR QUALITY**

A report was submitted to advise Members of the latest updated screening assessment undertaken in April 2006. Under the Environment Act 1995, local authorities had a duty to review and assess the current and future air quality in their area. These predictions had to be assessed against standards and objectives prescribed by The Air Quality (England) Amendment Regulations. The 2006 report identified only those matters that had changed since the second round of review and assessment, completed in April 2003. Of the seven pollutants involved, the report found that none required further assessment and all of the objectives had been, or were expected to be, met by the prescribed dates. The only source of pollution in South Derbyshire that threatened to exceed national air quality objectives was Nitrogen Dioxide and therefore it was the only pollutant currently monitored routinely by the Authority. The main source of this pollutant within South Derbyshire was emissions from road transport. A graph was submitted showing actual levels in South Derbyshire for 2004/05 and those predicted for 2006. Nitrogen Dioxide was monitored through diffusion tubes, located at eleven sites around the District. The sites were chosen to provide a range of data from across the District, including those close to major roads, as well as intermediate and background locations. Since the last round of review and assessment, a further three sites had been added and other monitoring points had been relocated. Where new developments were proposed, which could threaten air quality targets an air quality report was prepared to predict the likely impact of the development and it included mitigation measures wherever necessary. The Council would continue to monitor and assess the air quality within its District. It would strive to ensure that future and ongoing activities and developments did not jeopardise the continuing improvements in air quality.

Councillor Mrs. Wheeler commented about the air quality monitoring undertaken and the statutory pollutant levels. She questioned whether liaison could take place with the Primary Care Trust (PCT) to compare pollution statistics and particularly those linked to respiratory conditions. The Chair understood that the Council's monitoring arrangements were clearly specified. The Head of Environmental Services explained that the standards were arrived at from a human health viewpoint. He provided further information on the monitoring arrangements, was confident that the screening was effective and the results were within acceptable levels. The air quality in South Derbyshire was better than that in many other Derbyshire local authority areas, for example where they were crossed by motorways or other trunk roads. The Deputy Chief Executive was aware of anecdotal evidence from health sources that did not always correlate with the statistics reported here. For example there had been an increase in the number of asthma sufferers. There was a possible need for a reality check against data from the PCT and if there was a variance, this could be reported to a future Meeting of the Committee.

Councillor Harrison questioned whether the current samples included monitoring for allergens. He also asked about aircraft emissions and whether the monitoring equipment was sited appropriately to monitor the Airport. The Chair replied that comparative data was taken. It was confirmed that equipment was located under the Airport's flight path and the results were comparable to that of other areas. Biological allergens were

outside the scope of the current monitoring regime. Councillor Harrison used the example of rapeseed oil which was a particular problem. This issue could be raised as part of the discussions with the Director of Public Health.

RESOLVED:-

- (1) That following the ratification of the air quality report submitted to DEFRA, no further action be taken, as all of the national air quality objectives have been, or are expected to be, met by the prescribed dates.***
- (2) That Officer discussions take place with the Director of Public Health on the links between general health outcomes and air quality.***

EDS/19. **LOCAL GOVERNMENT ACT 1972 (AS AMENDED BY THE LOCAL GOVERNMENT [ACCESS TO INFORMATION] ACT 1985)**

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.

MINUTES

The Exempt Minutes of the Meeting held on 1st June 2006 were received.

SWADLINCOTE MARKET (PARAGRAPH 3)

The Committee considered proposals for the future operation of the Swadlincote Market.

S. TAYLOR

CHAIR