

ENVIRONMENTAL AND DEVELOPMENT SERVICES COMMITTEE

2nd February 2006

**PRESENT:**

**Labour Group**

Councillor Taylor (Chair), Councillor Lauro (Vice-Chair) and Councillors Bell, Carroll, Isham and Whyman M.B.E.

**Conservative Group**

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

**APOLOGIES**

Apologies for absence from the Meeting were received from Councillor Shepherd (Labour Group), Councillor Mrs. Hall (Conservative Group) and Councillor Mrs. Walton (Independent Member).

EDS/44. **MINUTES**

The Open Minutes of the Meeting held on 10th November 2005 were taken as read, approved as a true record and signed by the Chair.

EDS/45. **DECLARATIONS OF INTEREST**

Councillor Ford declared a personal interest in the item on the Derbyshire County Council Street Scene Review, as he was a Member of Derbyshire County Council. Councillor Atkin declared a prejudicial interest in respect of the Planning Gain Supplement Consultation item. Councillor Mrs. Wheeler declared a personal interest in the Minutes of the Heritage Grants Sub-Committee, as she knew one of the grant applicants.

EDS/46. **MEMBERS' QUESTIONS AND REPORTS**

(a) Swadlincote Town Centre Retail Study

Councillor Atkin asked whether the Donaldson Report on the Town Centre retail study was available electronically for Members. The Head of Planning Services agreed to pursue this matter.

(b) Enmainment of Critical Ordinary Watercourses

The Leader reminded Members of the transfer of this function to the Environment Agency and the decision not to contract back maintenance responsibilities. At a recent Flood Liaison Meeting, maintenance issues had been raised and feedback from the Environment Agency's Officers about its likely level of service had caused some concern. Reference was made to the service provided by the District Council previously and to the assurances given when the decision was taken on transferring responsibility. Given this new information, the Leader asked that the Committee revisit the issue.

The Chair felt in the circumstances that a report should be submitted to the

next Meeting the Committee. Councillor Bale asked about the Committee revisiting decisions. The Leader replied that there was a need to revisit this issue because of the new information received. A further issue discussed was the maintenance arrangements elsewhere in the County. Advice would be taken from the Monitoring Officer about submitting a report to the next Committee Meeting, in view of the additional information received.

### **MATTERS DELEGATED TO COMMITTEE**

#### **EDS/47. DERBYSHIRE COUNTY COUNCIL STREET SCENE REVIEW**

A report was submitted to seek the views of Members on whether to participate in the Derbyshire County Council Review of Street Scene. The Chair proposed that this item be withdrawn.

#### **RESOLVED:-**

***That the item be deferred.***

#### **EDS/48. HERITAGE GRANTS SUB-COMMITTEE**

The Minutes of the Heritage Grants Sub-Committee held on 14th November 2005 were received. Councillor Carroll asked about the balance on the grant budget and Officers agreed to provide this information to her. In response to a further question, the Head of Planning Services explained that funding from English Heritage had now concluded and Officers were seeking alternate funding sources. Councillor Atkin noted that certain applications had been withdrawn, because of the commencement of building works before determination of the grant application. Officers agreed to research the applications in question and to respond to Councillor Atkin. In reply to a question from Councillor Bell, there was a discussion about the different percentage grants awarded, dependent upon the types of work being undertaken. The application of VAT to such grants was also discussed. It was suggested that an item be included in the Members' bulletin to provide further information on the grants' scheme. In future, where Minutes were submitted to the Committee, Officers would provide a more detailed covering report including the balance on the Grant fund.

#### **RESOLVED:-**

***That the Minutes of the Heritage Grants Sub-Committee Meeting held on 14th November 2005 be received.***

#### **EDS/49. 2005/08 SERVICE PLANS - MONITORING REPORTS**

It was reported that Service Plans were an important part of the Council's Performance Management framework. In 2005, the Committee approved Service Plan for the Planning Division and a report was submitted to review progress for the period from 1st April to 30th September 2005. Members were also reminded of the form and content of the Service Plan.

Questions were invited and Councillor Mrs. Wheeler referred to a task at risk of non-delivery to prepare an action area plan for Woodville to Swadlincote Town Centre. She referred to the recent Repton Area Meeting where this issue had been raised and a response from Derbyshire County Council, which had

inflamed residents. A public meeting would be held, involving senior Officers from the County and District Councils, to discuss this issue in greater depth. Comment was made about the scale of development in the Woodville area. The Chair reported that the District and County Councils were working hard to resolve the highway issues in this area. There was the start of a development plan for the area, which was being pursued, but the Chair accepted it was difficult for residents to appreciate all of the issues involved. There was a need to demonstrate the work being done and for Derbyshire County Council to address the highway issues.

The Leader referred to the action on applying National Forest guidelines to all relevant planning applications and he questioned how rigorously this was followed. He could identify areas where the Council had not taken the opportunity to insist on tree planting. He felt this could also be applied to commercial developments and the Council should attempt to make the area as pleasant as possible by retaining land for tree planting.

Councillor Bell referred to a number of actions within the report and sought more detail. The Head of Planning Services provided further information on each of the areas raised. Councillor Carroll commented on the task at risk of non-delivery, to produce best practice guidance on the provision of affordable housing. The Officer gave further information on progress and it was hoped to bring forward the guidance early in the next financial year. Questions were raised on the performance indicators, particularly on the increase in the percentage of appeals allowed against refused planning consent. Officers touched on the likely causes and it was noted that the Council's target was still below the benchmark at which the planning delivery grant was reviewed. There had been concern previously that some local authorities were trying to manage performance statistics by refusing applications, rather than not meeting the required timescale for determination. The number of appeals allowed was influenced by Development Control Committee decisions and the views of individual inspectors. It was felt that this Service Plan target was safe and reasonable. However, it might be worth undertaking some research to see if the Council was able to improve its approach or could achieve more consistency in its decision-making. Further information was provided by the Head of Planning Services in response to a question about the quality of service checklist. The Officer agreed to supply further information about the checklist to Councillor Carroll.

**RESOLVED:-**

***That the Committee receives the Service Plan Monitoring Report for the Planning Services Division for the period 1st April to 31st December 2005.***

EDS/50. **ENVIRONMENTAL AND DEVELOPMENT SERVICES PERFORMANCE REPORT**

Note: This item was withdrawn from the Agenda.

EDS/51. **FOOD ENFORCEMENT - AUTHORISATION UNDER NEW FOOD HYGIENE LEGISLATION**

It was reported that new food hygiene legislation came into force in 2006, following the adoption of powers for EC legislation to replace many of the

powers of the Food Safety Act 1990. This had resulted in an overhaul of all European Food Legislation and the adoption of EEC Orders, Directives and Regulations. Some of the legislation was amended and enacted in the European Communities Act 1972 and subsequent regulations. Amendments made under the European Communities Act 1972 and its subsequent regulations would require approval by the Food Authority and amendment to the powers of the authorised Officer. The Committee was asked to delegate this approval to designated Officers, to avoid frequent committee reports, because of minor amendments to legislation.

**RESOLVED:-**

- (1) That the Committee delegates authority of the powers for the following Acts of Parliament and Regulations made under those relevant acts to the Director of Community Services and the Head of Environmental Services, who will subsequently authorise the delegation of specified statutory powers to suitably qualified Officers.***
- (2) That the Director of Community Services or Head of Environmental Services be authorised to amend the statutory powers of authorised Officers without future referral to the appropriate committee, if any of the following legislation is extended, amended or varied by or by virtue of any subsequent Order, Bylaw or Regulation made under the authority of the following Regulations:-***

**The Legislation**

**Food Safety Act 1990 (as amended)**

**The Food Hygiene (England) Regulations 2006**

**The Official Feed and Food Controls (England) Regulations 2005**

**Other Acts or Regulations made under Acts**

***European Communities Act 1972 (Including The Products of Animal Origin (Import and Export) Regulations 1996 as amended, The Products of Animal Origin (Third Country Import) (England) (No. 4) Regulations 2004, The TSE (England) Regulations 2002 as amended, The Food (Jelly Confectionery) (Emergency Control) (England) Regulations 2002, The Food (Jelly Confectionery) (Emergency Control) (England) (Amendment) Regulations 2004, The Food (Chilli, Chilli Products, curcuma and palm oil) (Emergency Control) (England) Regulations 2005. The Food (Brazil Nuts) (Emergency Control) (England) Regulations 2003, The Food (Brazil Nuts) (Emergency Control) (England) Amendments Regulations 2003, The Food (Figs, Hazelnuts and Pistachios from Turkey) (Emergency Control) (England) (NO 2) Regulations 2002, The Food (Figs, Hazelnuts and Pistachios from Turkey) (Emergency Control) (England) (NO 2) (Amendment) Regulations 2003, The Food (Emergency Control) (England) (Miscellaneous Amendments) Regulations 2004, The Food (Peanuts from China) (Emergency Control) (England) (No 2) Regulations 2002, The Food (Peanuts from China) (Emergency Control) (England) (No 2) (Amendment) Regulations 2003, The Food (Peanuts from Egypt) (Emergency Control) (England) Regulations***

*2003, The Food (Pistachios from Iran) (Emergency Control) (England) Regulations 2003, The Food (Emergency Control) (England) (Amendment) Regulations 2005, The Organic Products (Imports from Third Countries) Regulations 2003).*  
*The Food (Pistachios from Iran) (Emergency Control) (England) (Amendment) Regulations 2005.*  
*The Food Safety Act 1990 (Amendment) Regulations 2004.*  
*The General Food Regulations 2004.*  
*Food Safety Act 1990*  
*The Contaminants in Food (England) Regulations 2004*

EDS/52. **AUTHORISATION OF OFFICER FOR HEALTH AND SAFETY AT WORK ETC ACT 1974**

The Committee was reminded of powers available within the Health and Safety at Work etc Act 1974. Approval was sought to authorise a newly appointed Officer, to serve Improvement and Prohibition Notices and to instigate legal proceedings in accordance with this legislation. The legislation required that Officers who enforced these powers were appropriately indemnified.

**RESOLVED:-**

*That the Committee confirms the authorisation of Phillip Broughton as an Inspector to undertake the following duties:-*

- (a) As an Inspector under Section 19 of the Health and Safety at Work etc. Act 1974 for the purpose of administering the relevant provisions of Section 20(2) of the said Act, i.e. Section 20(2), (a),(b),(c),(d),(e),(f),(g),(h),(i),(j),(k),(l),and (m), and authorise him to institute legal proceedings in respect of contravention's arising out of the exercise of his duties under the Act.*
- (b) Further, that he be authorised to serve Improvement Notices under Section 21 and Prohibition Notices under Section 22 of the Act.*
- (c) Also that he be authorised for the purpose of:-*
  - (1) Any Health and Safety Regulation*
  - (2) The provisions of the Acts mentioned in Schedule 1 of the Health and Safety at Work Act 1974 Act which are specified in Schedule 1 of the 1974 Act which are specified in the third column of that Schedule and of the Regulations, Orders, or other instruments of a legislative character made or having effect under any provisions so specified.*
- (d) In respect of any act done by him in execution or purported execution of his duty, if they are satisfied that the Officer honestly believed that he was acting within their powers.*

EDS/53. **STREET NAMING**

Under Minute No. DC/44 of 23rd August 2005, the Development Control Committee agreed to a review of the process for street naming.



The current process, under the Public Health Act 1925, provided for a quick response/agreement to street naming proposals. However, there was only one month to object to a proposed street name. Consultation took place with relevant parish councils and the Royal Mail, in order to avoid a conflict of street names. A report was then submitted to the Development Control Committee seeking approval of the street name. In practice, the period for objection was likely to have lapsed by the time the Committee considered the proposed street name. The report touched on dealing with renumbering properties or renaming lengths of existing streets and how proposals were consulted upon.

A proposed new process was reported. On receipt of a request for a street name, the Ward Member and parish council would be notified and given 14 days to respond. Consultation would take place with the Royal Mail and other relevant statutory bodies. In the case of renumbering or renaming existing streets, the occupiers of all properties affected would also be consulted. Where there was no dissent to the proposal, the Head of Planning Services would write to confirm the street name. The process for dealing with objections or where alternative street names were proposed, was also reported.

Councillor Bale spoke in support of the proposed approach and he noted the opportunity for parish councils to contribute. Councillor Bell noted that parish councils were given 21 days to respond to planning applications. Complying with the 14 day consultation period for street naming requests might cause some difficulties for parishes. Officers explained that this speedier turn-around was required to give the Council time to negotiate where there was dissent over the proposed street name. It was suggested that parish councils might wish to prepare a preferred list of street names in advance. When considering planning applications, parish councils could give thought to the proposed street name for the development. The Chair felt that the new process gave a greater opportunity for Members to contribute.

**RESOLVED:-**

- (1) That delegated powers be granted to the Head of Planning Services to determine uncontested street naming/house numbering applications, subject to the process set out within the report.***
- (2) That delegated powers be granted to the Head of Planning Services in consultation with the Chair and Vice-Chair of the Development Control Committee, to determine contested street naming/house numbering applications, subject to the process set out within the report.***
- (3) That the Council be recommended to remove these Terms of Reference from the Development Control Committee.***

EDS/54. **SERVICE DEVELOPMENT PROPOSALS - RESULTS FROM SCORING PANEL**

It was reported that as part of the budget process, a scoring panel met to assess Service Development proposals against the Council's agreed framework. A schedule of the scores resulting from that meeting was appended to the report submitted. The Committee's views were requested on the relative priorities of the proposals.

The Service and Financial Planning Working Panel would consider the scores

and comments from Policy Committees in the context of the overall budget strategy, before recommending a finalised list of service proposals to the Finance and Management Committee. The Panel would also consider and determine the weighting given to proposals from the consultation on the Corporate Plan. Recommendations would then be submitted to the Council Meeting on 2nd March 2006.

The Chair was pleased with the scores for proposals relating to street cleansing and recycling. The Leader added that the Council had listened to the community and a weighting would be applied to the scored bids to reflect their priorities.

**RESOLVED:-**

***That no comments be made to the Service and Financial Planning Working Panel on the schedule of scored Capital Investment and Revenue Service Development proposals for 2006/07, relating to its services.***

EDS/55. **PLANNING GAIN SUPPLEMENT IN PLACE OF PART OF SECTION 106 AGREEMENTS CONSULTATION BY HM TREASURY, HM REVENUE AND CUSTOMS AND OFFICE OF THE DEPUTY PRIME MINISTER**

Note: At 7.05 p.m. Councillor Atkin left the meeting.

It was reported that the Government had published a consultation on a new means of financing the required public service infrastructure associated with new development. It had been recommended that the Government should capture a portion of the land value uplift arising from the planning process. A Planning Gain Supplement (PGS) was proposed, which built upon original recommendations from Kate Barker. The Barker review proposed a number of principles for consideration and these were set out within the report. The Government accepted at the conclusion of the Barker review that a PGS was likely to be more effective than other means of capturing land value uplift, in providing resources to support the expansion of housing supply.

The basis for calculating PGS would be the "planning gain" or increase in land value. The report a number of issues that arose from this proposal and specifically those elements that would no longer be considered as part of Section 106 negotiations. The report also set out the Government's considered advantages of adopting this approach and the key principles it committed to by allocating revenue if PGS was implemented. The Government offered a choice of methods for delivering the revenue from PGS. The first option was to distribute PGS revenues to the local level as grants in direct proportion to the revenue raised. An alternative was to recycle revenue back to the local level as grants on the basis of a formula not specifically connected to the PGS revenue. The consultation sought views on various issues, that were set out within the report. The remainder of the report then focussed on how the Council could respond to this consultation and the issues which Members might wish to reflect in the response. It was noted that the consultation deadline was 27th February 2006.

The Chair congratulated the Planning Policy Team on this report. The Leader spoke about the Council's approach in recent years to work in partnership with developers to achieve planning gain through Section 106 agreements. He felt that the proposals under this consultation would undermine the current

arrangements and provide a bureaucracy for top slicing of funding. He highlighted this by reference to specific sections of the report and reiterated the benefits that came from the current arrangements to South Derbyshire. He felt that local Members were best placed to determine the local needs for education, health and leisure facilities. The Council needed to think of the interests of its own area and did not want a scheme that subsidised other local authorities' areas. He was not in favour of the proposals and what they meant for South Derbyshire.

The Chair reiterated the benefits achieved through negotiating Section 106 agreements with developers. The Leader's sentiments were supported by several Members. Councillor Bale felt that South Derbyshire would lose out under these proposals and it had a good system in place to negotiate infrastructure improvements.

Councillor Mrs. Wheeler was fascinated by the report writer's approach and suggestions. The plans did not suit South Derbyshire. She praised the Council's approach in negotiating agreements and other authorities could look at this as best practice.

Councillor Isham voiced her full support of the views expressed by the Leader. She commented on the rate of growth in Woodville and the use of monies from development. The Council would not be able to do this as effectively if a regional approach was adopted.

Councillor Ford considered this approach to be double taxation on development and he referred to several sections of the report, to demonstrate how he felt the consultation would be concluded. In response to a question from Councillor Lauro, it was confirmed that the Section 106 provisions would remain. Members noted the negative affect this would have on the Council's ability to negotiate Section 106 agreements.

In determining the consultation response, the Committee wished to give all Members of the Council the opportunity to contribute. It was proposed to circulate a draft response to all Members, to enable their input and that the matter be considered further at the Finance and Management Committee.

**RESOLVED:-**

***That Officers submit a report to the Finance and Management Committee on 21st February 2006, setting out the concerns raised, to enable further consideration by all Members of the Council and a detailed response to the Government on this consultation document.***

EDS/56. **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.***



**MEMBERS' QUESTIONS AND REPORTS - LOCAL DEVELOPMENT  
FRAMEWORK**

***The Chair publicised a Members' seminar.***

S. TAYLOR

CHAIR