

MINUTES of the meeting of Environment Scrutiny Committee held at : The Council Chamber, Brockington, 35 Hafod Road, Hereford on Monday, 12th March, 2007 at 10.00 a.m.

Present: Councillor JHR Goodwin (Chairman)
Councillor WLS Bowen (Vice Chairman)

Councillors: KG Grumbley, J.G.S. Guthrie, TW Hunt, MD Lloyd-Hayes, GA Powell and JB Williams

In attendance: Councillors PJ Edwards Cabinet Member (Environment), J Stone, DB Wilcox Cabinet Member (Highways and Transportation) and R.M. Wilson

39. APOLOGIES FOR ABSENCE

Apologies were received from Councillor Mrs WU Attfield, Councillor JW Newman and Councillor Miss F Short.

40. NAMED SUBSTITUTES

Councillor Mrs Lloyd-Hayes substituted for Councillor Miss F Short.

41. DECLARATIONS OF INTEREST

There were no declaration of interest.

42. MINUTES

RESOLVED: That the Minutes of the meeting held 4th December, 2006 be approved and signed by the Chairman.

43. SUGGESTIONS FROM MEMBERS OF THE PUBLIC ON ISSUES FOR FUTURE SCRUTINY

The public made no suggestions for areas of scrutiny. The Vice Chairman suggested that there may be an issue for consideration concerning riparian rights on the river Wye in Hereford.

44. BIODIVERSITY ISSUES AND THE DEVELOPMENT OF A STRATEGY FOR THE CONSERVATION OF BIODIVERSITY

The Committee considered the Council's role in relation to biodiversity conservation and the development of a strategy to cover the period 2007 – 2010.

The Director of Environment reported that while every public body must have regard to conserving biodiversity, the Council had been very proactive in this area particularly through the establishment of a Biological Records Centre and Biodiversity Partnership.

The Conservation Manager reported that the intention for proposing a strategic framework for biodiversity conservation was that the strategy would develop the objectives and form the basis for developing a programme of actions for the ecology services provided by the Council. This was further set out in the agenda report and the draft strategy, copies of which had been issued to members with the agenda. He further reported that DEFRA guidance for local authorities, expected to be published in February 2007, was still awaited. The draft strategy, together with expected guidance from DEFRA, would form the basis for internal discussion and then wider consultation and report.

The Committee noted that while there may be regulatory issues to consider the intention was to work with partners and local bodies to achieve the objectives. Fishing rights on the local rivers would be dealt with by the Environment Agency.

RESOLVED:

That

- a) **The Cabinet Member (Environment) is recommended to develop a Biodiversity Strategy for the Council in discussion with Member, the Committee and Directorates prior to a wider stakeholder and public consultation and in the light of guidance to be published by DEFRA; and**
- b) **A further report on progress of the Biodiversity Strategy be included in the Committee work programme for the September 2007 meeting.**

45. CAPITAL BUDGET MONITORING

The Committee was advised on progress of the 2006/07 Capital Programme for Environment Areas within the overall context of the Herefordshire Council Capital Programme.

The Director of Environment and the Director of Resource's representative reported that the total for the capital programme had reduced to £12,222,000 from £13,387,000 previously notified. A brief overview of the financial position was set out in the report, together with at Appendix 1, the capital budgets for the programme areas.

While scrutinising the capital programme monitoring report the committee requested that the Rural Footway Improvement priority list previously issued to Parish Councils be reinstated and noted that in relation to Roman Road the reference to £110,000 had been returned from the statutory undertakers as an under spend on the contract.

RESOLVED: That the report be noted.

46. ENVIRONMENT REVENUE BUDGET MONITORING

The Committee was advised of the financial position for the Environment Programme area budgets for the period to 31st January 2007.

The Director of Environment and the Director of Resources' representative reported that the total Environment budget for 2006/07 continued at £26,714,460. While the report indicated that in overall terms the year-end position for the environment budget projected an underspend of £766,000 this would be affected by recent additional spending due to recent snow on winter highway maintenance. Detailed reports on budget monitoring were set out in the report and Appendix 1.

During the course of scrutinising the monitoring report the Committee noted that the

introduction of planning Design & Access Statements had delayed the submission of some planning schemes and hence delayed fee income.

RESOLVED: That the report be noted.

47. MONITORING OF 2006/07 SERVICE PLAN PERFORMANCE INDICATORS - APRIL TO DECEMBER 2006

The Committee received an update on the exceptions to the targeted progress made by the Environment Directorate for the nine months April to December 2006 towards achieving:

- The targets that appear in the Council's Corporate and Annual Operation Plans and which are reported monthly to respective Cabinet Members and, by exception, bi-monthly to Cabinet; and
- The targets that appear in the Directorate Plan which are reported monthly to the respective Cabinet Members and, by exception, bi-monthly to Cabinet.

The Director of Environment and the Improvement Manager reported that the Directorate was consistently meeting standards as none of the indicators for which the Directorate had responsibility had received a red 'traffic light'. It was further reported that the Direction of Travel Statement highlighted that Environmental Health & Trading Standards performance had fallen. This related to only one indicator (BVPI 166, a quality of service checklist). However, other indicators, used for CPA but not the Direction of Travel, showed that both business and customer satisfaction levels were high and placed these services above the upper threshold.

On scrutinising the report the Committee noted that:

- the current shortfall in performance under indicator 'Number of Penalty Charge Notices issued' was due to a number of staff illnesses.
- The speed in determining planning applications had been improved by refusing those applications not up to submission quality, and by utilising specialist advice.
- All dog litter bins had been inherited from the outgoing authorities. Some had been relocated to provide a balanced service. While efficiencies had been made to the services the major cost to the services was not the cost of the bin but the resultant servicing of it.

RESOLVED: That the report be noted.

48. ENVIRONMENT DIRECTORATE SERVICE PLANNING

The Committee received an update on the arrangements for services planning in the Environment Directorate.

The Director of Environment reported that the Directorate's service plan for the three years period 1st April 2007 – 31st March 2010 was currently being prepared and would be completed by 31st March 2007. Reports by the Cabinet Members for Environment and Highways & Transportation in June 2007 would include the performance and achievement, and aspirations contained in the Plan.

RESOLVED: That the report be noted.

49. WASTE MANAGEMENT SERVICE

The Committee considered a report on the delivery of the Waste Management Service.

The Head of Environmental Health and Trading Standards reported that the service had undergone a high degree of change over the last two or three years. He highlighted the pressures on the service to deliver higher levels of recycling and waste minimisation as well as the need to maintain the financial performance of the service. In addition the service had been preparing for the 'front office' services to be moved over to 'info by Phone' with a resultant restructure of the service. He further highlighted that since 2001/02 the performance of the service had improved year on year and his report elaborated on this aspect.

The Committee noted that a substantial percentage of the services work e.g. telephone enquiries, would transfer to 'Info by Phone'. An element of the restructure would redress the balance between qualified and unqualified staff thereby enabling greater flexibility and quality within the service.

The Committee also noted that waste from schools had been designated household waste for which a charge could be made. Hospital waste, other than medical waste, was classed as trade waste.

RESOLVED: That the report be noted.

50. REVIEW OF THE VOLUNTARY CODE OF PRACTICE FOR THE USE OF POLYTUNNELS IN HEREFORDSHIRE

The Committee considered the findings of the Poly tunnel Review Working Group, copies of the report having been circulated at the meeting.

The Chairman of the Review Group, Councillor T Hunt, reported that the Working Group had met in March and May 2006. However it soon became apparent that the planning case at Waverley Borough Council had a strong bearing on the review of the Code of Practice for the use of Poly tunnels in Herefordshire and therefore the work of the Group had been suspended pending the outcome of that case. The Working Group met on 1st March and received advice from the Council's Legal and Planning Services. Attached to the report was a summary that set out the basis of that advice. The Legal Practice Manager and the Head of Planning Services orally elaborated on that advice at the meeting.

The Chairman of the Review Group further reported that having considered that advice the Review Group concluded that case law relating to poly tunnels had now crystallised. It seemed clear that all new poly tunnel developments within the County be treated as development requiring planning consent. In relation to those poly tunnels already in situ a number of judgements needed to be made and these were set out in the summary of advice.

The Committee questioned whether there would be size thresholds, thereby taking small operators out of the requirement for making a planning application, and whether supplementary planning guidance would be given. The Head of Planning Services reported that normal planning considerations would be applied when considering any case.

The Chairman permitted a number of questions or comments from the public in attendance. The principal questions, together with the answers, are summarised as follows:

- What degree of protection was there within an Area of Outstanding Natural Beauty (AONB) – the totality of the court judgement applied to the whole County.
- Clarification was sought on the 4 year rule – from an enforcement point of

view the clock started from the time the structure was started. The clock would stop when an enforcement notice was served. The Planning Service therefore would be working on establishing individual cases and considering the expediency, as indicated in the summary of advice, of initiating enforcement. After 4 years the development may be immune from enforcement action.

- Would there be payment of compensation to public and tourist operators? – No.
- Will the public have their democratic say on planning applications – Yes via the normal planning procedure.

The Head of Planning Services emphasised that the public may not see a difference in the fields for some time as the preparation and serving of an enforcement case could take 2 – 4 months and the whole enforcement procedure could take up to 1 year.

The Cabinet Member (Environment) welcomed the legal clarification given by the Waverley case and stated that the position would be considered by Cabinet.

**RESOLVED:
THAT;**

- (a) the findings of the review of the Polytunnel Review Group, be approved for submission to the Cabinet**
- (b) all *new* polytunnel developments within the county (be they for soil grown crops or table top growing or otherwise howsoever) be treated as development requiring planning consent. The usual application form will need to be completed in those circumstances;**
- (c) that enforcement proceedings be continued and/or initiated in accordance with the priorities below:**
 - 1. Enforcement proceedings to be continued in respect of those sites where notices have already been served and/or are in preparation**
 - 2. Enforcement proceedings to be initiated during the growing season of 2007 in all cases where polytunnels are already known, or are suspected, to be outside the Code of Practice, there is a threat to acknowledged planning interests, and are approaching four years in situ**
 - 3. Enforcement proceedings to be initiated after the end of growing season 2007 in all other cases where planning applications have not, by then, been submitted and there is a threat to acknowledged planning interests; and**
- (d) that the Executives response be reported to the Committee in due course.**

51. REVIEW OF HOUSEHOLD WASTE RECYCLING IN HEREFORDSHIRE

The Committee considered the findings of the scrutiny review into Household Waste Recycling in Herefordshire.

The Chairman of the Review, Councillor K.G. Grumbley, presented the report of the

review Group and took the Committee through the report on a page by page basis particularly emphasising those elements that had led to the recommendations. He also reported that as the Government's review of the National Waste Strategy, the results of which were still awaited, could have significant consequences on the management of Waste Services, he recommended that the report be held in abeyance until the next meeting when a report on the outcome of the Government's review of the National Waste Strategy could be given.

The Committee questioned the input from planning in relation to the provision in new developments for appropriate waste storage areas, particularly wheelie bins, and were informed by the Cabinet Member (Environment) that planning conditions were being worked up. He was however aware that waste storage facilities could be a problem for existing houses in multiple occupation.

In response to a question concerning the size of wheelie bins to be provided the Waste Services Manager reported that following the Worcester City Council implementation model, an initial requirement survey would be undertaken following which individuals could request smaller bins.

In relation to the placing of bring sites in pub car parks the Committee noted that care needed to be taken so as not to tempt their use for trade waste.

The Committee appreciated the great regard in which the Re-Box scheme in Ross-on-Wye were held. They noted that Re-Box had already been approached concerning the future of waste collection in the Ross-on-Wye area.

Following debate the Committee concluded that, pending the outcome of the government's review of the National Waste Strategy, the draft report be circulated to Parish Councils for comment. A report summarising the comments received together with a summary of the outcome of the government's review and the report of Working Group be submitted for consideration to the next meeting.

RESOLVED: That

- a) the report by the Household Waste Recycling Review Group be circulated to Parish Councils for comment;
- b) A report summarising: any comments from the Parish Councils; the outcome of the Government's review of the National Waste Strategy together with the report on the Household Waste Recycling Review be submitted to the next meeting.

52. SUMMARY OF ACTION IN RESPONSE TO SCRUTINY COMMITTEE RECOMMENDATIONS

The Committee were invited to note progress against recommendations made by the Committee.

The Democratic Services Officer reported that in preparing for the current round of meetings some scrutiny Chairmen had requested a round up of all the recommendations made in addition to those made as part of scrutiny reviews. A list which attempted to give effect to this, together with an indication of resultant actions or outcomes, had been included in the agenda.

The Committee agreed that it would be useful if such information appeared as part of the appendix to the Committee work programme.

RESOLVED: That the report be noted and future reports appear as part of the

appendix to the Committee work programme.

53. ENVIRONMENT COMMITTEE WORK PROGRAMME

The Committee considered its work programme.

The Democratic Services Officer reported upon the Committee work programme, a copy of which was set out at appendix 1 to the report.

The Committee questioned the latest situation concerning safety on the Counties trunk roads (A49 and A465) and were informed by the Director of Environment that talks were on-going with the Highways Agency and a number of safety measures were due to be implemented on the A49. A national issue seemed to be the role of the Traffic Manager in relation to responsibility for the roads. A further report on trunk road issues would be made to the next meeting.

RESOLVED: That the issues identified earlier in the meeting namely agenda Items: 6 – Biodiversity; 12 – Executive response to the Polytunnel Review; 13 – Review of Household Waste Review, and 15 Update on Safety on the Counties Trunk Roads be added to the work programme and the work programme be approved and reported to Strategic Monitoring Committee.

The meeting ended at 12.32 p.m.

CHAIRMAN