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COMMUNITY AND ENVIRONMENT COMMITTEE

Minutes of a Virtual Community and Environment Committee Meeting held at 6.00 pm on Wednesday 19 August 2020.

Under Regulations made under the Coronavirus Act 2020, the meeting was held virtually. Members of the public were able to view the virtual meeting via the District Council's website at www.derbyshiredales.gov.uk or via our YouTube channel.

PRESENT

Councillor Chris Furness - In the Chair

Councillors Jason Atkin, Sue Bull, Neil Buttle, Martin Burfoot, Tom Donnelly, Helen Froggatt Clare Gamble, Susan Hobson, David Hughes, Tony Morley, Peter O'Brien, Joyce Pawley, Mike Ratcliffe, Alasdair Sutton, Steve Wain and Mark Wakeman.

Paul Wilson (Chief Executive), James McLaughlin (Director of Corporate & Customer Services), Tim Braund (Head of Regulatory Services), Mike Galsworthy (Estates and Facilities Manager), Keith Postlethwaite (Neighbourhoods Manager), Laura Salmon (Environmental Health Officer), Chris Laver (Democratic and Electoral Services Manager), Cara Marchant (Digital Communications Officer) and Jackie Cullen (Committee Assistant).

APOLOGIES

Apologies were received from Councillors Matthew Buckler, Garry Purdy and Andrew Statham. Councillors Neil Buttle, Jason Atkin and Tom Donnelly attended as substitute Members.

32/20 – MINUTES

It was moved by Councillor Mike Ratcliffe, seconded by Councillor Joyce Pawley and

RESOLVED

(unanimously)

That the minutes of the meeting of the Community & Environment Committee held on 19 February 2020 be approved as a correct record.

33/20 – PUBLIC PARTICIPATION

In line with the Council's temporary suspension of direct public participation the following questions were submitted in writing and were shown on screen at the virtual meeting:

QUESTION from Mr Dobbs an Ashbourne resident.

Why is Air Pollution (particularly with respect to Air Quality Objective exceedances in Ashbourne) not a regular agenda item for this committee?

“In all the time that NOx measurements have shown that the air on Buxton Rd in Ashbourne has been significantly over the limit of 40ugm-3, not once has the matter been discussed by this committee.

Scrutiny of decisions made on behalf of residents is an essential part of the democratic process. I believe a careful analysis of the whole air pollution monitoring process currently carried out by DDDC is needed and this committee is logically the one to carry out that analysis.

It should not take three years to decide to do something about damaging levels of NOx. It is no good making promises in a corporate plan that are not delivered. Residents’ health should not be put at risk because of unnecessary delay in siting sample tubes.

Choices have been made on behalf of this committee (whether they knew it or not) and they have not been in the interests of residents.

And could this committee request the removal of a clearly incorrect statement from the DDDC website? In the section ‘Air Quality Monitoring – nitrogen dioxide’; it reads “There are no predicted exceedances of the air quality objective for nitrogen dioxide”.

This has been untrue for almost 3 years.”

RESPONSE:

Local air quality management is an activity prescribed in Part 4 of the Environment Act 1995 and is undertaken on behalf of Derbyshire Dales District Council by its Environmental Health team. The most basic responsibility under the Act is to review local air quality and to assess whether health-based air quality objectives will be achieved. If it is predicated that these will not be achieved and Air Quality Management Area must be declared and an Air Quality Action Plan put in place, to improve air quality to acceptable levels.

The Council produces an annual Status Report in relation to air quality and has to agree this with Defra. The reports are then published on the Council’s website and are available for scrutiny by all. Whilst review and assessment is an operation issue, officers are available to discuss issues with elected Members or members of the public.

Where review and assessment indicates that a problem is likely to exist then a report is submitted to the relevant Committee for approval to declare an Air Quality Management Area, as this function is not delegated to officers.

In relation to Buxton Road, Ashbourne, officers have consulted with the Defra helpdesk throughout the process and are following the recommendations given to the Council. The next step required by Defra is the undertaking of a Detailed Assessment, which is currently being procured. If this indicates that an Air Quality Management Area should be declared, then a report will be submitted to Committee in relation to that declaration.

Thank you for pointing out the out-of-date text on the Council's website. This has now been updated.

34/20 – INTERESTS

Councillors Clare Gamble and Mark Wakeman declared a pecuniary interest in Agenda item 7 – Former Public Conveniences & Land Transfer – Monsal Head. Cllrs Gamble and Wakeman left the meeting during discussion of and voting on this item.

35/20 - QUESTIONS PURSUANT TO RULE OF PROCEDURE NUMBER 15

Question from Councillor Peter O'Brien to Councillor Chris Furness, Chairman of the Community & Environment Committee:

“At the meeting of the Council on 16 January 2020, a proposal to cease the use by the Council of weed-killers containing glyphosate, a chemical believed by the World Health Organisation to be probably carcinogenic, was referred to this Committee. Since then, the use of glyphosate by the Council has continued unabated.

Can you confirm that the matter will be considered by this Committee at its meeting on 14 October 2020?”

Councillor Purdy provided the following response:

I can confirm this issue will be presented to Members at the next meeting of the Community & Environment Committee in October.

As agreed previously, trials and reviews of alternative weed control products have taken place. In addition, our Community Engagement team have been liaising with Town and Parish Council's regarding the use of the current product, with some requesting for the practice to continue and others asking if the service in their area can be halted until an agreement is reached regarding the use of an alternative product.

Further detail on this on this issue will be reported to the Committee in October.

Councillor O'Brien thanked Councillor Furness for the positive response, and stated that the consultation to which Councillor Purdy had referred did not appear to say why the Council was considering stopping the use of such weed-killers, which was primarily of course that they were probably carcinogenic. The consultation letter also stated that any future control of weeds would have to be by chemical treatment, therefore ruling out control by, for example, heat or steam treatment. Did the Chairman agree that this consultation therefore pre-empted any discussion or decision of the Committee to be held in October?

Councillor Furness said that in the absence of Councillor Purdy, he would need to discuss the matter with him and would circulate his response to Members in due course.

36/20 – IMPLEMENTATION OF POLICY: AMENDMENT (5) TO THE OFF-STREET PARKING PLACES ORDER 2013

The Committee considered a report on representations made in respect of proposed amendments to the Off-Street Parking Places Order 2013, which was last updated in 2018.

A report was presented to a meeting of this committee on 19th February 2020 which recommended various amendments to the Off Street Parking Places Order, as follows:

- measures to control the use of EV charging points,
- the inclusion of a new pay and display car park at the Henmore, Ashbourne,
- Removal of Thorpe car park, and
- Revisions to boundaries at The Bus Station, Ashbourne and Rowsley car parks.

The special procedure for the making and amending of off street parking orders, as laid down by section 35 and part iii of the Road Traffic Regulation Act 1984 and the Local Authority Traffic Orders (Procedure)(England and Wales) Regulations 1996, was summarised in the report.

It was reported that no written representations had been received in respect of the proposed amendments and there had been no recorded viewings of the deposited draft Amendment Order at the Town Hall. It was therefore recommended that the proposed Amendment Order, detailed in Appendix 1 to the report, be made without further modification

It was moved by Councillor Helen Froggatt seconded by Councillor Mike Ratcliffe and

RESOLVED That the Off-Street Parking Places (Amendment No5) Order 2020, as (unanimously) described within the appendix to the report, be approved and implemented in accordance with section 35 and Part III of Schedule 9 of the Road Traffic Regulation Act 1984 and the Local Authority Traffic Orders (Procedure)(England and Wales) Regulations 1996.

37/20 – FORMER PUBLIC CONVENIENCES & LAND TRANSFER – MONSAL HEAD

The Committee considered an updating report on the current position with the closed Monsal Head Public Conveniences following consideration of this matter at Council in November 2019 and to recommend their freehold transfer as a Community Asset Transfer to a newly formed Community Interest Company (CIC) to enable future provision of public convenience facilities at this site at no cost to the District Council.

Closure of Monsal Head Public Conveniences was recommended as part of the Review of Public Conveniences considered by Council on 30th April 2018, for reasons set out in the report. The current situation was that Monsal Head Community Toilets CIC (Company Number 12483933) had come forward with the objective to carry on activities which benefitted the community and in particular (without limitation) to provide, for the public benefit, public conveniences at the location in the Peak District National Park known as Monsal Head, adjacent to Monsal Dale. Inspections had taken place to establish a programme of works to be undertaken by the CIC upon transfer to enable the site to re-open as public toilets as soon as possible after transfer.

The 6 month timescale set for a proposed transfer to the CIC last November had slipped due to Covid 19, but terms had now been agreed for a freehold transfer of the site, as set out in paragraph 3.1 of the report.

It was considered by the Council's Valuer that the value of the transfer equated to £40,000. Therefore the proposed terms for the Community Asset Transfer of public conveniences and land at Monsal Head comprised an undervalue transaction, as permitted under the General Disposal Consent 2003.

The relevant Ward Members and Local Council had been consulted on the proposed transfer. No other expressions of interested had been received.

It was moved by Councillor Jason Atkin, seconded by Councillor Susan Hobson and

RESOLVED

(unanimously)

1. That the terms outlined in paragraph 3 of the report for a freehold Community Asset Transfer of the Public Conveniences building and adjoining land as shown edged red on the plan at Appendix 1 to the report to Monsal Head Community Toilets CIC (MHCTCIC) are agreed;
2. That it is noted that the disposal in (1) above comprises an undervalue transaction permitted under the General Disposal Consent 2003;
3. That each party meets its own legal costs.

38/20 – HOUSING ENFORCEMENT – CIVIL PENALTIES AND BANNING ORDERS

The Committee considered a summary of a new enforcement power that enabled the issuing of civil penalties as an alternative to prosecution for certain housing offences under the Housing Act 2004 and a breach of a Banning Order under the Housing and Planning Act 2016. A scheme of delegation for the issuing of civil penalties was recommended, as were scaled amounts for the penalties.

The private rented sector represented 4.5 million households in England. The Government wanted to support landlords who provided decent well-maintained homes; significant progress had already been made, as set out in paragraph 1.4 of the report. The Housing and Planning Act 2016 (sections 23, 126 and schedule 9) introduced a range of measures to crack down on rogue landlords and property agents who knowingly flouted their legal obligations by renting out accommodation which was substandard, and harassing their tenants. The offences specified in Schedule 9 of the Act were listed in paragraph 2.2 of the report, and Banning Orders (Part two, Chapter Two of the Housing and Planning Act 2016), were listed in paragraph 2.3 of the report, breach of which was a criminal offence.

The new powers relating to housing offences under the Housing Act 2004 came into force on 6th April 2017 and the offence of a breach of a banning order came into force on 6th April 2018; however, they were not retrospective and would not apply to offences committed before that date.

In introducing this new provision Government had suggested a maximum level of penalty of £30,000, but Local Authorities were to adopt their own policy in determining the appropriate level of a civil penalty in a particular case. It was expected that the maximum penalty would be reserved for the very worst offenders. Some of the factors to be taken into consideration to ensure that the civil penalty was set at an appropriate level were set out in paragraph 2.8 of the report.

In order to enable this provision to work effectively and efficiently, a recommended scheme of delegation was tabled in paragraph 2.10 of the report. Enforcement action would only be undertaken in accordance with the Council's Enforcement Policy, meaning officers would adopt a phased approach in general.

It was moved by Councillor Susan Hobson, seconded by Councillor Jason Atkin and

- RESOLVED**
(unanimously)
1. That the District Council adopts a maximum civil penalty of £30,000, with no set lower limit. Each case should be taken on its own merits dependant on the severity of the offence, using the Civil Penalty Matrix, shown in Appendix 1 of the report;
 2. That the scheme of delegation detailed at paragraph 2.10 of the report is adopted.

39/20 – ENFORCEMENT OF ENERGY PERFORMANCE OF BUILDINGS (ENGLAND AND WALES) REGULATIONS 2012

The Committee considered a report on to improving the standards of the private rented sector, in line with the work that the Council had been doing alongside other Derbyshire districts/boroughs and Derbyshire County Council Trading Standards. It had been identified that it would be operationally effective for Districts and Boroughs to enforce the requirement to provide Energy Performance Certificates (EPCs) in private rented properties.

Under Derbyshire County Council's revised Constitution, their duty to enforce the Energy Performance of Buildings (England and Wales) Regulations 2012 (as amended) ('The Regulations') had been delegated to districts and boroughs within Derbyshire; including Derbyshire Dales District Council. The scope of the delegation was limited to domestic private rented properties, as defined by s42 of the Energy Act 2011.

Enforcement of The Regulations allowed penalty charge notices to be issued to the relevant person where an enforcement officer of the local housing authority was able to show that the requirements set out in the table in paragraph 2.4 of the report had not been met. The levels of penalty under Part 7 s38 of The Regulations were shown in the table. Enforcement action will only be undertaken in accordance with the Council's Enforcement Policy.

In order to enable this provision to work effectively and efficiently it was necessary for officers to obtain delegated authority to issue the penalty charge notices. A recommended scheme of delegation was tabled in paragraph 2.6 of the report

It was moved by Councillor Mark Wakeman, seconded by Councillor Susan Hobson and

- RESOLVED**
(unanimously)
1. That the District Council adopts the financial penalties set out in paragraph 2.4 of the report;
 2. That the scheme of delegation detailed at paragraph 2.6 of the report is adopted.

40/20 – ENERGY EFFICIENCY (PRIVATE RENTED PROPERTY) (ENGLAND AND WALES) REGULATIONS 2015 (AS AMENDED)

The Committee considered a report on the work that the Council had been doing alongside other Derbyshire districts/boroughs and Derbyshire County Council Trading Standards to improve the standards of the private rented sector, by enforcing improvements of the energy efficiency of privately rented properties.

Under The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 ('The Regulations') enforcement of minimum energy efficiency in domestic privately rented properties fell to local authorities, whose responsibility it was to appoint authorised Officers to exercise the powers within the said regulations. Changes to delegation arrangements would ensure that local authorities could enforce the requirements to produce an Energy Performance Certificate (EPC) with a minimum rating E. This delegation was not intended to relate to house sales, but the renting of domestic properties only (as defined by s42 of the Energy Act 2011).

The enforcement authority could serve a compliance notice requesting information from a landlord in breach of the prohibition on letting a sub-standard property (as described in para 1.3 of this report), or a landlord in breach of the prohibition at any time in the past 12 months, which would help them to decide whether that landlord had in fact breached the prohibition.

Enforcement of The Regulations allowed financial penalties to be issued to a landlord where an Enforcement Officer of the local authority was able to show that the requirements set out in the table in paragraph 2.6 of the report had not been met. Authorised Officers also had the provision to serve a Publication Penalty (regulation 39), allowing the enforcement authority to publish some details of the landlord's breach on a publicly accessible part of the PRS Exemptions Register, as set out in the report. In introducing this provision, Government had specified the maximum levels of penalty under Part 3, Chapter 6 of The Regulations, which were included in the table.

It was proposed that Derbyshire Dales District Council adopted the maximum penalties shown in the table, with the provision to offer a 50% discount if the total amount of fine was paid within 14 days. In order to enable this provision to work effectively and efficiently it was necessary for officers to obtain delegated authority to issue the financial and publication penalties. A recommended scheme of delegation was tabled in paragraph 2.10 of the report. Enforcement action would only be undertaken in accordance with the Council's Enforcement Policy.

It was moved by Councillor Helen Froggatt, seconded by Councillor Alasdair Sutton and

RESOLVED
(unanimously)

1. That the District Council adopts the financial penalties set out in paragraph 2.6 of the report;
2. That the scheme of delegation detailed at paragraph 2.10 of the report is adopted.

MEETING CLOSED 7.31PM

CHAIRMAN