

MID DEVON DISTRICT COUNCIL

MINUTES of a **MEETING** of the **SCRUTINY COMMITTEE** held on 11 September 2017 at 2.15 pm

Present Councillors

Mrs H Bainbridge, Mrs C P Daw,
T G Hughes, Mrs J Roach, T W Snow,
Mrs B M Hull, Mrs G Doe and F W Letch

Apologies Councillor(s)

F J Rosamond, N A Way and Mrs A R Berry

Also Present Councillor(s)

R L Stanley

Also Present Officer(s):

Andrew Pritchard (Director of Operations), Andrew Jarrett (Director of Finance, Assets and Resources), Kathryn Tebbey (Legal Services Manager and Monitoring Officer), Simon Newcombe (Public Health and Professional Services Manager) and Julia Stuckey (Member Services Officer)

51 APOLOGIES AND SUBSTITUTE MEMBERS

Apologies were received from the Chairman Cllr F J Rosamond (Cllr T G Hughes (Vice Chairman) in the Chair), Cllr Mrs A R Berry and Cllr N A Way who was substituted by Cllr F W Letch.

52 PUBLIC QUESTION TIME

Referring to item 8 (Crossparks) on the agenda Mrs Rowcliffe said we, the affected residents, had a meeting last week with the officers. The report written by Dr Louise Uffiindell flagged the presence of sulphur dioxide in Mike Hill's house, Palm Springs. Mr Pritchard categorically refused to consider the testing of SO₂ in the long term follow up tests. Perhaps the Scrutiny Committee will be able to ask for justification of this stance. In any case it is the officer's duty to declare a statutory nuisance. Enough is enough, the fumes are excessive. They affect our health and are an unacceptable interference with our existence in our properties around the pit.

Mrs Bickerstaff, also referring to item 8 on the agenda, informed the Committee that the officers said our borehole water failed tests because our ducks are splodging through 47 metres of soil. Surely they cannot be serious. Can the officers be asked for a better solution, pollution maybe? Is slurry leaking into the ground water? The bottom of the pit is not concrete, it was just excavated out of the subsoil. The stream by the pit has similar chemicals to those inside the pits Environment Agency sample. Could the pipe line be leaking? Do phenols, present in all samples, rot the plastic pipes of the pipeline? The Faulkner's water tested at the same time had coliform level greater than 300. But how much greater than? Their own private water test at

the same time revealed 1050. Their analyst could not understand why the level had increased by so much in just 2 years, unless the pollution was from an outside source. Can the Committee ask the officers why the readings are so bad and abnormal? Please declare a statutory nuisance on the pit and digestate.

Mr Leaming, referring to item 8 on the agenda asked are the committee aware that Templeton Parish Council is trying to obtain a definitive position regarding the Crossparks pit? The Parish Council has been repeatedly asked about inconsistencies in pit treatment by the authorities and parishioners feel they don't have the same level of protection as other locations. For example, the enforcement notices for Pulsards and Coleford pits also states 'the Officers quantified the intended storage of digestate in an already dug slurry pit (no planning permission) as a waste operation requiring a Transfer Operators Licence.' Crossparks has not been asked to apply for such a licence. Further, 'Officers consider this is justified in order to protect the amenity and living conditions of nearby residential properties'. Templeton has residential properties closer than either of these enforced sites. There are some inconsistencies. As a Parish Council, we await definitive guidance. As a finale, we now have a planning condition attached to an application of Crossparks to store potentially flammable materials even closer to residential property.

Referring to item 8 on the agenda Mrs Rose said that from the Scrutiny Committees point of view, complaints of nuisance at Crossparks have been ongoing since 2012 regarding noise, odour and flies, so this isn't a recent thing. Environmental Health has had plenty of opportunities but has let us down badly. Back then it was all slurry related issues from his mega dairy of 3000 cows.

Moving on to now and since Scrutiny's involvement Environmental Health do seem to be listening finally and have suggested they look at our medical records. My concern is this will take years to prove anything and as Pete Smith from Public Health told me 4 years ago, proving anything via ill health is very difficult and going for statutory nuisance is the only way to move forward.

I am unable to detect or smell these poisonous gases that we're being exposed to from digestate and have no idea what it's doing to my health but my garden is living proof and it has severely damaged plants. Plants don't lie. This began in January this year and we are nowhere near to resolving it, this problem isn't going away and we will not give up fighting for our rights to be forced to move house because we can no longer live there. We need your help, we need action now. Mrs Rose left some plant samples.

Referring to item 8 on the agenda, Mr Faulkner said that I asked Stephen Walford what is in the pit that is causing our distressing symptoms. After I had repeated the question several times he tetchily replied that I should just have to wait for Environmental Health to complete their investigations into the pit and its contents. This pit contains in the region of a million cubic feet of bubbling chemicals, it takes 39 articulated lorries and their attendant tankers to fill it. That is a large test tube of unknown reagents about which Mr Walford is waiting for an Environmental Health report. Environmental Health did commission official tests between 3 May and 17 May. On the first day 5 slurry kats, large industrial slurry tankers, quickly sucked out the last remaining artics worth of digestate/slurry. The pit was then virtually empty. During the testing fortnight there were no movements; neither in nor out. The fissured tongues of the nearby neighbours started healing. However, the residents still

complained as the fumes were now emanating from the heavily spread fields, as indicated in their logs with details of wind direction. Previously Mr Newcombe had insisted that whilst the testing took place the pit was operating in its normal cycle. We have informed him that this was not the case. Perhaps the Committee will be able to clarify that during the testing two weeks the pit was empty and inactive and therefore not emitting gases at the same rate as normal.

You may also be able to question the officers whether Dr Louise Uffindell and Pete Smith were told of this inactivity and the emptiness of the pit. Their report could and should be rewritten in the light of this knowledge. Even so, SO₂ and Hydrocarbons have been identified as chemicals present causing concerns. The statutory nuisance has yet to be declared. The gases emanating from the pit are spreading all over the countryside, killing the trees and plants, affecting our health and depriving us of our rights of simple enjoyment of our properties. Alors, quelle espece de faisances est ceux ci: c'est vraiment incroyable! I am sure the Committee can persuade the officers to declare a statutory nuisance against the pit and the spreading of digestate.

Mrs Faulkner, also referring to item 8 on the agenda, said that as you know the Environment Agency did a chemical test of the pit. It showed phenols at 23ppm. We also did a test of our bedroom which had a benzene ring compound TVL 5ppm and testing Mr Hill's house and Mr and Mrs Rose's houses which had phenols at different qualities also. Did we all have the same spray of aerosols as was suggested by Mr Newcombe? Was it far more possible that the pit was bubbling out hydrogen sulphide and sulphur dioxide and along with it other organic chemicals like phenols? I did ask a professional chemist and he said that this was possible. There are many other matching volatile organic chemicals on all the lists. There are slight variations of chemicals in the tests as they were not all done at the same time but as you know the digestate comes from many different AD's. Environmental Health are fully aware. They met and discussed it with Public Health England and Dr Virginia Pearson in April. Councillors Stanley and Moore asked to attend but they were refused. Our bedroom showed we had 1500ppm of phenoxyacetic acid in it, they said it was just a food preservative. But phenoxyacetic is linked to Agent Orange a broad leaf weed killer, hence our plants are dying and many showing discoloration. Environmental Health are negligent in not performing their duty and declaring a statutory nuisance. They have had evidence, they have ignored it.

The Chairman indicated that questions raised would be given due consideration from the Committee and thanked the public for their contribution.

53 MEMBER FORUM

Discussion took place regarding a verbal update on the agenda and the reasons for the update being verbal on this occasion rather than written, which was the preference of the Committee. These concerns were noted.

54 MINUTES OF THE PREVIOUS MEETING

Subject to an amendment to Minute 45 under discussion took place regarding, bullet point 1 to read "an information request for the hourly cost to the Council for agency staff and permanent staff" the Minutes were approved as a true record and signed by the Chairman.

55 DECISIONS OF THE CABINET

The Committee **NOTED** that none of the decisions made by the Cabinet at its last meeting had been called in.

56 CHAIRMAN'S ANNOUNCEMENTS

The Chairman had no announcements to make.

57 CROSSPARKS

The Public Health and Professional Services Manager explained that the update provided was verbal rather than written due to the timing of the meeting. Officers had met with local residents and Ward Members during the previous week and did not consider it appropriate to make the information that they were giving them public ahead of that meeting. Any documents issued with the agenda would have been made public in advance of that meeting date. The intention of the update was to give feedback on the investigation as a whole, liaison with other agencies and conclusions from monitoring and other assessment work.

The Officer informed the Committee that the Environmental Health team had undertaken an exceptional, detailed and systematic investigation and had worked very hard to get to the bottom of issues being raised by residents.

The officer reminded Members that under the provisions of statutory nuisance this had been a two-pronged approach, looking at nuisance to residents (principally from odour, activities at the pit and land surrounding) and prejudicial health.

The Service had continued regular liaison with the Environment Agency (EA) regarding air quality monitoring and toxicological assessment with Public Health England (PHE).

The EA, who permitted Anaerobic digestion (AD) plants had been asked if they had received complaints regarding similar activities elsewhere but they were only able to identify one other operation which concerned digestate spreading activities in Somerset. However the activities at that location did not involve a storage facility in the same manner as Crossparks and the AD plants were processing waste products. The local authority (Sedgemoor DC) had investigated issues in relation to odour nuisance only related to spreading activity with no complaint regarding symptoms of ill-health.

The Officer provided an update on monitoring and investigations that had been undertaken since the last briefing to Scrutiny in June 2017.

Odour nuisance

- Odour nuisance, previously reported 45 odour assessments – 96 had been carried out since February 2017, all of which had been unannounced;
- Assessments had been undertaken by 7 different officers, using national standard EA and Defra methodology ;

- A number of additional visits for other reasons where odour was assessed but not to formal method.

It had not been possible to establish statutory odour nuisance in connection with the pit, however statutory odour nuisance had been established due to spreading in a specific fields around Palm Springs. In April a notice had been served. However, this was not due to how the spreading was being carried out but rather the frequency/persistency in connection with weekends and bank holidays.

Prejudicial to health

The Service had ruled out a number of possible sources and pathways which left the focus on potential contamination to ground water and exposure via boreholes/wells. Testing focussed on the two known supplies closest to the pit (Palm Springs and Mount Pleasant Farm) and airborne pollution

- The water tested was untreated from source and results showed no unexpected results of concern. This included both samples of the untreated private water supplies (not currently being consumed by occupants) and the mains drinking water.

Air Quality:

- Air quality monitoring and clinical/toxicological assessment of results by PHE;
- A comprehensive monitoring programme completed independently by Somerset Scientific Services who had been reviewed and pre-approved by PHE, during a range of pit activity providing a full suite of potential inorganic and organic/volatile compounds of concern;
- Testing was undertaken adjacent to pit, between the pit and Palm Springs and inside Palm Springs and outside control over 1mile from pit;
- Testing looked for hundreds of different compounds and -
 - a) Identified traces of around 50 compounds
 - b) Many were exclusively found indoors and not found outside – ruling out the pit as a source
 - c) The assessment by PHE did not identify anything of toxicological concern
 - d) Marginal identification of SO₂, potentially from an indoor combustion source
 - e) Typical identification of ammonia across all samples including at the control site. There were a number of agricultural sources including slurry, livestock, crops and fertilisers, domestic pet especially dogs. Highest results were indoors but still only at the lower end of possible odour detection and not at concentrations of clinical concern;
- Also carried gas monitoring immediately over pit during a wide range of activities in and around the pit – 76 tests in total were completed or range of gases including Hydrogen sulphide (H₂S). No elevated concentrations found at all and oxygen levels were normal in all results;

- No clinical and/or toxicological information of concern had been found

The conclusion was that all environmental parameters and air quality around the pit entirety were considered normal for a rural area and nothing of concern.

On-going monitoring

The Public Health Manager assured the Committee that despite not identifying anything of concern he was committed to some on-going assurance monitoring adjacent to the pit for at least the next 12-months.

Testing would be undertaken regarding:

- Ammonia – monthly averages
- Nitrogen dioxide (NO₂) – monthly averages. This is a general, sometimes surrogate, indicator of pollution from a range of sources. It is also directly linked to transport emissions, which are relevant given the number of commercial/agricultural vehicles movement being reported. It's also a pollutant that can give rise to respiratory problems such as tightness of chest, which some of the residents have reported as experiencing. We also have around 20 other long-term NO₂ monitoring sites around the district so we can compare results easily over identical monitoring periods – again monthly.

Discussion took place regarding:

- The testing period and the fact that the pit was emptied during that period. The Public Health Manager explained that activity at the pit would normally go through a cycle and that they had tried to capture normal activity. The pit would normally be filled and then the contents would be spread locally. Although the pit was emptied during the testing period the contents would have been spread in the local area so any gases released would have been tested. The officer did not consider that the emptying of the pit undermined the testing as there would have been capture during the disturbance and spreading. The officer also confirmed that residents continued to report ill health symptoms during this period.
- Damage to plants and the fact that Defra, and the Animal and Plant Agency specifically, were responsible for this area of concern. Samples of vegetation were accepted from Mrs Rose and officers agreed to refer them to the relevant agency.
- The discrepancy between the results undertaken by the authority and those undertaken by residents;
- The working group and the work that they would be undertaking.

The Director of Operations provided an assurance that should residents report ill health via the health service in the future, that led to specific compounds of concern being identified by clinicians including GPs/NHS or PHE, then if notified the authority would investigate for possible sources in the local environment. He gave an open commitment to support the residents in whatever way he could.

58 CABINET MEMBER FOR HOUSING

The Committee had before it and NOTED a briefing paper * from the Cabinet Member for Housing updating it regarding areas covered by his remit.

The Cabinet Member outlined the contents of the report, explaining that the number of people sleeping rough in the District should read 4 rather than the 7 that was quoted within the report and that Private Sector Housing had returned 34 properties to use this year to date. The Cabinet Member also highlighted that the development at Birchen Lane was to be demolished and rebuilt. This followed the company that had been appointed to develop the site being put into administration and the site being open to the elements for such a long period of time. The development at Palmerston Park was progressing well but extra work was required to secure the bank, with some tree felling. These properties should be ready for occupation in the spring of next year.

The Cabinet Member explained that officers would be identifying the number and locations required for affordable housing, within the financial limitations of the Housing Revenue Account and that this information would be fed into the revised Corporate Plan. The Cabinet Member highlighted that future rent collection performance was a risk following the implementation of Universal Credit.

Discussion took place regarding:

- Sums of money paid by developers in lieu of affordable housing and what happened to those funds;
- Junction 28 and changes that were required prior to further development in Cullompton;
- Council garages and the fact that many were no longer large enough to house a car. There were plans to develop on some sites, rebuild garages on others and in some instances to remove garages and provide parking places;
- The quality of accommodation provided for homeless people and the cost of this;
- The Housing list and plans to revisit the E band to decide whether or not it should be removed.

The Chairman thanked the Cabinet Member for his report.

Note: - Briefing paper previously circulated and attached to the Minutes.

59 CAR PARKING UPDATE ON INCOME & VENDS

The Committee had before it and **NOTED** a report * from the Director of Finance, Assets and Resources presenting the car parking outturn position for 2016/17 and an update on the first 3 months of 2017/18.

The Director reminded Members that during 2015/16 the Managing the Environment Policy Development Group had set up an officer and member working group to

review the current car park charging policy and then make recommendations on a new one to be implemented on the 1/4/16. This review looked at usage levels, benchmarked charges against neighbouring Councils, considered more free periods, reviewed concessions and considered economic consequence.

The Director also reminded Members that when evaluating the impact of a new charging policy for any product, it was often made harder, as other variables may well have direct/indirect effects/consequences. This was particularly relevant to car parking. Variables such as weather, the economy, fuel prices, provision of alternative parking, availability and range of shops, level of ad hoc concessions granted and road closures for example could also affect usage levels and hence income generated.

The Director informed Members that he considered the changes implemented to have been reasonably successful as there had been an increase in income and that vends had remained relatively static. There was a wide range of car park type and there were major swings in vends in some with free vends increasing in short stay car parks and vends in some long stay car parks reducing. He would be asking the Economy PDG to look at the pricing strategy in the near future and to feedback any further tweaks that could be made.

Discussion took place regarding:

- The £2 vend was for all day parking but only covered the period until 6.00pm so an evening vend was also required for anyone staying beyond this time;
- A perceived loss of goodwill with local traders;
- Consideration for the local business community when setting parking fees;
- Cullompton Town Centre car park fees which were managed by the Town Council;
- The Premier Inn development might affect future pricing and opening hours for the multi-story car park in Tiverton.

Note: - Report * previously circulated and attached to Minutes.

60 FORWARD PLAN

The Committee had before it and **NOTED** the Cabinet Forward Plan *.

It was **RESOLVED** to recommend to the Cabinet that it acts upon the action plans to improve the Tiverton town centre and Pannier Market that were approved in 2011.

(Proposed by Cllr Mrs J Roach and seconded by Cllr T W Snow)

Note: Plan previously circulated and attached to Minutes.

61 IDENTIFICATION OF ITEMS FOR THE NEXT MEETING

Performance and Risk

Traveller Sites

(The meeting ended at 4.40 pm)

CHAIRMAN