

## **ENVIRONMENT SCRUTINY COMMITTEE**

Wednesday 5<sup>th</sup> September, 2012 at 6.00 pm  
in Committee Room 2, The Council House, Dudley

### **PRESENT:-**

Councillor Hanif (Chair)  
Councillor Mrs Shakespeare (Vice-Chair)  
Councillors M Aston, Body, Boleyn, Duckworth, Harley, James, J Martin and Mrs Turner

### **Officers**

Director of Corporate Resources (As Lead Officer to the Committee), Assistant Director of Planning and Environmental Health, Assistant Director of Environmental Management, Head of Environmental Health and Trading Standards (Directorate of Urban Environment), Assistant Director of Housing Services (Directorate of Adult, Community and Housing Services) and Miss H Shepherd (Directorate of Corporate Resources).

### **Also in attendance**

Four members of the public, Councillors Perks and K Turner.

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#### 10. **APOLOGY FOR ABSENCE**

An apology for absence from the meeting was submitted on behalf of Councillor Jordan.

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#### 11. **APPOINTMENT OF SUBSTITUTE MEMBER**

It was noted that Councillor Body had been appointed as a substitute member for Councillor Jordan for this meeting of the Committee only.

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#### 12. **DECLARATIONS OF INTEREST**

No member made a Declaration of Interest in accordance with the Members Code of Conduct. However, it was noted that the Chair was a friend of Mr Kendrick, a member of the public in attendance at the meeting and who wished to speak in relation to agenda item 10 – Complaint to the Local Government Ombudsman – Enforcement Matter.

It was also noted that in relation to Agenda Item 10 – Complaint to the Local Government Ombudsman – Enforcement Matter, that the Vice-Chair had been a Cabinet Member during the decision making concerning this item.

Councillors Body and J Martin also declared that they knew and had connections with Mr Kendrick.

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13. MINUTES

RESOLVED

That, the minutes of the meeting of the Committee held on 14<sup>th</sup> June, 2012, be approved as a correct record and signed.

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14. PUBLIC FORUM

No other issues were raised under this agenda item other than those referred to in minute no. 16.

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15. CHANGE IN ORDER OF BUSINESS

RESOLVED

That, in accordance with Council Procedure Rule 13(c), the remaining Agenda Items be considered in the following order:-

10, 6, 7, 8, 9 and 11

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16. COMPLAINT TO LOCAL GOVERNMENT OMBUDSMAN – ENFORCEMENT MATTER

A joint report of the Director of Corporate Resources and Director of the Urban Environment was submitted to consider and comment on the report of the Local Government Ombudsman into a complaint made against the Council considered by the Cabinet at its meeting held on 20<sup>th</sup> June, 2012 and referred to the Scrutiny Committee to establish what lessons could be learnt from the process.

Mr Kendrick, a Member of the public, had indicated that he wished to speak on this item and the Chair explained the procedure that would be followed.

Following the presentation of the report by the Assistant Director of Planning and Environmental Health, Mr Kendrick spoke and provided the Scrutiny Committee with the background history of the case. He presented the case from the residents point of view and stated that they did have a lot of communication with Officers, but that the full details of meetings between Chief Officers and the Leader was never communicated back to the residents.

He stated that the Consultants agreed that Caparo would not be able to comply with the conditions being considered.

He informed the Committee that the regular residents meetings between Council Officers and Caparo had been helpful, but residents felt on their own with little support from the six ward Councillors for that area. Mr Kendrick felt that this was an important lesson to be learned by Councillors. He went on to say that in the report it referred to Caparo being a key employer, however the number of employees had decreased from between 40-50 staff to 35 staff, working only 3-4 day weeks due to the impact of the economic climate, and that had been the reasoning behind the closure of the business and not because they were unable to comply with regulations.

He also stated that residents had still not received the compensation payments owed to them, even though it had been agreed at Cabinet on 20<sup>th</sup> June, 2012. He then referred back to 2003 when the previous occupier, Zeus, had been on site and when the problems with the site had begun and questioned why Caparo had been allowed to take over the site considering the previous abatement notice that had been served.

Following a question raised by a Member, Mr Kendrick confirmed that the meetings between officers and Caparo had been good, but that the other meetings taking place within the Council needed to be more transparent and communicated back to the residents as they were not always aware of what was happening and therefore persisted with complaints.

In response to a question, the Assistant Director of Planning and Environmental Health stated that an abatement notice for noise nuisance had been served on Zeus, which resulted in the company having to pay a £10,000 fine. However an abatement notice does not enable the Council to stop the company from operating. It was also stated that this particular site had a long-standing planning application allowing 24-hour operation and there was no need for Caparo to obtain further planning permission when taking over the site.

Arising from a question raised, Mr Kendrick stated that the residents had suffered from noise nuisance since 2003, levels of which had never decreased and which had been confirmed in the Ombudsman's findings. It was stated that residents had been unable to sit in their gardens due to sand emissions and were subject to an odour, all of which had continued over a seven year period.

In response to questions raised in relation to the reasons for the delay in gaining Cabinet approval for the Ombudsman's recommendations and paying the compensation, the Assistant Director of Planning and Environmental Health confirmed that they had had to wait until June for the first meeting of the Cabinet following the election for the report to be agreed and there had been a delay in obtaining the addresses of some residents who had moved. However, the letters were due to go out next week, and only one or two addresses were now outstanding. A judgement had been taken to wait for all letters and payments to go out at the same time, but lessons from this would be learnt.

The Chair thanked Mr Kendrick for attending and speaking at the meeting.

Questions to officers continued and in response it was stated that the term 'reasonable time' in respect of responses from the company would be different case by case, dependant on the technical information required, especially if specialist consultants needed to be commissioned.

Arising from questions raised, the Assistant Director of Planning and Environmental Health stated that it had been a judgement call not to proceed with the abatement notice served on Caparo. Zeus had previously been prosecuted and fined for none compliance with an abatement notice, however an abatement notice did not give the Council any control to close down a business and prevent an operational process and therefore would not resolve the pollution matters. Therefore it was considered, in this case, that it would be a more appropriate route to use all available resources to pursue a permit with conditions attached, which are designed to control all pollutants with detailed conditions to enforce on an operator and stronger controls and penalties for none compliance.

#### RESOLVED

- (1) That the report and appendices to the report submitted to the meeting be received and noted.
- (2) That, in addition to the issues raised during the meeting, the following learning points for the Council be noted:-
  - (i) Greater Officer focus on the time taken by the Company to respond to the Council in providing technical information through proactive use of case conferences and tighter control of case management in pursuing the company for information. The issue of length of time the whole process took is the biggest factor that has to be improved on.
  - (ii) Review legal options available to the Council and consider a twin track approach where more than one legal route is available.
  - (iii) Improvement of communication, particularly around the decision-making stages of the process.
  - (iv) Improvement in the speed of compensation payments to affected residents following Ombudsman findings that are approved by Cabinet.

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17.

#### ANNUAL REPORT OF THE SCRUTINY COMMITTEE TO COUNCIL

A report of the Lead Officer to the Committee was submitted on the Annual Report of the Environment Scrutiny Committee for 2011/2012.

The Assistant Director of Housing Services requested that reports on Housing Fraud and Best Use of Stock Summit, as requested by the Scrutiny Committee at the previous meeting, be included in the Work Programme for 2012/13 and submitted to the March 2013 and November 2012 meetings, respectively.

In response to a question raised, the Assistant Director of Housing Services stated that the youngsters' 21 housing issues would all be incorporated into the annual homelessness report.

#### RESOLVED

- (1) That the Annual Report of the Scrutiny Committee for 2011/12 be received and noted and referred to Council
- (2) That reports on Housing Fraud and Best Use of Stock Summit be incorporated into the 2012/13 Work Programme and submitted to the March 2013 and November 2012 meetings, respectively.

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#### 18. ESTABLISHMENT OF A HOUSING WORKING GROUP

A report of the Assistant Director of Housing Services was submitted on the establishment of a cross party Housing Working Group.

Arising from the presentation of the report a Member raised concerns with regards to information being shared by all Members of the Scrutiny Committee and not just by Members of the Working Group. The Assistant Director of Housing Services stated that previous issues with Working Group's had been recognised, that lessons had been learnt and that reports submitted to the Scrutiny Committee in the future would be clearer and programmed into the Work Programme should the establishment of a Housing Working Group be agreed.

During further discussion it was agreed that it was important for the notes of the Working Group to be circulated to all Members of the Scrutiny Committee following any meeting of the Working Group.

#### RESOLVED

- (1) That a Housing Working Group be established to consider policy issues facing Housing.
- (2) That the Membership of the Working Group be flexible with all Members of the Environment Scrutiny Committee being invited together with an open invitation to the Cabinet Members advisers.

- (3) That the notes from the Housing Working Group meetings be circulated to all Members of the Environment Scrutiny Committee for information.
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19. WELFARE REFORMS

The Assistant Director of Housing Services gave a verbal update on the Welfare Reform proposals, which set out in law fundamental changes to the welfare system aimed at improving the benefits system so as to reduce dependency on welfare; improve incentives to work; make work pay and reduce overall spend at a time of economic instability in the Country.

Particular reference was made to a briefing note that the Assistant Director of Housing referred to and which the Chair requested be circulated to all Members of the Scrutiny Committee following the meeting.

In response to a question raised by a Member, the Assistant Director of Housing Services agreed to check the Government provisions for more certainty with regard to persons with shared parental responsibilities and the issue of additional bedrooms and benefit implications.

In relation to further questions raised the Assistant Director of Housing Services stated that in relation to 'Right to Buy' there was no requirement on the Council to replace 'like for like' and that a decision would have to be taken on what additional budget could supplement a new build programme. She also stated that with monies being paid direct into peoples account, monthly in arrears, all evidence predicted that there would be an increase in debt, not necessarily just affecting the vulnerable.

RESOLVED

- (1) That the verbal update on Welfare Reform be noted.
  - (2) That the briefing note of the Assistant Director of Housing be circulated by her to all Members of the Environment Scrutiny Committee.
  - (3) That the Assistant Director of Housing be requested to obtain further guidance in relation to persons with shared parental responsibilities requesting additional bedrooms and inform Members direct and email direct to Members the further guidance obtained.
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20. BADGERS

A joint report of the Director of the Urban Environment and the Director of Adult, Community and Housing Services was submitted on the duties and responsibility of the Council with regard to Badgers and law and on how Officers were able to provide support to communities in relation to Badgers.

Arising from the presentation of the report a Member made particular reference to Council land at Wordsley Community Centre and car park that was currently affected by Badgers and requested that this be investigated.

RESOLVED

- (1) That the information contained in the report submitted on Badgers, be noted
- (2) That the Assistant Director of Environmental Management be requested to investigate the Badger issue at Wordsley Community Centre car park and associated land raised at the meeting and respond direct to the Member concerned.

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The meeting ended at 7.58pm.

CHAIRMAN