
DUDLEY METROPOLITAN BOROUGH COUNCIL

SELECT COMMITTEE FOR THE ENVIRONMENT- 26th SEPTEMBER 2007

REPORT OF THE DIRECTOR OF THE URBAN ENVIRONMENT

CROSS BORDER WORKING

PURPOSE

- 1 To inform members of the issues surrounding cross border working between neighbouring Councils in relation to Public Protection matters.

BACKGROUND

2. At their meeting on the 27th January 2007 the Committee discussed the issue of the Green Waste Composting facility at Iverley Park Farm, Iverley which was raised at Public Forum. The facility is in Staffordshire and approximately 150 metres from the Dudley Metropolitan Borough boundary. Since the facility opened in 2005 residents in Dudley have complained to the Council about the odours from operations on the site. At the meeting the Committee requested to be informed as to operational matters and methods of working in relation to cross border issues as part of their work programme in 2007.
- 3 With regard to the Green Waste Composting facility at Iverley Park Farm the facility is within the area of South Staffordshire District Council and therefore they are the enforcing authority in relation to complaints of odour. Under the provisions of the Environmental Protection Act 1990 (the Act) the enforcing authority can serve an abatement notice on the operators to deal with a statutory nuisance from the odour. However under Section 81(2) of the Act the enforcing authority can serve a notice on a person operating outside it's area if it is causing a nuisance to residents within it's area.
- 4 In relation to actioning complaints from the public the enforcing authority only has a duty to investigate complaints from persons living within its area. Therefore Dudley must investigate complaints from Dudley residents about any premises either within or outside it's area. South Staffordshire has no duty to investigate complaints from Dudley residents about any facility within it's area.
- 5 Cross border problems are not an uncommon issue particularly in a large urban area such as the West Midlands. Instances have occurred in the past where

smoke and noise has arisen from premises outside the Dudley Borough such as from scrap yards and foundries but has affected Dudley residents who have subsequently complained to the Council. In these instances the Council liaises with the neighbouring Authority in whose area the nuisance arises and a decision is made as to which authority takes the lead in any enforcement action. This decision may be based on a variety of criteria such as the number of residents affected in each area or in the case of a permitted premise under the Pollution Prevention and Control regime the authority who issued the permit.

- 6 In relation to the Green Waste Composting facility at Iverley Park Farm, Iverley both South Staffordshire and Dudley Councils are working closely together with the Environment Agency to control operations to prevent nuisance from odour generated on the site. Complaints from each authority area are received by their home Authority with the neighbouring Council informed of their receipt. Officers from all agencies also attend the Iverley Tip Liaison Group meetings. The Council in whose area the offending premises are normally takes the lead in any enforcement action so in this case South Staffordshire District Council are taking the leading role. However this does not preclude Dudley taking legal action if they have the evidence and consider it appropriate.
- 7 Once an agreement has been reached on the lead authority then resources and evidence can be pooled from each authority in order to address the problem. As the investigation proceeds regular meetings take place with both authorities in order to assess progress leading to the resolution of the problem either informally or through the legal process.
- 8 There are also more formal national cross-boundary partnership schemes such as the Home Authority Principle in relation to food and trading standards and the Lead Authority Partnership Scheme in relation to health and safety.
- 9 With regard to both schemes a partnership is formed between a Local Authority (the future lead authority) and a business, organisation or intermediary group with multiple outlets across the country or a national membership. The authority works closely with that organisation to help develop and improve its health and safety arrangements and/or the guidance and advice it promotes through its membership. The lead authority then acts as a focal point of liaison on health and safety issues between other LAs, HSE and that organisation.

FINANCE

- 10 All financial implications associated with enforcement work are contained within existing budgets.

LAW

- 12 The Council has the power, where appropriate, to taken enforcement action under the relevant Environmental Protection legislation it is required to enforce, including the Environmental Protection Act 1990, the Environment Act 1995, the Pollution, Prevention and Control Act 1999 and all the regulations made under these Act's.

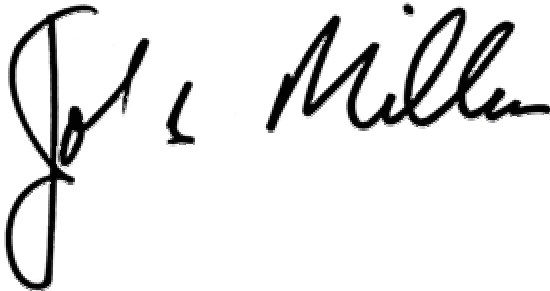
- 13 Under Section 81(2) of the Environmental Protection Act 1990 the enforcing authority can serve a notice on a person operating outside its area if it is causing a nuisance to residents within its area.
- 14 Section III of the Local Government Act 1973 enables the Council to do anything that is calculated to facilitate or is conducive or incidental to any of its statutory functions.

EQUALITY IMPACT

- 14 This report does not conflict with the Council's policy on equal opportunities.

RECOMMENDATION

- 15 It is recommended that members note the contents of the report.

A handwritten signature in black ink, appearing to read 'J. B. Millar'. The signature is written in a cursive style with a large, stylized initial 'J'.

J. B. MILLAR – DIRECTOR OF THE URBAN ENVIRONMENT

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BACKGROUND PAPERS

Local Authorities and HSE Working Together – Building on Best Practice, March 2005