

BRECKLAND COUNCIL

At a Meeting of the

POLICY DEVELOPMENT AND REVIEW PANEL 2

**Held on Thursday, 24 July 2008 at 10.00 am in
The Norfolk Room, Conference Suite, Elizabeth House, Dereham**

PRESENT

Mr M.A. Kiddle-Morris (Chairman)	Mrs S.M. Matthews
Mrs J. Ball	Mrs L.H. Monument
Mr S.G. Bambridge	Mr D.G. Mortimer
Mr M.J. Griffin	Mrs P. Quadling

Also Present

Mr R.F. Goreham	Mrs D.K.R. Irving
-----------------	-------------------

In Attendance

Ralph Burton	- Economic Projects Officer
Sheila Cresswell	- Member Services Officer
Keith Fuller	- Community Safety Officer
Michael Horn	- Head of Legal Services
Graham Parfitt	- Legal Executive
Elaine Wilkes	- Senior Member Services Officer

23/08 MINUTES (AGENDA ITEM 1)

The Minutes of the meeting held on 23 June 2008 were confirmed as a correct record and signed by the Chairman.

24/08 APOLOGIES (AGENDA ITEM 2)

Apologies for absence were received from Councillor Bowes.

25/08 NON-MEMBERS WISHING TO ADDRESS THE MEETING (AGENDA ITEM 5)

Mr R Goreham, Leader of the Labour Group and Ward Member for Dereham Central, attended for Agenda Item 6.

Councillor D Irving was also in attendance.

26/08 HM REVENUE & CUSTOMS CHANGE PROGRAMME (AGENDA ITEM 6)

Keith Simpson MP was in attendance for this item, together with Lee Sutton (Branch Secretary, PCS Union) and Lina Curtis (PCS representative from HM Revenue & Customs (HMRC) Dereham office).

The Economic Projects Officer presented the report and explained the background to HMRC's Change Programme, on which the Council was being consulted. HMRC was undertaking a radical review of its estates and operations throughout the country following the merger of HM Revenues and Customs and Excise. The report outlined the proposals

Action By

Action By

covering the offices in East Dereham, Great Yarmouth and Norwich. The Council's views were sought on the proposed withdrawal of 'back office' staff and closure of the Revenue buildings at 24 Church Street, Dereham, although a small 'presence office' in Dereham was proposed to be retained.

The consultation deadline for responses was 25 July 2008. The Overview and Scrutiny Commission had referred the matter to this Panel with authority to formulate a response on its behalf to meet the deadline.

Following receipt of the consultation letter from HMRC, an initial meeting had taken place on 30 June 2008 between local representatives from HMRC and Breckland Council to discuss the implications of the proposed changes on local residents generally and from the view of HMRC staff currently based in Dereham, details of which were set out in the report.

Referring to the record of the 30 June meeting, the Chairman noted that Dereham HMRC officials had expressed concern about data used from the local database and asked for clarification on this point.

Lina Curtis explained that it appeared that central office of HMRC derived its statistics from their NOMIS website which could be inaccurate and skew figures because it covered a much wider area than Dereham. She felt that the Council's response should therefore fully reflect the potential local impact of any changes.

The Economic Projects Officer went on to explain that a second meeting had taken place on 15 July, with representatives from HMRC (central) (Paul Smyth from the Workforce Change Department and Les Smith, Regional Lead in the East for the programme) and Mr M. Kiddle-Morris, Mr R. Goreham, the Chief Executive and the Economic Projects Officer. (HMRC had declined to attend an open meeting.)

The meeting had highlighted the difficulties there would be in challenging the proposals. HMRC was in the midst of a review which was to last until 2011, when they estimated that they would require approximately 25% fewer staff and a third less accommodation to deliver their business. They therefore needed to find more efficient ways of working and remove duplication. Additionally, they were focused on getting value for money for tax payers. They were reacting to a central government request to realise targets across the board and therefore had to find reductions and make recommendations to the Minister.

When challenged, HRMC (central) officers had been unable to make any predictions about whether there would be any compulsory redundancies in Dereham as the formal processes had not yet commenced.

It was pointed out that in the period 2006-07 Dereham had had 10,600 walk-in enquiries. HMRC responded by confirming that they would retain a face-to-face presence in Dereham but with only 4-5 members of staff and not necessarily in the current building since that would be unviable.

Action By

When asked what they considered a viable presence in order to retain an office in Dereham, HMRC said there would need to be at least 100 staff. The current proposal was to withdraw 30 staff from Dereham and re-locate them to Norwich (or Kings Lynn).

Members commented that HMRC's view that staff could reach Kings Lynn or Norwich within 45 minutes was false. There was also a carbon footprint point to be considered whenever extra travel was involved, especially in rural areas.

Keith Simpson MP explained that he had become involved because the PCS union had met with members of HMRC in early July to explain their case. He had sent a letter on 14 July to Jane Kennedy, Minister at the Inland Revenue, specifically questioning various aspects of their case. Whilst conscious that HMRC needed to search for best value for money and reflect the impact of changes in technology, they needed to study core information, not just averages which were too vague.

He had specifically raised the following points:

- In regard to economic viability, he questioned whether HMRC had fully considered the impact of transferring from Dereham to Norwich.
- In spite of modern technology, many people still preferred face-to-face discussions, with the reassurance of confidentiality and of special-case handling where necessary.
- Had HMRC taken into account the impact on Dereham itself – on the community more generally and also in terms of the considerable projected growth patterns for the area over the coming years?

Mr Simpson pointed out that although Parliament was now in recess, he would nevertheless be pressing for a response by mid-August.

Mr Goreham made the following points:

- He was delighted that Keith Simpson MP had attended the meeting and was supporting the campaign, as his interest and representation in this matter would hopefully make a difference to the outcome.
- Many people, he felt, became frustrated when dealing with customer contact centres at the main Inland Revenue offices and a core reason for challenging HMRC's proposals for Dereham was that people wanted the facility of face-to-face inquiries, reassurance; help and attention.
- He pointed out that the 10,600 walk-in visitors in 2006/07, when taken as a pro-rata of the population, was extremely high compared to that cited for Norwich.
- Additionally, when taking into account traffic, free parking and accessibility for disabled staff, there were strong arguments for moving one of the Norwich offices out to Dereham.

Action By

- Whilst accepting HMRC's remit to streamline and improve efficiency etc, he argued the need to keep in mind that the majority of the rural population would probably prefer to travel to Dereham rather than Norwich.
- He sought assurances from HMRC that everything possible would be done to avoid redundancies or re-location of long-serving local staff.

Lina Curtis stressed that one of the key reasons for keeping the Revenue building in Dereham was that it offered young people the opportunity for quality local jobs. Otherwise they would need to fund travel costs to Norwich or King's Lynn. A withdrawal of the Revenue office would be a big loss for Dereham.

Mr Sutton made two points:

- HMRC stated that 100 staff were required to make an office "a viable unit" but this was contradicted by the fact that the proposals for Norwich and King's Lynn offices were less than this number.
- There was evidence that understaffing resulted in staff travelling in to work at presence offices from other areas, so it could be that staff might have to travel from Norwich or King's Lynn to work in Dereham.

Members agreed the view that it was questionable whether a move to the city would be sustainable and that the Council was looking to reduce rural journeys and help local economies. The point was also made that the Council was working towards the regional expansion of small market towns and therefore local services were increasingly important.

HMRC's claim about getting "value for money for tax payers" was felt by a Member to be "short-sighted, unimaginative and not environmentally friendly". Rather than reducing their presence in Dereham, HMRC should be looking to expand it.

Many of the current staff were Dereham-based and therefore able to use public transport to/from work. The Chairman asked if HMRC would reimburse mileage costs as part of any relocation package for Dereham staff and it appeared that they would do so, but only for a limited time.

A local Member pointed out that the Dereham office had never suffered a lack of interest in jobs: any vacancies always generated a lot of local interest.

Mr Goreham suggested that there were alternatives if HMRC needed to reduce the number of buildings in the area and that a solution could probably be found which would allow HMRC to run a full office in Dereham whilst taking out one of the Norwich offices instead.

He added that the proposed regional growth over the next 10-15 years needed to be taken into account and questioned whether HMRC had requested this information from Norfolk County Council and whether projected growth figures could be included in the Council's response.

Action By

The Economic Projects Officer advised that he would be formulating the Council's response later that day. It would be based on the points at 3.1.8 of the report and he would ensure that as much local demographic information as possible was included, together with any relevant forecasts.

A Member drew attention to the fact that NCC was actively considering introducing a flexi-bus or dial-a-ride scheme this autumn. This would mean that many local villages would have bus services and easier access into Dereham.

The Chairman concluded the discussion by saying that the Council's reply would draw upon points made at this meeting and that the reply would be copied to panel members before it was issued. As the response deadline was imminent, he asked Members to ensure that any comments were sent back as soon as possible.

RESOLVED that the report be noted; and the Council's response be agreed along the lines as suggested and copied to all Members of the Panel for comment prior to issue.

Mr Simpson invited Members to email him with any further comments they might have.

**27/08 REGULATION OF INVESTIGATORY POWERS ACT 2000 (RIPA)
(AGENDA ITEM 7)**

The Head of Legal Services introduced this item and, to set the Regulation of Investigatory Powers Act (RIPA) into context, read out a letter from Sir Simon Milton, Chairman of the Local Government Association, which had been sent to all Council Leaders on 20 June 2008.

Key points from the letter included:

- Recent damaging – and often inaccurate – publicity about councils mis-using surveillance powers under RIPA. This had given rise to much public debate.
- The RIPA powers are designed to be used in response to residents' complaints but should only be used when "*necessary and proportionate in order to prevent or detect a criminal offence*".
- The LGA were asking Council Leaders to ensure that their staff are only using these powers after careful and appropriate consideration and under formal authorisation.
- The LGA are keen that such powers of authorisation should be reviewed annually by the appropriate scrutiny panel.
- It was felt that dog fouling or littering should not be considered as falling within the test of "necessary and proportionate" criteria.

Action By

- The LGA and Local Authorities Coordinators of Regulatory Services (LACORS) are working with the Government and other key organisations to clarify some details of the legislation so that it can be used sensibly and appropriately rather than perceived to be abused.

The Head of Legal Services explained why and how the Council used the RIPA powers and that the Council had been independently audited on this.

The Legal Executive circulated the following information to Members:

- A copy of letter from Sir Simon Milton, Chairman of the Local Government Association, addressed to all Council Leaders.
- Breckland Council's Guidance Notes ref the Regulation of Investigatory Powers Act (RIPA) 2000. (*November 2005 version.*)
- A Background Note to the RIPA.
- A copy of the Office of Surveillance Commissioners' (Lord Colville's) Inspection Report for Breckland District Council – 4 June 2008. (Restricted document provided for Members of the Panel.)

A brief synopsis of the main areas covered by RIPA was given from which it was noted that RIPA provided the legislative framework within which covert surveillance operations must be conducted in order to ensure that investigatory powers were used in accordance with human rights.

It was explained that covert surveillance was carried out in a manner calculated to ensure that the person who was the subject of surveillance was unaware that it was, or may be, taking place.

RIPA defined two different "types" of covert surveillance:

- Directed surveillance
- Intrusive surveillance

The Council had no powers to undertake intrusive surveillance and could use directed surveillance *only for the purpose of preventing and detecting crime or of preventing disorder*. (If a directed surveillance operation did not fall within this remit, then the Council may be acting unlawfully under the Human Rights Act (HRA)).

The Legal Executive stressed that the Council had a very specific and proper procedure to be followed whenever a surveillance operation was planned. In the event of any challenges, the Council needed to be able to prove that it had followed all procedures, especially relating to proportionality. The procedure was explained as follows:-

Action By

- Authorisation was the process by which a directed surveillance operation is subject to proper consideration, recording and approval by the officer conducting the investigation and the Director authorised to approve it.
- Proportionality was the fundamental principle embedded in the HRA. The Council must be able to demonstrate that a surveillance operation justified the level of intrusion of privacy that may occur.
- CHIS – Covert Human Intelligence Source (i.e. using an informant). (Not used by the Council to date but again use would be subject to the “necessary and proportionate” criteria.)

In answer to a question, the Head of Legal Services advised that, as an operational function, Members were not directly involved in the authorisation process. However, as recommended by the LGA, it was proposed that there should be an annual report to Overview and Scrutiny Commission on the numbers and types of authorised cases handled and their success or otherwise, to ensure proper scrutiny of the function.

Breckland’s record of authorised RIPA cases in the period July 2005 to May 2008 had totalled 32, as follows:-

Environmental Health	13	Noise and licensing issues
Revenues	11	Benefit fraud
Environmental Services	5	Fly Tipping
Anti-social behaviour	1	
Traveller incursion at EcoTech	1	
Planning	1	

It was felt that it could be argued that the Council had under-, rather than over-used its RIPA powers over this period – and the LGA had commented that Breckland’s record was “modest”.

The Community Safety Officer gave some working examples by way of illustration, explaining that the team focussed on ‘hot spots’ (areas where there are repeated offences of a serious nature) in collaboration with other key agencies (e.g. from the Police, Fire Departments and Forestry Commission etc). After issuing appropriate signage and information to local residents, the Council used their RIPA powers by deploying appropriate surveillance equipment in the area to act as a deterrent.

A Member queried whether the Council was able to use evidence from privately owned surveillance cameras. It was confirmed that this was possible, although such evidence would need to be drawn from the individual’s private land and not from any public areas. Particular care was needed, however, in cases where evidence was submitted by third parties for use as part of a case.

The Head of Legal Services summarised the findings from Lord Colville’s Inspection on 4 June 2008 as follows:-

Action By

- There had been a vast improvement since the last inspection in June 2005 when the Office of Surveillance Commissioners had asked for an immediate review of the Council's operations and training needs.
- The Inspector was pleased to see a very much improved Guidance document and confirmed that general procedures were sufficient, bearing in mind that the Council made only modest use of covert surveillance.
- Recommendations from the report highlighted the need for authorising officers to give more attention and detail to their comments when authorising requests (i.e. the authorising officer should be seen to give each request considered thought, rather than just a simple sign-off agreement).
- The report also recommended that a number of small modifications should be made to the Guidance notes. (*The Legal Executive commented that the 2005 Guidance Notes were fundamentally sound but minor improvements and amendments were being made appropriately.*)

Members were advised that comprehensive training for front line staff and authorising officers had been arranged for September 2008. There would also be six monthly refresher courses, as appropriate.

Inspections generally took place at three-yearly intervals but could occur sooner. It was also noted that consideration was being given to the appointment of a second authorising officer.

Members endorsed the need for regular updating of the Guidance documents and it was suggested that updates be made on an annual or bi-annual basis and annotated to show the date of the review, including 'no change'.

In response to a query, the Head of Legal Services explained that if any constituent felt that they had been the victim of "inappropriate surveillance" then they had a statutory right to complain to the Office for Surveillance and the Council would be held to account if it was found to have acted unlawfully. It was also explained that it was considered inappropriate for ward members to be routinely informed of any operational surveillance activities taking place.

The Chairman thanked the officers for what had been an informative discussion.

RESOLVED that the report be noted.

RECOMMEND to the Overview and Scrutiny Commission that an annual report on RIPA activity be incorporated into the work programme.

Action By

28/08 WORK PROGRAMME (AGENDA ITEM 8)

The following items from the work programme were noted for report to the next meeting:

- Empty Homes Policy.
- Breckland Voice – Review of Distribution.

29/08 DATE OF NEXT MEETING (AGENDA ITEM 9)

It was noted that the next meeting of the Panel would be held on Wednesday, 3 September at 10.00 a.m. in the Bowls Room, Watton Sports Centre, Dereham Road, Watton.

The meeting closed at 11.50 am

CHAIRMAN