

Minutes

Environment Overview and Scrutiny Committee

Tuesday, 13 February 2024, 10.00 am



SOUTH
KESTEVEN
DISTRICT
COUNCIL

Council Chamber – South Kesteven
House, St. Peter's Hill, Grantham.
NG31 6PZ

Committee Members present

Councillor Ian Selby (Chairman)
Councillor Emma Baker (Vice-Chairman)

Councillor Richard Dixon-Warren
Councillor Tim Harrison
Councillor Murray Turner
Councillor Paul Wood
Councillor Paul Martin

Cabinet Members present

Councillor Ashley Baxter (Leader of the Council)
Councillor Rhys Baker (Cabinet Member for Environment and Waste)
Councillor Philip Knowles (Cabinet Member for Corporate Governance and Licensing)

Officers

Richard Wyles (Deputy Chief Executive & S151 Officer)
Graham Watts (Assistant Director of Governance & Public Protection Monitoring Officer)
Ayeisha Kirkham (Head of Service – Public Protection)
Kay Boasman (Head of Waste and Markets)
Heather Green (Licensing Manager)
Serena Brown (Sustainability and Climate Change Officer)
Amy Pryde (Democratic Services Officer)

45. Public Speaking

Mr Bell – question to the Committee, in relation to the Animal Licensing Policy:

Where a Council is exercising a function of licensing, having clear policies in place which guide the decision-making process is an important contribution to transparency and openness, and ultimately fairness for those persons seeking to obtain a licence for the animal related activities covered by this policy. The policy states, "Animal Licensing is controlled in accordance with legislation" and the policy goes on to list the applicable legislation under paragraph 1.2.

The policy, at paragraph 5.4, says:

“... the Licensing Authority will take into account whether the person proposed to be the operator of the activity can demonstrate that they have (inter alia): No relevant convictions.”

But does not elaborate further on what “relevant convictions” are.

At 6.1 the policy says:

“The Regulations have the aims of maintaining and improving animal welfare standards. However, there are other safeguarding considerations arising from licensable activities, in particular around the protection of children and vulnerable persons and the Licensing Authority must consider these in light of the Children Act 2004 and the Care Act 2004.”

My concern is that a policy related to the grant of a licence related to animal welfare (which is the thrust of the legislation referred to in paragraph 1.2) is using the licensing regime for other purposes, namely to implement safeguarding for children and vulnerable persons (which have their own legislation and protection and enforcement regimes).

The regulations refer to “fit and proper persons” but this is not further defined.

However, the Secretary of State’s guidance issued under regulation 14 does address this:

“The inspector must consider whether the conduct displayed by the applicant indicates that they are a fit and proper person to carry out the licensable activity and meet their licence conditions.”

Section 7 addresses relevance of convictions.

This is where I disagree fundamentally with the policy document. The convictions listed here are not mentioned in the legislation which empowers the Council to issue licences related to animal welfare.

There could be many people with experience of the Criminal Justice System who seek to work with animals in one way or another. Their criminal history does not automatically make them more likely than anyone else to mistreat animals and, in assessing the likelihood of harm to animals from any such persons, I doubt that there is little empirical evidence upon which any conclusion could be reached.

As regards harm to children and vulnerable adults, any individual who is considered a risk to such groups will have been released with licence conditions which the parole board consider maintains the safety of the public and any at risk groups. I

would counsel against asking Local Licensing Officers to second guess those who are better placed to address such risks.

Requiring a report within 5 days to the Council of the matters listed in 7.5 appears to be overreach by the Council of its powers and in any event is so widely drawn as to render it unreasonable and clearly open to challenge on that ground alone.

I would caution against stepping outside the bounds of what it is reasonable to ask a Council Licensing Officer to adjudicate upon when considering the matters that should properly form part of the decision making for the grant of a licence under the relevant legislation.

If Parliament had intended that Councils should take other matters in to account, then it would have said so in the legislation, or in the guidance issued by the Secretary of State.

I would ask that this version of the guidance is not approved until the above points have been addressed in the drafting.

(End of public question)

The Licensing Manager clarified that the Policy had been drafted, in 7.5 and 7.3 of the report and referred to normal circumstances.

The policy did not state that the Council would never issue a License. The Council would also naturally comply with the rehabilitation of Offenders. If the rehabilitation of offenders' limitations apply, they would not need to declare these to the Council.

A licensing authority had a wide range of responsibilities including both safeguarding to vulnerable individuals and animal welfare to consider.

Section 7.3 does refer to us not 'normally' granting a licence, it is not a 'never' proviso. Therefore if an application is received or we receive an approach from someone wishing to be licenced that had one or more of the convictions further information would be requested.

With regard to 7.5 of the report and the effect of a PSPO and the ability to run a pet shop. The provision stated that the licensing authority must ensure that the licence holder remained suitable to retain the granted licence, therefore if their situation differs to that on the original application, the licensing authority would need to consider these different circumstances. Animal welfare remained at the heart of the licensing regime, whether it be a pet shop or a boarding kennel, the care of animals is entrusted to the licence holder. It may be that the offence or pending charges, once considered do not affect the licence, however, if the Council were not aware, they were unable to uphold the principles of the policy - to protect animals and ensure their health and wellbeing, as well as providing protection for the public.

46. Apologies for absence

Apologies for absence were received from Councillors Charmaine Morgan, Bridget Ley, Gloria Johnson and Patsy Ellis.

Councillor Tim Harrison substituted for Councillor Bridget Ley.

Councillor Richard Dixon Warren substituted for Councillor Gloria Johnson

47. Disclosure of Interests

There were none.

48. Minutes from the meeting held on 12 December 2023

The minutes of the meeting held on 12 December 2023 were proposed, seconded and **AGREED** as a correct record.

49. Updates from the previous meeting

All actions were complete.

50. Announcements or updates from the Leader of the Council, Cabinet Members or the Head of Paid Service

The Leader of the Council informed the Committee that there had been high water levels recently and one property within the District was flooded. The family were already in temporary accommodation following Storm Henk.

The Leader of the Council had attended the Welland Internal Drainage Board where Members received a presentation on recent flooding events.

The Monitoring Officer confirmed that a date was being arranged for a Joint Meeting of the Environment Overview and Scrutiny Committee and Rural and Communities Overview and Scrutiny Committee to discuss the response to Storm Henk.

The Cabinet Member for Environment and Waste noted that one of the biggest issues at present was that the current dike and drainage system was filled with water which should be within Environment Agency's waterways. There were 8 current breaches in South Kesteven, which was putting significant additional pressures on the ability to drain the water away.

The Cabinet Member for Environment and Waste thanked Officers and members of the public for cooperating with the Twin Stream Recycling roll-out, which had been successful. Reassurance was provided that the Council were exploring ways in which the Council were exploring an outcome of sack collections.

51. Animal Welfare Policy - Post Public Consultation

The Licensing Manager presented the report.

The policy covered the licensable activity of Animal Welfare. It set out the principles the Council would use when dealing with animal related licensing matters. Currently, the Council issued animal welfare licences in accordance with the Regulations but does not have a policy providing a framework to support this.

There was no statutory requirement for a local authority to adopt an Animal Welfare Policy. However, the adoption of an Animal Welfare Policy ("the draft new policy") would provide clarity to the public, partner agencies and applicants.

The purpose of animal licensing was to protect animals engaged in a licensable activity to ensure their health and wellbeing. It also provided protection for the public and those using the licensed facility, within the terms of the relevant Acts and legislative Guidance. A policy provides a framework for Officers and Members to enable consistent decision making and transparency.

The draft new policy was provided at Appendix 1. There were no proposed amendments following the consultation. The consultation report was attached in Appendix 2. There were no further updates to the draft new policy proposed.

Environment Overview and Scrutiny Committee had endorsed the policy for public consultation on 3 October 2023.

Attached in Appendix 3 were all the comments submitted as part of the Consultation and responses to the comments. 53 consultation responses were received.

Following public speaking on this item, it was suggested that the following amendment be made:

- Addition to 7.3 – 'Each case would be considered on its own merits'.

Some Members had agreed with the public speaker statement and felt as if the Committee were overstepping their remit.

The Licensing Manager clarified that the suggestion would allow the team to investigate, prior to the granting of a licence. Licence holders only required to hold a basic DBS check, not an enhanced DBS check.

The importance of DBS was discussed.

It was clarified that the Authority would be licensing the individual to attend the specified establishment rather than licensing the establishment itself.

The Cabinet Member for Environment and Waste requested the written statement from the public speaker to provide Cabinet with the issues to review.

The Monitoring Officer informed the Committee that there was no critical element of time constraint for the policy to be implemented and therefore could be deferred.

It was proposed, seconded, and **AGREED** to defer the item and for it to come back to the Committee, at a later date.

52. Annual Air Quality Status Report and an Update on Clean Air Lincolnshire project

The Head of Service – Public Protection presented the report which provided the Committee with an overview of the Annual Air Quality Status Report (ASR 2023) for awareness and noting and to update the Committee on the Clean Air Lincolnshire, which is a county wide project.

Under the Environment Act 1995, which was amended by the 2021 Environment Act and the associated Local Air Quality Management Framework. Local authorities had a duty to review and assess air quality against National Air Quality Standards. Local air quality in South Kesteven was managed via an extensive diffusion tube monitoring network comprising fifty-eight passive NO₂ diffusion tubes at thirty-five separate locations (some have triplicate/duplicate tubes at one location). The diffusion tube network is used to monitor NO₂ concentrations across the District, the tubes are located within Grantham and Stamford.

The ASR 2023, as reported in Appendix 1 of the report identified the specific locations of the diffusion tubes on a map.

Local authorities were required to produce an ASR report on an annual basis that covered the previous calendar year.

The report identifies that there were no exceedances of the air quality objectives at any of the passive monitoring sites.

Overall, the general trend showed that concentrations of NO₂ were decreasing, with all sites being below both the hourly and annual objective levels. However, there had been a slight increase observed in the concentrations at some sites from 2021 to 2022, as traffic levels within the area are starting to return to pre-pandemic levels.

The ASR identified that there were no recorded exceedances of the hourly mean objective for NO₂ when using the annual mean as a proxy for the hourly mean. Exceedances of this objective had not been predicted for the past 5 years.

The Clean Air Lincolnshire Project was a county-wide project that South Kesteven District Council were apart of. The project was funded by the Department for Environment, Food and Rural Affairs and was led by Lincolnshire County Council.

The aim of the project was to raise public awareness of the issue of clean air for health, the environment and to provide actionable steps to improve local air quality and reduce health conditions related to air pollution.

A key aim of the project was to work in partnership with identified secondary schools within the County. For South Kesteven, Kings School in Grantham was participating in the project, which was also located within the Grantham Air Quality Management Area.

One Member queried whether any other schools had become involved within the monitoring of the air quality project.

Clarification was sought around the term 'non-automatic site'.

It was noted that Appendix B highlighted a drop in figures in the month of December and why this was the case.

ACTION: For the Head of Service – Public Protection to provide background information on why there was a drop in figures in the month of December (Appendix B).

The Head of Service – Public Protection confirmed that no other schools were identified within the County as only one school was requested from Department for Environment, Food and Rural Affairs. The Kings School was chosen due to being within the air quality management area.

The 'non-automatic' route in terms of the diffusion tube were when someone had to physically collect the data in person. Automatic monitoring sites were when the data was provided by a system.

It was noted that one of the main areas affected by air quality was outside Kings School on Manthorpe Road. Concern was raised on the proposal of 2,700 new build houses over the next 5-10 years, that may utilise Manthorpe Road and worsen the air quality in the area.

It was suggested that the NO₂ levels may be affected by cold weather conditions and that tube readings should be read in the winter, when the statistics were low.

One Member requested that the Committee be provided with the Kings School data.

Castlegate had been closed between January – March 2022, however, there had been no significant impacts on the air quality statistics.

ACTION: For the Head of Service – Public Protection to provide information on the Castlegate figures.

One Member suggested that schools admission policies be revised, in order for the distance of the pupils house to be reviewed, which may assist in reducing traffic on Manthorpe Road.

It was queried how the Council could educate residents on air quality.

It was highlighted that the suggestion of receiving the data from Kings School could be included as a potential suggestion for the Air Quality Action Plan.

Education of pupils in schools had taken place within schools on the Clean Air Lincolnshire Project. It was confirmed that the education could be utilised on the Council's website, to make it more known of.

It was noted that all monitoring points were within known areas of congestion and traffic lights. It was suggested that the monitoring points be more spread out to produce a true figure of the whole area.

One Member queried whether there was any monitoring on air quality levels outside of the large conurbations and towns. It was assumed that Lincolnshire had a low level of air pollution was due to the amount of green areas within the County.

It was confirmed that the locations of the monitoring points could be reviewed in accordance with legislation, the air quality management areas and the height of the tubes.

Under the Environmental Protection legislation, the Council had statutory nuisance powers to assess any complaints around smoke nuisance from bonfires to determine whether it's prejudicial to health or a nuisance.

That the Environment Overview and Scrutiny Committee:

- 1. Notes the content of the Annual Air Quality Status Report (ASR 2023).**
- 2. Notes the update on Clean Air Lincolnshire, which is a county wide project.**

53. Draft Air Quality Action Plan

The Head of Service – Public Protection presented the report. The purpose of the report was to provide an overview of the Air Quality Action Plan (AQAP) for awareness and noting.

The local air quality management regime was introduced by the Environment Act 1995. The Council's duties under the Environment Act 1995 were to review and assess air quality against National Air Quality Standards. When a pollutant fails to comply with an objective and there is relevant public exposure, an Air Quality Management Area (AQMA) must be declared and an Air Quality Action Plan (AQAP) prepared, detailing measures which will be implemented to improve air quality in the designated area.

South Kesteven District Council declared an AQMA in 2013 encompassing the main roads in the town centre of Grantham. The main pollutant of concern was Nitrogen Dioxide (NO₂), which was largely attributable to road transport emissions, with cars being the dominant source within the AQMA.

Councillor Charmaine Morgan submitted the following statement:

"When an EIA - Air Quality Assessment was completed to support the Southern Quadrant Development Masterplan it highlighted poor Air Quality existing on a number of roads in Grantham South. In particular, where the A52 meets the routes from Grantham to the A1.

At the time I requested an extension of the monitoring of air quality by SKDC to include Grantham South but this did not occur. As a result the current measurements exclude the area affected being those roads leading up to and including:

*Gainsborough Corner A52
Springfield Road
Bridge End Road A52
Somerby Hill A52
South Parade
Spitalgate*

I am formerly requesting that the Action Plan for SKDC Air Quality includes extending measurements in Grantham to include these roads and taking mitigating action as appropriate.'

One Member queried the cost of an air monitoring system.

The Head of Service – Public Protection did not have the figures available. The determination of the data from the monitoring was also included within costs.

ACTION: For the Head of Service – Public Protection to provide costs of monitoring and data of an air monitoring system.

One Member noted the promotion on the use of clean and alternative fuels where possible, the Council would work to improve emissions from its own vehicle fleet by increasing the number of greener low emissions vehicles using alternative fuels.

It was queried whether the Council were exploring the types of vehicles used for refuse collection.

The Cabinet Member for Environment and Waste confirmed that as part of the contracts supplied by the Council. It was ensured all fleet vehicles were no older than seven years old to ensure a rolling basis of renewal.

Unfortunately, given the 350 square mile of rural nature of South Kesteven, the technology was currently not available at this stage.

ACTION: For the Cabinet Member for Environment and Waste to provide further information on the fuel mix of the Council's fleet vehicles.

It was noted that the resurfacing of footpaths in the North of Grantham should be explored, as one Member had experiences complaints from constituents.

That the Environment Overview and Scrutiny Committee:

1. Note the content of the draft Air Quality Action Plan 2024

54. Update on Environment Act 2021

The Cabinet Member for Environment and Waste presented the report.

As previously reported to this Committee, the Government's Resources and Waste Strategy was published in 2018, which identified several new policies that would have a significant impact on local authorities in relation to their waste and street cleansing duties. These included three interrelated key projects:

- Extended Producer Responsibility (EPR) for packaging,
- Deposit Return Scheme (DRS) for drinks containers, and
- Simpler Recycling - New requirements on Local Authorities (LA's) to implement greater consistency in household recycling (including separate collections of waste materials, separate weekly food waste collections and providing free fortnightly garden waste collections)

On the 28th July 2023 DEFRA wrote to all Council's advising that the Extended Producer Responsibility for packaging payments would be deferred from October 2024 to October 2025. The aim of this policy was to ensure producers of packaging pay for the cost of recycling their products.

In terms of the wider Resource & Waste reforms, the delivery of the Deposit Return Scheme for cans and plastic bottles to be taken back to retailers, is to proceed to current timescales and be introduced from October 2025.

Weekly food waste collections were required to take place from all households by 31st March 2026 (unless a transitional arrangement is agreed). DEFRA were gathering further evidence on caddy liners via statutory guidance consultation. The financial implications, alongside indicative transitional capital funding from DEFRA, of this change can be found in Section 4 of this report.

Furthermore, DEFRA had confirmed that the Council would not be required to provide free garden waste collections, and would be offered as an additional service.

On the 9th January 2024, DEFRA wrote to Chief Executive's to outline the proposed levels of funding for the transitional capital costs. South Kesteven District Council had been offered £1.37m to cover nine additional food waste collections and food waste caddies for every household.

DEFRA were yet to release information on the level of funding for resource transitional costs.

It was highlighted that the information from DEFRA outlined the need for the development of the new depot, as it was at its full capacity.

It was queried whether the Council were looking to procure vehicles with other Local Authorities as a joint service to buy the vehicles in bulk for possible savings.

One Member raised concern that the new depot and the additional vehicles on the road would not be producing more carbon than saving with the scheme.

The Leader of the Council clarified that authorities usually purchased vehicles through framework or consortium meaning a standard price for other local authorities.

It was emphasised that the scheme would not mean an additional 240l bin for constituents to find storage space for. The scheme would mean constituents would be situated with a small waste caddy that would be collected weekly.

It was confirmed that on the 30th May 2023, Cabinet approved the Lincolnshire Framework for purchase of refuse collection vehicles.

One Member queried whether can and bottle banks still existed.

The revenue for can and bottle banks was slowly decreasing due to costs and being a target for vandalism. Objects other than glass were also being put into the can and bottle banks.

Further concern was raised on the storage of the food waste caddy for the rollout in March 2026.

It was noted that there had previously been a successful trial with food waste caddies, however, it had stopped due to an agreement on the budget of the scheme with Lincolnshire County Council.

Clarification was sought around the difference between a kitchen caddy and a curb side caddy.

The Cabinet Member for Environment and Waste clarified that a small kitchen caddy would be kept inside to hold any food waste and would then be taken outside to a larger caddy in order to be emptied by waste operatives.

It was noted that the addition of new waste collection vehicles to the Council's vehicle fleet had the potential to increase operational carbon emissions for the Council.

One Member sought clarification around the term 'circular economy'.

The financial viability of the scheme was queried. It was highlighted that the first year of the roll out of the scheme would cost in excess of £3m.

A circular economy was a process of taking an object that had been recycled and turning it into a fresh use of an object and then recycling it again.

The Head of Waste and Markets confirmed that the Council were reviewing their fleet strategy to mitigate carbon footprint.

Clarification was sought on the methodology on how DEFRA had concluded the need for 9 fleet vehicles, whereas, the Council had calculated the need for 12.

It was confirmed that the number provided by DEFRA had been worked out based on local complexities with the rurality and the size of the District. DEFRA had used indexes which were applied to households and figures.

The Leader of the Council confirmed that there would be no payback from the Council, as a result of food waste collections. Food waste was already being collected, however, the Environment Act stated that food waste must be collected separately, which would become a mandatory service.

The Cabinet Member for Environment and Waste confirmed that he would liaise with the S151 Officer to discuss the new burdens funding and how the scheme would be balanced along the Council's budget. It was confirmed that the finance aspects of the scheme would be brought back to the Committee.

An update from DEFRA had not yet been provided on any additional costs. They had provided details on transitional revenue costs and the ongoing resource costs.

That the Environment Overview and Scrutiny Committee:

Note the contents of the report, the revised timescales applied by Government and funding implications.

55. Recycling of mobile phones

The Cabinet Member for Environment and Waste presented the report and the purpose of the report was to provide preliminary exploratory information for a domestic kerbside mobile phone recycling collection service.

Mobile phones typically would last around two years in today's market, with the latest models relegating older devices into cupboards, drawers or being discarded into the waste stream. When electrical items with batteries are discarded into the waste stream, it can increase the risk of waste combusting and there have been increasing occurrences of this happening across the country in recent years.

Currently, Local Authorities were not required to collect mobile phones from households. DEFRA consultation (Environment Act 2021) on the separate collection of recyclables did not propose to introduce this item. Furthermore, under the WEEE Regulations, both producers and retailers of mobile phones had a legal obligation to offer a take back service on mobile phones.

South Kesteven District Council were unaware of other authorities who participated in this type of recycling and the introduction of a scheme would invariably have operational and financial implications, such as,

- Possible disposal barriers
- Theft of the mobile phones prior to collection (data not being wiped on the mobile phone)
- Lack of demand from residents as they have alternatives methods of disposal.
- Customisation of the refuse freighters.
- Increased collections by staff

A query was raised on the collection of batteries and when the scheme was due to commence.

The Lead Officer had put in various requests for permissions and the Council were working with Government. It was hoped that the scheme would be in place by June 2024, assuming safety and collection certificates were completed.

Concern was raised over the safety of waste operatives when collecting the phones due to the value of them.

North-West Leicestershire District Council collected batteries and mobile phones together and had been since 2019. They had collected 15 tonnes of batteries and 100kg of mobile phones, which had been recycled. It had costed them around £400 to set up the service.

Members discussed more profitable ways in which people could recycle their phones.

Concern was raised on a GDPR issue when disposing of an old phone.

One Member suggested that a scheme on the safe disposal and recycling of vape devices be explored.

The Government were exploring new legislation to tackle how vapes were to be displayed, packaged, coloured in efforts to reduce their appeal to young adults.

The Cabinet Member for Environment and Waste would seek legal advice of the possibility of batteries and vapes being collected together.

The Committee were reassured that permissions were being explored for the collection of batteries and the scheme was legally compliant with legislation.

ACTION: The Cabinet Member for Environment and Waste to provide a timeframe in which permissions for battery collection would be completed.

That the Environment Overview and Scrutiny Committee:

- 1. Note the contents of the report and consider whether there is a valid business case to introduce a kerbside mobile phone recycling collection service.**
- 2. For the agenda item to be brought back to the Committee at a future meeting.**

56. Work Programme 2023 - 2024

The Committee noted the Work Programme 2023-24.

57. Any other business which the Chairman, by reason of special circumstances, decides is urgent

There were none.

58. Close of meeting

The Chairman closed the meeting at 12:16pm.