

**DARLINGTON EXTENSION AND IMPROVEMENT ACT  
COUNCIL OBLIGATIONS**

The Darlington Extension and Improvement Act (1872) (section 81) places the following obligations on the Council with respect to the cattle market:

- (a) A duty to maintain a market and market place for cattle. Any alternative site must be one which is 'proper and convenient' which is likely to mean more than just suitable land and extends to fixtures required to carry out livestock sales in compliance with current legislation; and
- (b) A duty to secure the votes of 2/3 of members at a specially convened meeting of the Council if the location of the market place is to change.

As the right (in fact duty) to hold a market for cattle remains vested in the Council and not the operator of the site (or owner of the site if it were in third party ownership), unless the Council operates the Cattle market itself, it needs to transfer these rights to an operator through an appropriate mechanism.

The Council currently meets these obligations through the provision of the Clifton Road site and its lease of this facility to DfAM for the purposes of operating the Cattle Mart; the lease also grants DfAM the necessary rights to operate the cattle market and stipulates that the Council will not grant similar rights to any other party. The Council receives a small rent (£4,000 pa) and tolls and levies (c£50,000 per annum dependent upon sales etc); this delivers a net annual income to the Council in the region of £43,000 (following VAT deductions and dependent upon sales).

In addition to the revenue income, the Darlington Extension Improvement Act also provides the Council with the ability to control Cattle Markets (and others) within the Borough. Whilst the Council has regulatory function (including planning and environmental health) which can control the environmental and social impact of the operations to surrounding uses, neighbours and receptors, they do not provide other controls which are beneficial to the Council from a management and control perspective.

There is no statutory provision for the Council to close the cattle mart or cattle mart site. In order to do so a new Act will be required unless some other de-regulation procedure (ministerial order) could be obtained. The Council has previously taken steps to have these obligations removed. During the 1990's the Council took a petition to the House of Commons but the petition was rejected. Whilst it is noted that, at the time DFAM did not support the Council's petition, there is no certainty that the Council would be successful again, even if it were to have the support of DFAM.

Failure to provide a cattle mart could be actionable at the suit of farmers and others who wished to buy or sell livestock. The failure to have a market could constitute a breach of statutory duty under section 81 of the 1872 Act, as that section implies that a market site will be maintained unless alternatives are provided.

The Clifton Road site is, however, no longer fit for purpose given the increasing trade levels of DFAM whose operations have now outgrown the use of the site. In addition, due to the increasing conflict and compatibility between the operations of the auction mart and the local community the site's use is limited through environmental health and planning restrictions. DFAM are therefore seeking to relocate its business to an alternative site at Humbleton Farm and are seeking the Council's support and investment in this relocation.