

INTRODUCTION.

I have been motivated to pursue the issue of the "gas pipe incident" since reading the article in the "Darlington & Stockton Times" of 17 Mar.2006 which reported on the issue and indicating that the costs would be borne by the rate- payer. From that time until now I have been trying to get answers to my questions on the incident itself as well as seeking advice as to how the council operates in dealing with such matters (my letter to the Chief Executive of 19 Mar.2006 refers)

I have received documents on procedure & notes of relevant meetings from the Democratic Support Manager (Linda Todd) who has been excellent in this regard. I have corresponded with Mr. J. Buxton, written to councillors, sought information from the Freedom of Information Act Officer, attended the meetings of the Resources Scrutiny Committee Review Group on 12 Apr.2006 and 9 Jun.2006 and studied background papers when presented and I remain frustrated in not being able to get answers.

I was totally unaware that the Final Report is on the Agenda for the meeting of the Review Group on 30 Jun.2006 with recommendations to the Council Cabinet until I received the Agenda on 24 Jun.2006 (and attachments) and this is of concern as I consider that the investigation is incomplete in many respects

This submission is presented in five areas, namely:-

- a) Consideration of the Gas Pipe Incident itself which occurred on 31 Jan.2006 and it's consequences.
- b) Consideration of the Council procedures for Review Groups investigating issues and how they operate.
- c) Consideration of the contractual responsibilities of the parties to the Pedestrian Heart Scheme contract with respect to underground services for both pre and post contract award.
- d) Consideration of the administration of the Pedestrian Heart Scheme by the parties to the contract.
- e) Conclusion

AREA (a) THE GAS PIPE INCIDENT ITSELF.

There appears to be no formal report (or reports) on the gas pipe incident which would explain exactly what happened , how the matter was handled, what procedures were followed, and who was responsible. The works contractor, United Utilities, the Engineer and the Director for the contract must surely have been required to make their reports and Health & Safety considerations would , I would have thought, need to have been investigated

This was a serious event; it could have caused an explosion, gas was released into the atmosphere and urgent action would have to be taken and yet there does not appear to be any reports on the matter.

I have analysed the Council report Item No.15 dated 23 Mar. 2006 which was presented without any background papers which resulted in the approval of funds to relocate the gas pipe as follows :-

Extracted data from the report & comments;

— Para 4 – To obviate trial pits to locate pipes it was decided to use ground radar surveys to verify the information on underground services.

Comment: The gas pipe damaged was not located by 40seven and they referred to the United Utilities drawings in their submission. It was therefore known that a risk was identified and yet trial pits which should have been dug were not. Both companies had disclaimers on the accuracy of their information in any event.

Para 5 – On 31 Jan.2006 an excavator damaged a gas main and it's location was interfering with the proposed works.

Comment : It is now known that a road scraper rather than an excavator caused the damage and that 230 mm. of the surface of the road had been excavated in 50mm.incraments at the point of damage

Para 7 – Meetings between United Utilities and Birse were held.

Comment : Were the Engineer and the Contractor not involved in the debate and if not why not?

Para 15 – Predicted costs of the diversion and associated works is between £ 680k and £ 780k

Comment : What is the actual cost of the gas pipe diversion?

Para 18 – The full costs of the diversion has to be borne by the DBC.

Comment ; It is possible that a mistake has been made in the administration of the contract or an activity required under the contract was not carried out . This is still to be investigated but should this be the case adequate Professional Indemnity Insurance cover is in place

Para 21 -- There are no issues which the DBC solicitor needs to bring to the attention of the members.

Comment : Are there any issues now, following the Review Groups recommendations , requiring attention?

Last line of Report -- No background papers were used in the preparation of the report.

Comment : Surely a note regarding the contractual position should have been prepared and made available .

AREA (b) COUNCIL PROCEDURES FOR REVIEW GROUPS.

I was given a document entitled "Scrutiny Procedure Rules" by the Democratic Support Manager (Linda Todd) and I went through its contents in detail on 19 May 2006 at a meeting at the Council offices. It was later confirmed to me that the document has not been revised and is a working document. The document contains procedures for Review Groups and at Appendix 1 the methodology is set out. When enabled to ask two questions at the meeting of the Review Group on 9 Jun. 2006 I asked what the scope of the enquiry was and what are the lines of enquiry the Review Group are undertaking (as required under Item 3 & Item 9 of the Methodology). I am told now that the Review does not work to the Procedure and the Terms of Reference are set out in Appendix 7 (Gas Main Review Group dd 28 April 2006..) of the Final Report to be approved at the next meeting of the Group on 30 Jun. 2006.

Because of this I was unaware that I had attended the final meeting on 9 Jun. 2006 and equally unaware of the lines of enquiry being undertaken by the Review Group. I do not understand why it should be that the Council's Rules on procedure are ignored. However, in any event the investigation (for that is what it is now called) must be thorough and exhaustive. Reference to the Background papers for the 9 Jun. 2006 meeting clearly shows that further research is required (notwithstanding all the questions I have raised) and yet recommendations will be presented for consideration by the Cabinet very soon.

AREA (c) CONTRACTURAL PROCEDURES

The precise location of underground services would determine the design development of the Pedestrian Heart Scheme and conditions of Contract would apply to ensure that the Party directly responsible for the actual location of gas pipes acts in a timely way and acknowledges this responsibility before going to contract.

There are many references to contractor responsibility with regard to underground services in the background papers to the 9 Jun.2006 as exempld :-

- a) Appendix 003a (an undated document and maybe a part document)
“quote” The contractor shall ascertain for himself the position of all services by liaising with the relevant authorities prior to commencement of works “unquote”
- b) Para 14 states clearly that more work is required to be carried out before coming to a conclusion.

There are many other areas in the background papers covering risks on service locations, detailed surveys, costs and delays on services, trial trenches to be dug to establish underground services locations

It is noted, too, that the random collection of data forming the background papers range from August 2003 to September 2005 and nothing from 31 January 2006,(when the gas pipe was damaged) to date. It is also very difficult to categorise the data to draw conclusions on any line of enquiry. Despite my requests I have been unable to get sight of any document on the contract as it refers to responsibilities of all the parties to the contract.

AREA (d) ADMINISTRATION OF THE CONTRACT.

The administration of the contract needs to be examined to see how the parties operate in the context of the NEC (Option D) type of contract which I understand to be of a "partnership" type. This type of contract enables the parties to co-operate to a large degree and it is in the interest of the parties to do so as the final cost of the contract has to be compared to the target price at contract award and where the cost is exceeded the extra cost is shared to an agreed formula between the parties. Similarly, if the final costs are less then the benefits are shared. It could well be that decisions may have been made in error, or contract obligations of a party being waived, or risks taken to save or reduce costs in the interest of this type of contract. It could also be that inadvertent errors were made that resulted in additional costs. Whilst the costs for redirecting the gas pipe is an extra to the contract it may be that the costs associated with it could have been avoided. It could also be that the type of contract adopted is not the best one for the Pedestrian Heart Scheme. All of these matters should be checked out before a conclusion is reached.

AREA (e) CONCLUSION.

As I have been unable over a three month period of enquiry to obtain responses to my questions which would explain why I, as a rate payer should pay for the additional costs which are being incurred to the Pedestrian Heart Scheme as a consequence of a gas pipe having to be diverted during the construction period when the gas pipe had not been identified at pre contract up to the end of January 2006. It is quite clear that any data provided by the relevant authorities is subject to ratification by procedures, including the digging of bore holes or trenches, and it must be clear within the contract where the responsibilities lie

I feel that it is not possible for the Council to reach a decision at this point in time as the information generated in current reports available to the Review Group is un- substantiated and conclusions cannot be drawn in the areas of investigation chosen by that group.

If it is possible I believe that a decision on the recommendations be deferred until the gas pipe incident is further investigated in specific areas of contract responsibility. I still hope to access contract documents myself but I have little or no confidence of being successful.