

NEWSLETTER

Campaigning to make Chesterfield a better place to live

CYCLE TRACK: APPEAL TO OMBUDSMAN FAILS ... BUT A SLAP ON THE WRIST FOR THE COUNTY COUNCIL

DESPITE the best efforts of Civic Society officers and committee, and several other members, we have been unable to persuade the Local Government Ombudsman to that the county council's consultation on the proposed two-way higher speed cycle track along Chatsworth Road between Holymoore Road and Storrs Road was so flawed as to make it unsafe for the scheme to proceed.

The Ombudsman has criticised the county council on various counts, including its failure to deal in a timely manner with the Civic Society's complaints (for which he has ordered the council to pay the society £100 in compensation). His criticisms, however, do not extend to warrant finding 'considerable harm to the complainants', even though the collective voice of those most affected was not heard through a lack of direct consultation.

The Ombudsman has found that, on the balance of probabilities and in the absence of evidence that they were delivered as claimed, the county council's contractors failed to deliver a circular announcing the on-line consultation to all the 4,041 households on 117 streets on or close to the route of the cycle track.

This finding means that for several weeks county council officers were



issuing a standard form of email to taxpayers who complained that they had not received the circular, stating that they were mistaken. This statement has been found to be untrue.

County council officers also authorised a payment from taxpayers' funds to contractors to deliver the circulars without properly checking that they had done what they had been paid to do.

In addition, officers evidently told the cabinet member concerned that he should reply to taxpayers making the same untruthful statement concerning the delivery of the circular. This reflects very badly on the elected member, who should have instructed officers to make proper enquiries before putting his name to a statement which the Ombudsman has found to be false. Elected members in local government, particularly cabinet members, are supposed to formulate policy which officers then execute, not believe everything that officers tell them, especially in the face of overwhelming evidence to the contrary.

Despite his finding concerning the

county council's claim to have delivered the circular, the Ombudsman has concluded that the failure to do so did not invalidate the consultation as a whole, since the circular formed a limited part of a wider exercise, the results of which produced a majority in favour of the cycle track.

This conclusion is open to criticism, since we shall never know how the residents of Chatsworth Road and adjoining streets would have reacted had they received the circular inviting them to respond to the online consultation.

Judging by the mood of most of the 350 people who attended the public meeting organised by the Civic Society last November, the reaction is likely to have been hostile and responses sent in from local residents might well have outweighed the fairly small majority recorded in favour of the western section of the scheme.

In the case of the eastern section, there remains the 700-signature petition opposed to the permanent closure of Crow Lane, which the county council appears intent on ignoring.

The only remaining obstacle to the execution of the scheme is in fact the closure of Crow Lane, which must pass through a statutory procedure, possibly with a public inquiry, at which objectors to the closure will have the chance to put their case. Building the Chatsworth Road section of the route can start tomorrow, ushering in months of disruption, delay, inconvenience and dirt for local residents and those trying to get in or out of Chesterfield on the A619.

Clearly, the Ombudsman's decision is disappointing for those who opposed the building of the cycle track, and for those who believe that local authorities should listen to the view of their taxpayers, not those of vociferous, unrepresentative pressure groups. As we have repeatedly stated, most people in Chesterfield do not cycle and are not going to start doing so if the new route is built.

There is also the question of the best use of (very) scarce public funds. Many of the 'Active Travel' projects funded by central government, especially in London, have attracted enormous local opposition, which councils have generally ignored.

In the case of the Chesterfield scheme, one of our members has shown that it is very unlikely to be built for the sum awarded by the Department for Transport. This means that the taxpayers of (the whole of) Derbyshire will be paying for something virtually no-one in Chesterfield wants and no-one outside the town is likely to use.

Part of the problem is that Derbyshire County Council is currently controlled by a Conservative group which enjoys an unassailable majority. It can therefore (and does) treat the views of opposition parties with contempt, in the same way that it ignores public opinion. The Conservatives lost their last county council seat in Chesterfield last year and have not for many years had any members on the borough council. They did not make any discernible effort to win the parliamentary seat at the last election, when they probably had the best chance in fifty years to do so.

The Conservatives have no political capital to lose in Chesterfield and no incentive to curry favour in the town by listening to what local residents want. Since Chesterfield is the

largest town in the administrative county this is a very sad state of affairs.

Having said all this, it is important to stress that the Civic Society supports cycle routes where they are well-planned and integrated for the benefit of everyone, rather than compromised to gain external funding, as in this case.

WIDEN MY PATH

Bryan Thompson, our previous chairman, has added his own thoughts on the cycle route:

Walking and cycling are rightly being promoted both for health and more sustainable travel. But in a world that has been designed around the needs of motor transport, existing and ideal routes can be so compromised that too few people will choose to use them. In 2020, to plan and improve safe space for walking and cycling, the government produced the 'widen my path' website. It is a grass-roots, community driven tool to help show where changes are needed, demonstrate local support and for councils to act. Derbyshire County Council, for example, used it to help secure funding for the east-west cycle route.

The website strongly reflects cycle interests and that is very evident on the map of Chesterfield, but it is there for all to leave comments. It is easy to use, just complete the boxes and comments:

Introduction: Where should the Council make more space for walking and cycling, for physical distancing? Add your idea or vote on an existing idea.

Step 1: Zoom into the map area of interest and set a marker on the map.

Step 2: Use a symbol to show what type of change is needed – cycleway, pavement or stopping rat running.

Step 3: State the problem and suggest improvements.

Finally: Add ideas.

Our local map shows, for example, that nine votes support a cycle and walking route between Greendale Avenue and Somersall Lane. That is probably an under-representation of demand. There is a complaint about mud on the path on Walton Dam. It will be surfaced as part of the cycle

route upgrade. However, the local wildfowl may prefer some grass to be left around the water's edge.

The notable absence of comments about difficult sections for walkers ought to be addressed. For example, crossing the Somersall Lane – Chatsworth Road junction can be dangerous and crossing Old Hall Road – Chatsworth Road junction via the tactile paving needs great caution. There will be many more deterrents to pleasant walking and cycling that you or others know and are concerned about. Here is an easy opportunity to aid improvements via a public website that allows you to see everyone's comments. Please take a look via the link to the website below and add or vote.

<https://www.widenmypath.com/>
Widen My Path – suggest more space for physical distancing.

HURST HOUSE: ONE STEP FORWARD, TWO STEPS BACK

WE ARE CONTINUING to apply what pressure we can on the Charity Commission and Derbyshire County Council to resolve the future of Hurst House, now empty for eight years, and to ensure that the Chesterfield Schools Foundation is in future administered in accordance with the law, which it has not been since 1991. This remains a thankless task.

In May the Charity Commission advised the Civic Society that it intended to meet officers of the county council and Foundation Derbyshire to establish why the two pieces of real property belonging to the charity (Hurst House and the greater part of the site of Brookfield School) were not transferred to Foundation Derbyshire on 28 February, as both parties claimed was the intention. In our reply to the Charity Commission we set a deadline of the week ending 17 June to receive further information on this matter, failing which we would make a complaint about the performance of the Commission.

Late in the afternoon of 17 June we received a reply from the Commission stating that the meeting had taken place. The letter referred to

regrettable delays in making the two transfers but stated that the Commission was satisfied that both parties 'have sufficient plans in place' to ensure that the two titles will be transferred to Foundation Derbyshire.

The Commission had therefore decided not to use its statutory powers at this point but to keep in touch with the parties to ensure that progress continued to be made.

This sentence could mean anything from 'We're not really bothered what a tuppenny halfpenny civic society keeps complaining about but can you just do something to keep them quiet', to 'Your conduct as trustee has for many years been an absolute disgrace and is in flagrant and serious breach of your statutory obligations. This is your very last chance to sort things out or we will come down on you like a ton of bricks.'

In the best Civil Service tradition of not rushing things, the Charity Commission proposes to contact the two parties next on 31 August to find out how the transfers are progressing. In our reply to this letter we converted that date into an absolute deadline for the transfer of the two titles. If the transfers have not been completed by then we will complain about the performance of the Charity Commission.

Meanwhile, we have received obstruction as much as enlightenment from the county council in reply to three questions we put to them on 28 April using the powers of the Freedom of Information Act.

We asked why exactly the transfers failed to be completed on 28 February; whether the personal property of the Chesterfield Schools Foundation could be transferred to Foundation Derbyshire in advance of the transfer of the real property, so that it could be securely invested and the income used in accordance with the statutory Scheme of 2002; and when (assuming the county council acceded to Foundation Derbyshire's request to sell Hurst House by auction and remit the proceeds to them) the property was likely to be put on sale.

In their reply the county council stated that they had transferred the bulk of the cash and shares belonging to the Chesterfield Schools Foundation to Foundation Derbyshire, less

a retention intended to cover any remaining expenses incurred by the county council as trustee. We have no reason to believe that Foundation Derbyshire has since taken any steps to use those funds to administer the Chesterfield Schools Foundation in accordance with the Scheme of 2002.

The county council further stated that the delay in transferring the land at Brookside was because it had been wrongly registered at HM Land Registry as the property of Derbyshire County Council, whereas it is in fact the property of the Chesterfield Schools Foundation.



The county council admitted this to be the case at a meeting with Civic Society officers on 11 February 2020. The problem has still not been resolved. Would any reasonably competent solicitor in private practice whose client was paying for their services have taken more than two years to deal with this matter? We think not.

Foundation Derbyshire cannot be blamed for not accepting the transfer: what solicitor would advise their client to acquire a piece of land from someone who, according to the Land Registry, does not own it? This is without taking into account the very dubious 'lease' of 2011 granted by a 'lessor' who likewise does not own it. To most non-lawyers this looks like trying to sell a second-hand car when it's not your name in the log book.

In the case of Hurst House, the transfer was not completed because Foundation Derbyshire, at some date we have been unable to establish, turned round and asked the county council to sell the property.

The county council has refused to explain the reasons received from Foundation Derbyshire for this request on the ground that the information was supplied in confidence and that to comply with our request would be an actionable breach of confidence. Disclosure would also

prejudice the commercial interests of the Chesterfield Schools Foundation when disposing of the property.

From this reply, and also a comment in the Charity Commission's letter of 17 June, we infer that the county council has refused Foundation Derbyshire's request to sell Hurst House and is insisting that the title be transferred.

This aspect of the matter appears to be going nowhere. If there is a problem with the Chesterfield Schools Foundation's title to Hurst House, which Foundation Derbyshire's solicitor has spotted, presumably anyone planning to buy the property at auction would also be advised by their solicitor not to do so for the same reason.

The idea that in the excitement of the auction room a keen bidder might ignore their solicitor's advice and agree to an irrevocable sale on the fall of the hammer also sounds like the Arthur Daley approach to secondhand car dealing.

There is, of course, a mechanism for dealing with problems like this. If the two sides' solicitors cannot find a solution between them, it would be reasonable for the county council, the party which appears to be lumbered with a defective title, to seek advice from counsel or to state a case to a Chancery Division Judge.. The Judge would normally appoint a Master to examine the evidence and make a report, with recommendations. The Judge could then make an Order giving the county council a sound title to transfer.



The equity courts have been sorting out problems like this since the sixteenth century, not least (locally) in the case of the very involved affairs of Godfrey Foljambe of Wal-



ton, whose will of 1595 created what is now the Chesterfield Schools Foundation. Chancery litigation over the will (although not the charity or the grammar school) continued into the 1630s.

We have gone back to the county council with further requests under the Freedom of Information Act about the reasons for the delayed transfer of the two pieces of property, and also whether any of the costs arising from delay have been paid from the funds of the Chesterfield Schools Foundation. This we would consider most improper, since the costs are purely the result of the county council's professional incompetence as the trustee of the charity.

TAPTON HOUSE: WHERE'S THE MONEY FOR 'COMMUNITY USE' COMING FROM?

IN RECENT WEEKS the Friends of Tapton House and other groups seeking to secure the property for somewhat ill-defined 'community use' have achieved a good deal of publicity for their cause, culminating in a piece on BBC Television Look North on 25 June about the protest picnic held in the gardens, which was addressed by Coun. Paul Holmes, the leader of the Liberal Democrat oppo-

sition group on the Borough Council. No-one from the council was interviewed on the programme to give the local authority's point of view.

There have also been quite detailed statements of the Friends' case in articles in the *Derbyshire Times* (23 June) and Chesterfield Live, the online edition of the *Derby Telegraph*. Neither included any comment from the council, or a statement that the council had declined to comment, which seems an unfortunate omission.

The Chesterfield Live piece referred to the Civic Society's preference for the sale of the mansion and restoration as a private residence, but the reporter did not contact the society for a fuller statement of its views. This article also contained two quite serious factual inaccuracies (that the Tapton Estate was left to Chesterfield Corporation on condition that it be used for the benefit of the people of Chesterfield; and that the mansion and adjoining school buildings are listed grade II).

As a result we have written to both reporters setting out our position and drawing attention to a detailed memorandum on our policy towards Tapton House which has been available on our website since last September. We have yet to hear back from either.

For reasons set out in our paper, which need not be repeated here, we believe that several suggested uses for the mansion and gardens are unlikely to be viable for various reasons, most of them financial.

In the case of 'community use' none of the uses suggested would produce anything like enough revenue to maintain the property. There also seems to be an unspoken assumption that the borough council will (or should) partly fund the use of the building by 'the community'.

This is not going to happen. District councils the size of Chesterfield do not have the sort of money we are talking about available for that purpose. The council wants to sell the property so that, instead of being a drain on its resources, Tapton House will bring in some income from either business rates or council tax, and the considerable cost of maintenance will fall on others.

This should not be very difficult to understand but seems to have passed some people by. What do they want the council to do? Drive the authority into insolvency and then remind those who didn't believe them of the inscription on Spike Milligan's tombstone: 'I told you I was ill'?

The Civic Society policy continues to be to support the council and their agents, Knight Frank, in their efforts to sell the mansion and gardens on a 999-year lease, preferably for use as a private house. This we believe offers the best hope of preserving the fabric and the fine interior decoration (see for example the dining room pictured above) of one of the most important houses of its period in north-east Derbyshire.

Finally, we would encourage anyone thinking of sending us another abusive anonymous letter in response to this article to save their money buying a stamp, because discourse at that level will have no effect on our views.

HERITAGE OPEN DAYS: SOME PROGRESS

OUR ATTEMPTS to act as the local coordinating body for Heritage Open Days in September (since no-one else seemed to have the time or inclination to take on the work) are not making as much progress as we would like, mainly because of a lack of replies to letters and emails we sent over a month ago.

Towards the end of May we wrote to all the places of worship in the town asking if they had any plans to open during this period or whether they would make some if we offered to publicise the event.

We received replies (generally positive) from the Ragged School, St John's Newbold, St Thomas's New Brampton, SS Augustine Derby Road, Elder Yard Unitarian church, Rose Hill United Reform church.

We have not received replies from the Parish Church, the Central Methodist Church on Saltergate, or the Catholic Church of the Annunciation on Spencer Street.

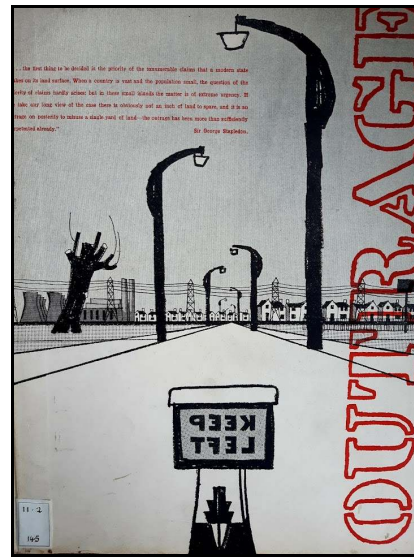
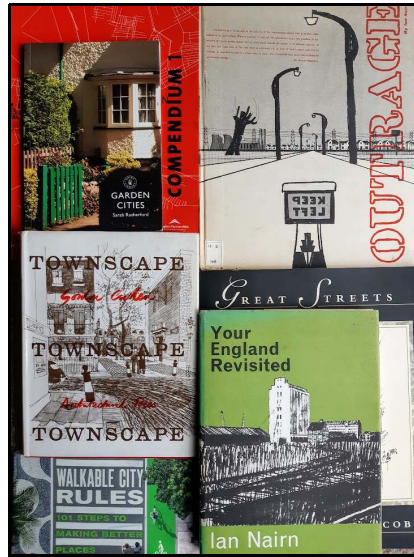
We also wrote to the Masonic Hall on Saltergate but have not had a reply, and to the Borough Council asking whether some council buildings could be opened specially. We have since heard from the officers of Chesterfield Museum, who are contributing to Heritage Open Days, but not from the officer to whom we wrote (twice) at the Town Hall.

We understand that Chesterfield FC will be offering behind the scenes tours of their stadium, and we are hoping that both Chesterfield College's West Studios and Derby University's St Helena Campus (i.e. the former grammar school and high school buildings) will be open at some point during the ten days.

IAN NAIRN: THE CRITIC WHO CARED TOO MUCH: LET'S HAVE ANOTHER

Bryan Thompson writes:

IAN NAIRN (1930–83) is seen as one of the best architectural and urban planning critics of the twentieth century. He objected strongly to the banality of many post-war developments and craved for another urban visionary akin to John Nash. Jonathan Meades described him as 'the critic who cared too much – Ian Nairn wrote brilliantly about buildings, made glorious TV – and drowned his sorrows too deeply'. That was normally in a good pub, one used and enjoyed by the local community for



that mattered to him deeply.

Nearly 70 years ago, Ian Nairn wrote a series of uncompromising critical articles for the *Architectural Review* called 'OUTRAGE', which shocked the architectural and planning establishments. It described the many bleak British suburbs as SUBTOPIA: 'the annihilation of the site, the steamrolling of all individuality of place to one uniform and mediocre pattern' or 'the legalisation of the urge to dump on a national scale.' It was 'less of a warning than a prophecy of doom'. 'its symptom will be ... that the end of Southampton will look like the beginning of Carlisle; the parts in between will look like the end of Carlisle or the beginning of Southampton.'

The magazine articles and later the book are illustrated with poignant photographs and drawings of this journey. It probably encapsulated what many outside the relevant pro-

fessions had thought but not challenged in public. He rails against the lost idealism of planning and 'false tolerance' by the man in the street of an abused system.

This and other works such as his evocative *Nairn's London* (still in print) and similar concerns of others, raised political awareness leading to the setting up the Civic Trust (RIP) with government aid. The Trust campaigned to make better places for people to live. It ran until 2009 before going into administration due to a shortage of funding. Civic Voice has taken over the cause in England and Civic Trust Awards are still made.

The architect, Gordon Cullen's illustrations enlivened *Outrage*, and he went on to write *Townscape* (1961), less polemic but a very effective classic, showing architects, engineers and planners and the interested public the importance of views and place.

There are now many good publications aimed at environmental conservation and improvement covering local building traditions, new housing developments, landscaping and wildlife protection and town centre renewal. In 2007–10 the Government produced the excellent *Manual for Streets* (to be revised by Chartered Institution of Highways and Transportation in 2022).

Better late than never, national guidance was amended in 2021 and the Planning Inspectorate is now three times more likely to support rejections of housing developments for poor design.

Progress at last? Yes, in part, for it does take a long time to get all involved in the development process to feel obliged to be more design and environmentally sensitive.

In the meantime, the Government wants to further relax planning controls and remains obsessed with speedy decision making. We must also remember highways authorities and utilities operate largely outside the planning system and some veer towards the standard designs and clutter that echo Cullen's ugly illustrations in *Outrage*. All make it harder for modern equivalents of John Nash or local architect-planners such as R.B. Parker and Barry Unwin (both once of Chesterfield) to design and deliver great urban environments, which today would be through mean-

ingful community involvement.

Reflecting on the vast anonymous deemed to satisfy developments that have occurred in recent years around the Chesterfield area, a final word from Ian Nairn: 'And planning machinery is being used to speed up Subtopia, not check it'...'. Any hope of intelligent interpretation was lost when planning was tied down step by step with local government, and made into another unrewarding office job. This chained it to the very points where democracy is most likely to give the lowest common denominator, not the highest common multiple: corporate Subtopia with all the planning rules in its armoury, perverted to make every square mile

indistinguishable'.

An outrageous assault on the identity of our historic town centre with a ubiquitous shopping mall proposal was only halted by the strident actions of the Civic Society and others. In its place, we enjoy a nationally acclaimed conservation-led redevelopment, which will be refurbished because it remains important and full of local character.

Yet lesser developments had to slip through the system. Let us, together with our communities, our councils, elected representatives and other agencies look to move from the false tolerance of subtopia and demand the delivery of a more utopian

local vision for the area. And that includes together repairing the damage of the past, repairing our hollowed-out communities, conserving our cultural heritage and open spaces better and demanding beautiful more sustainable developments and projects that have the thoughtfulness to meet wider needs.

Let us have your comments and suggestions for what we can do improve our town, sent to the chairman for a follow-up article: (chairman@chesterfieldcivicsociety.org.uk). But first you may wish to watch the Ian Nairn video to reflect on progress It can be found at <https://youtu.be/lvoXJ1Ye9R4>.