

# The Cabinet

8<sup>th</sup> June 2005

Joint Authors:

Bob Chequer, Waste Management Officer

Tel: 01722 434282 [bchequer@salisbury.gov.uk](mailto:bchequer@salisbury.gov.uk)

John Crawford, Head of Legal & Property Services

Tel: 01722 434607 [jcrawford@salisbury.gov.uk](mailto:jcrawford@salisbury.gov.uk)

# REPORT

**Cllr D Brown: Cabinet Member for Environment & Transport**

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## SHOPPING TROLLEYS

### I. Summary

- I.1 To report on the effectiveness of the planned measures introduced to reduce the number of shopping trolleys abandoned or dumped in the rivers as requested by Cabinet on the 2<sup>nd</sup> March 2005.
  - I.1.2 The trial trolley collection service has reduced the number of trolleys abandoned in the City but Wiltshire Wildlife Rescue has continued to remove trolleys dumped in the City's rivers, as arrangements with the contractor had not been put in place. (See section 3.1.)
  - I.1.3 The wheel locking devices fitted to the Southampton Road Tesco trolleys appear to be proving successful. The coin lock mechanisms on the trolleys used by the Castle Street Tesco store are still able to be defeated but routine repair and / replace procedures have been introduced. (See section 3.2.)
  - I.1.4 The trolley hotline operated by Tesco is still not satisfactory. (See section 3.3.)
  - I.1.5 Repairs are still necessary to a number of trolley corrals but Tesco have this work in hand. Signage of the corrals is still not satisfactory. Usage of the corrals and proposed improvements need to be examined as this may lead to a reduction in the number of corrals required. (See section 3.4.)
- I.2 To report on the matters raised by a member of the public concerning an agreement ["the Agreement"] between the council and Sainsbury's Supermarkets Ltd ["Sainsburys"] and Tesco Stores Limited ["Tesco's"] at the March meeting of Cabinet.
- I.3 In summary the recommendations are:
  - I.3.1 That the council should continue to work with and support the retailers initiatives to improve the situation but maintain a position that will not impair the council using its powers to enforce regulations if and when necessary. (See section 6.2, 6.3 & 6.9.)
  - I.3.2 That a survey of the trolley corrals be undertaken to ascertain their usage and whether proposed improvements would reduce the number required to release space for parking. (See section 6.4.)
  - I.3.3 That Tesco and Sainsbury's be notified of their obligations under the 2003 Agreement to maintain the keep the trolley corrals in good condition. (See section 6.5, 6.6 & 6.8.)
  - I.3.4 That Tesco ensure the trolley hotline is fully operational. (See section 6.7 & 6.8.) That a suggested joint public awareness campaign be developed and implemented. (See section 6.10.)

- 1.3.5. That the retailers be given to the 1<sup>st</sup> August 2005 to complete all agreed remedial works and / or actions and that a progress report be presented to Cabinet in October 2005. (See section 6.8 & 6.11.)
- 1.3.6. To defer any decision on the Agreement until consideration of the further progress report (See section 6.12)

## **2. Background**

- 2.1 Following continued concerns that the 2003 Agreement between the Council, Tesco and Sainsbury's had not achieved an improvement in the number of trolleys being abandoned or dumped in the rivers reports were requested by members and presented to Cabinet (19<sup>th</sup> January & 2<sup>nd</sup> March 2005), and City Area (Community) Committee (25<sup>th</sup> January & 29<sup>th</sup> March 2005).
- 2.2 Salisbury City Centre Management arranged and facilitated discussions with representatives from Tesco, Salisbury District Council and Trolley Collection Service PLC, a contractor for Tesco, on 27<sup>th</sup> January 2005. It was agreed that:
  - 2.2.1 Salisbury District Council, Wiltshire Wildlife Rescue & City Centre Management would run an awareness campaign about the dangers of trolleys in rivers affecting wildlife.
  - 2.2.2 Trolley Collection Service PLC would organise a three-month trial of their collection service to start on the 28<sup>th</sup> February 2005.
  - 2.2.3 Tesco (Castle Street) will have all trolleys fitted with new locks by 3<sup>rd</sup> February 2005.
  - 2.2.4 Tesco (Southampton Road) will have diagonal automatic wheel locking systems fitted to prevent trolleys being taken out of their car park by the end of February 2005.
  - 2.2.5 An improved trolley hotline will be set up and hosted by Tesco (Castle Street) for any store's abandoned trolleys.
  - 2.2.6 Trolley Collections PLC will provide a written proposal to Salisbury District Council.
  - 2.2.7 Review of the trial in 3 months.
- 2.3. As per Minute 498 of the Cabinet meeting of the 2<sup>nd</sup> March 2005, that:

“A report be submitted to Cabinet and the City Area Committee in June 2005, with the information to enable the Cabinet to review the outcome/efficacy of the three month trial of Trolley Collections PLC trolley collection service, which started earlier this week, such report will also take account of the Officers' response to Mr. West's statement at this meeting”.

Mr West questioned:

- a) The effectiveness of the trolley locking devices fitted / to be fitted by Tesco.
- b) The maintenance, signage and usage of the trolley corrals.
- c) The effectiveness of the trolley hotline, and further questioned:
- d) Whether a new legal agreement was necessary to ensure the effective control of shopping trolleys in the city.

### **3 Current Situation:**

#### **3.1 Trolley Collection Scheme:**

3.1.1. Trolley Collection Service PLC commenced a 3-month trial collection service on behalf of a number of retailers on the 28<sup>th</sup> February 2005. In the 9 weeks of the trial to date 2,325 trolleys have been collected and returned. 468 trolleys were collected in the first week of the scheme and have averaged around 200 per week up until week 9. The number of trolleys collected includes those removed from the purpose built corrals each evening.

There is an improvement in the City centre with fewer trolleys being observed as abandoned. Although there is not as significant an improvement in the trolleys abandoned away from the central areas, as the “hot-spot” locations are added to the map that is now available to the collectors this situation will improve.

3.1.2. At the time of writing 10 trolleys have been recovered from the rivers in the City, 9 by Wiltshire Wildlife Rescue and 1 by Salisbury District Council. Although Trolley Collections PLC has the facilities to do this they had not been contacted.

3.1.3. Not all retailers joined the trial scheme and some have withdrawn since its commencement. Having no agreement for the return of their trolleys there are currently some 30 trolleys belonging to these retailers being held at the Council’s Churchfields Depot having been delivered there by Trolley Collections PLC. One major retailer withdrew from the trial following concerns about the clarity of operational practices.

3.1.4. The current method of collection would not be suitable for an ongoing service. Environmental Services and City Centre Management would want to see improvements in the operation that include professionalism in dealing with customers and agencies, safe working practices, standard of appearance and adequate capacity to meet the necessary requirements for this service.

To date the Council has not received copies of any proposed agreement between Trolley Collections PLC and the City retailers, which would need to include the service specification and safe working practices.

#### **3.2 Effectiveness of Trolley locking devices:**

3.2.1. The proposed wheel locking system for trolleys at the Southampton Road Tesco was introduced at the end of March. Figures from Trolley Collection Service PLC do not appear to reflect any change in the numbers being recovered but the view of Salisbury City Centre Management is that it is proving successful.

3.2.2. The coin lock mechanism used on the trolleys operated by Castle Street Tesco is easily defeated. According to figures from Trolley Collection Services PLC 66% of all trolleys recovered are from the Castle Street Tesco store. The Tesco Property Operations Manager, at a meeting with Salisbury City Centre Management and Environmental Services on the 4<sup>th</sup> May 2005 when asked about different mechanisms being fitted, reported that there was no foolproof coin operated mechanism.

The Store Manager confirms new trolleys have been ordered and that all defective coin locks are repaired / replaced on a routine basis.

Although fitted with coin lock mechanisms the number of Iceland trolleys recovered per week is second only to those from Castle Street Tesco.

### 3.3 **Effectiveness of the Trolley Hotline:**

- 3.3.1 The Trolley "hotline" hosted by Castle Street Tesco Store is still not working properly and is ineffective. Both the Store Manager and Property Operations Manager are attempting to resolve the technical problems to restore a full service.

### 3.4 **Trolley Corrals**

- 3.4.1 The plain "scaffold pole" structure of the corrals does not convey a very good image of Salisbury City centre and criticisms / comments have been received from shoppers and residents.
- 3.4.2 Signage is still inadequate, there are no high level signs, and the low level "trolley" signs are not visible above cars. Neither Tesco nor Sainsbury's logos are attached to the structures.
- 3.4.3 Repairs appear to have been carried out to some corrals but damage is still evident to the rails on corrals in Central Car and in Salt Lane Car Park. A number of chains from the corrals in Central Car Park are either broken or missing. The ground fixings to a number of corrals are also loose.

Tesco has taken on the role of maintaining the corrals and orders have been issued for this work to be undertaken.

- 3.4.4 Very few corrals appear to reach full capacity but a proper survey would be required to ascertain whether the number could be rationalised. This would permit space to be returned for use as car parking space.
- 3.4.5 Tony West of the St Edmunds & Milford Community Association proposes that each corral should be sub-divided to accommodate possibly up to three single lines of trolleys in each corral. This would maximise the use of the space and would open up some extra spaces for parking to regain some of the lost revenue.

### 3.5 **Awareness Campaign**

Salisbury City Centre Management have published press releases but no further action has taken place to get the necessary parties together to produce a run a proper awareness campaign.

## 4. **Background to the Agreement**

- 4.1. The Agreement and the Head of Legal and Property's comments on it formed part of a report ["the Report"] to Cabinet on 2<sup>nd</sup> March. For ease of reference a copy of the report is attached as Annex 1.
- 4.2. A statement ["the statement"] was made by the member of the public concerned at that meeting. For ease of reference a copy is attached to this report as Annex 2.
- 4.3. Members are referred to paragraph 3 of the statement where it is stated that at its meeting on 24.04.2002 Cabinet "stated that any supermarket that declined to introduce a coin operated locking system be referred to the Environment Agency, this is clearly shown in the minutes." The relevant minute ["the minute"] actually states that "**consideration** be given to referring any supermarket that declined to introduce a coin deposit locking system to the Environment Agency."

- 4.4. Members are referred to paragraph 4 of the statement where it is stated that "the Council's Solicitor had failed to understand fully the problem in hand and had failed to interpret the wishes of Cabinet." However it is clear from the minute that the Agreement might not incorporate any obligations on the supermarkets concerned to provide coin deposit shopping trolleys. And the statement assumes that the supermarkets would have agreed to such obligations.
- 4.5. Members are referred to paragraph 4 of the statement where it is stated that it was untrue for the Head of Legal and Property Services to have stated in the Report that no allegations had been made. However the Report did not state that no allegations had been made but that there was an "absence of any **specific** allegations" that the Agreement had been broken. That is still the case at this time.

**5. Options with regard to the Agreement:**

- 5.1. Do nothing. And rely on the work recommended in the separate report of the Waste Management Officer to achieve a consensual solution to the problem that has the Commitment of all of the stakeholders concerned.
- 5.2. Give notice ending the Agreement. The supermarkets concerned would have to remove the trolley bays and make good. Removal of the trolley bays will not improve the situation but would free up additional parking spaces generating additional parking income.
- 5.3. Attempt to negotiate a fresh agreement with the supermarkets concerned. The terms of any new agreement would be a matter for negotiation and there would be no guarantee that the supermarkets concerned would willingly suffer the imposition of additional obligations.

**6 Recommendations.**

- (1) To note the report.
- (2) That City Centre Management, Environmental Services and the retailers continue working together to minimise the number of trolleys abandoned.
- (3) To support retailers in developing and maintaining a satisfactory scheme for the collection of trolleys.
- (4) That a survey of the corrals be undertaken to assess the current usage and whether modifications would enable the overall number to be reduced to release parking spaces.
- (5) That Tesco and Sainsbury's be notified that the proposed repair / remedial work to the trolley corrals must return all corrals to a satisfactory condition by the date as approved in Recommendation 6.8 below.
- (6) That Tesco and Sainsbury's be notified of their obligation under S5.6 of the 2003 Agreement to maintain and keep the trolley corrals in good condition and additionally ensure that all future repairs / remedial works that may be necessary are undertaken within an acceptable period.
- (7) That Tesco be notified that the trolley hotline must be fully operational by the date as approved in Recommendation 6.8 below.
- (8) That the retailers be given to the 1<sup>st</sup> August 2005 to complete all agreed remedial works and / or actions.
- (9) That the council maintain a position that will not impair its ability to use its powers to enforce regulations as and when necessary. Particularly if in its opinion a retailer(s) are not taking all reasonable measures to maintain control of their shopping trolleys.
- (10) That Environmental Services, City Centre Management and the council's Marketing Team work in partnership with retailers and Wiltshire Wildlife Rescue to prepare and run an awareness campaign.
- (11) That a further progress report be presented to Cabinet in October 2005.

(12) To defer any decision on the Agreement until consideration of the further progress report.

**7. Consultation Undertaken:**

St Edmunds & Milford Community Association  
City Centre Management  
Tesco  
Trolley Collection Services PLC

**8. Background Papers:** None.

**9. Implications:**

- **Key decision** : no
- **Financial** : None
- **Legal** : none
- **Human Rights** : None
- **Personnel** : None
- **Community Safety** : None
- **Environmental** : contained in report
- **Council's Core Values:** excellent service, environmentally conscious, willing to be an open learning council and a willing partner
- **Wards Affected** City

# REPORT

Authors:

John Crawford, Head of Legal & Property Services

Tel: 01722 434607. [jcrawford@salisbury.gov.uk](mailto:jcrawford@salisbury.gov.uk)

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**Councillor D Brown: Cabinet Member for Environment & Transport**

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## SHOPPING TROLLEYS

### 1. Report Summary

To report to Cabinet on:

- 1.1 The terms of an agreement ["the agreement2} between the council and Sainsbury's Supermarkets Ltd ["Sainsbury's"] and Tesco Stores Limited ["Tesco's"] to establish shopping trolley corrals in Salisbury.
- 1.2 Progress with the provision of corrals and coin deposit trolley locks by Tesco's and Sainsbury's.

### 2. Background

- 2.1 On 24.04.2002 Cabinet agreed amongst other things:
  - To adopt a scheme for the provision of trolley bays at various locations in Salisbury
  - Revenue costs to be reviewed annually
  - That a progress report be submitted to Cabinet 6 months after the scheme was implemented
  - Consideration be given to referring any supermarket that declined to introduce a coin deposit locking system to the Environment Agency
- 2.2 On 16<sup>th</sup> October 2002 Cabinet agreed to delete the requirement for an annual review of revenue cost arising from the loss of car parking spaces associated with the implementation of the scheme.
- 2.3 The council entered into the agreement on 21<sup>st</sup> October 2003. A copy is attached to this report.
- 2.4 Following an initial improvement after the agreement the number of abandoned or dumped trolleys appears to have returned to its former level.
- 2.5 Tesco's has not achieved conversion to trolleys with coin deposit mechanisms largely due to trolleys from their Southampton Road store finding their way into the City centre.
- 2.6 Between August 24<sup>th</sup> and September 10<sup>th</sup> 2004 Wiltshire Wildlife Rescue reported that they had removed 9 trolleys from the rivers.
- 2.7 In September 2004 a representative of St Edmunds & Milford Community Association convened a meeting with officers of Salisbury District Council, the Environment Agency and the Wiltshire Wildlife Rescue, as there were still numerous trolleys in use but without coin deposit mechanisms.
- 2.8 Despite numerous deputations to Tesco's by the Chair of the City Area Committee, between October and Christmas 2004 trolleys without coin deposit mechanisms were still in use and available for use in the Tesco's Castle Street store.
- 2.9 Trolleys are still being abandoned including those with coin deposit mechanisms.
- 2.10 Wiltshire Wildlife Rescue reported that over 100 abandoned trolleys were identified on one weekend in early January.
- 2.11 Construction of the trolley bays was not substantially complete until early summer 2004. As at January 2005 some bays still are incomplete, some damaged and there is no adequate signage.
- 2.12 Prior to the meeting of Cabinet on 19<sup>th</sup> January 2005 a member of the public gave notice of a question asking amongst other things whether

- The agreement was adequate
  - It had been broken by Tesco's
- 2.13 At the meeting of Cabinet the member of the public asked an extended version of the question alleging amongst most things that the agreement failed to include any obligations on Sainsbury's and Tesco's to operate an effective system to stop trolleys being abandoned in Salisbury.
- 2.14 It was agreed that a report would be brought to Cabinet at its March meeting for Cabinet to consider the terms of the agreement and progress with the overall scheme.

### **3 The agreement**

- 3.1 It is clear from the Cabinet minute of 24.04.2002 that the scheme would not necessarily secure any obligations on the part of the participating supermarkets to introduce a coin deposit locking system where they had not already done so.
- 3.2 Members are referred to clause 1.1 of the agreement. This follows comments made by Tesco's to the council by letter dated 05.08.2003. The spirit of the agreement is that the council will not charge for the use of its land given over to the provision of trolley bays and in turn Sainsbury's and Tesco's will amongst other things aim to use coin deposit shopping trolleys. There are no further references to coin deposit shopping trolleys in the agreement.
- 3.3 On 09.12.2003 the council was advised by Tesco's that the lockable trolleys "re now signed off by our RDG group, which is something that didn't happen previously" and that it was hoped that approval would be given "and then the order can go in" but that "it may be that the bays are in place and the lockable trolleys follow a bit more gradually."
- 3.4 It would be inappropriate for the Head of Legal & Property to offer a view on the adequacy of the agreement in the context of the above.
- 3.5 Although the agreement records Sainsbury's and Tesco's aspirations to introduce coin deposit shopping trolleys the agreement does not contain any actual obligations on them to do so. To that extent they have not broken the agreement.
- 3.6 The Head of Legal & Property is not able to offer a view on whether the agreement has been broken in any other material particular in the absence of any specific allegations that Sainsbury's and/or Tesco's have done so.
- 3.7 It is open to any of the parties to the agreement to end it at any time on giving at least one calendar months prior written notice although where the council wishes to end it the council will use its best efforts to give as much notice as possible. In the event that the agreement is ended Sainsbury's and Tesco's are required to remove the trolley bays and make good the council land involved.

### **4 Recent Developments**

- Following discussions with Tesco's Head Office, a representative from City Centre Management convened a meeting on 27<sup>th</sup> January 2005 with local representatives from both Tesco's stores in Salisbury, Tesco's National Trolley Manager and the Waste Management Officer from Salisbury District Council. Also attending was the Managing Director of Trolley Collections PLC, a contractor for Tesco's. At this meeting it was agreed that:
- 4.1 Salisbury District Council, Wiltshire Wildlife Rescue & City centre Management would run an awareness campaign about the dangers of trolleys in rivers affecting wildlife.
- 4.2 Trolley Collections PLC would organise a three-month trial of their collection service to start on the 28<sup>th</sup> February 2005. They will collect trolleys from any retailer that are abandoned and arrange for their return. Stores will need to agree to a scheme of payment.
- 4.3 There will be one sweep of the city centre at 2.00pm and a citywide sweep at 9.00pm. This is in addition to the existing collections by the stores.
- 4.4 Tesco's (Castle Street) will have all trolleys fitted with new locks by 3<sup>rd</sup> February 2005.



- 4.5 Tesco (Southampton Road) will have diagonal automatic wheel locking systems fitted to prevent trolleys being taken out of their car park by the end of February 2005.
- 4.6 An improved trolley hotline will be set up and hosted by Tesco (Castle Street) for any store's abandoned trolleys.
- 4.7 Trolley Collections PLC will provide a written proposal to Salisbury District Council.
- 4.8 Review of the trial in 3 months.

**5 Legal powers:**

- 5.1 The council has previously adopted powers available to it under the Environmental Protection Act 1990 to seize abandoned trolleys and charge for their return. Such powers are only effective if trolley owners wish to reclaim their trolleys.
- 5.2 There are a variety of other powers potentially available to the council in certain defined circumstances under various bits of legislation as well as to other statutory bodies such as the Environment Agency.

**6 Consultation Undertaken** : None.

**7 Recommendation** : That Cabinet note the report.

**8 Background Papers** :None.

**9 Implications:**

- **Key decisions** : N/A
- **Financial** : None
- **Legal** : Set out in report
- **Human Rights** : None
- **Personnel** : None
- **Community Safety** : None
- **Environmental** : contained in report
- **Council's Core Values** : excellent service, environmentally conscious, willing to be an open learning council and a willing partner
- **Wards Affected** : City



### **3. LICENCE TO SAINSBURY AND TESCO**

The Council grants a licence to Sainsbury and Tesco to construct shopping trolley bays in the Car Parks. The number to be constructed in each car park is set out in the Schedule

### **4. COVENANT BY COUNCIL**

The Council will not make a charge to Sainsbury or Tesco for the use of its land for shopping trolley bays

### **5. SAINSBURY'S AND TESCO'S OBLIGATIONS**

- 5.1 To construct the shopping trolley bays and thereafter maintain them during the period of the Licence
- 5.2 Tesco shall construct the shopping trolley bays and Sainsbury shall pay to Tesco a contribution towards the cost of construction equal to the proportion of the whole cost as the proportion of their shopping trolley bays bears to the whole number of such bays.
- 5.3 Agree the specific location of the shopping trolley bays with the Council following site visits
- 5.4 To obtain the Council's written approval of the design and specification of the shopping trolley bays before commencing work
- 5.5 Complete construction of the shopping trolley bays within 3 calendar months of completion of this agreement
- 5.6 To each maintain and keep in good repair their respective shopping trolley bays throughout the term of this Agreement
- 5.7 Maintain public liability insurance cover of at least £5m and produce a copy of the insurance policy when required to do so by the Council

- 5.8 Not to use the shopping trolley bays nor allow them to be used in such a manner as may create a nuisance
- 5.9 During construction to minimise the disruption to the Car Parks and to make good any damage caused to the Council's satisfaction
- 5.10 To indemnify and keep indemnified the Council from and against any loss, damage or liability (whether criminal or civil) suffered and any legal fees and costs incurred by the Council resulting from a breach of this agreement as follows:
  - 5.10.1 in the case of Sainsbury's, any breach of this agreement by Sainsbury's including any act, neglect or default by Sainsbury's or its servant's, agents or employees
  - 5.10.2 in the case of Tesco, any breach of this agreement by Tesco including any act, neglect or default by Tesco or its servant's, agents or employees
- 5.11 Not to assign this agreement without the prior written consent of the Head of Environmental Health Services
- 5.12 Except as may be authorised by the Head of Environmental Health Services not to contact any officer, servant, agent or employee of the Council otherwise than through the Waste Minimisation and Recycling Officer

## **6. TERMINATION**

This agreement shall continue until it is terminated by any one of the parties giving at least one calendar month's written notice to the others. The Council shall however use its best endeavours to give as much notice as possible should it wish to terminate the agreement

## **7. TERMINATION FOR BREACH**

The following obligations are conditions of this agreement and any breach of them by Sainsbury or Tesco shall be deemed a fundamental breach by Sainsbury or Tesco as appropriate which shall determine this agreement immediately in respect of Sainsbury or Tesco as appropriate and the rights and liabilities of the parties shall thereafter be determined as further provided for in this agreement

- 7.1 Failure on the part of Sainsbury or Tesco to observe any obligation under this agreement provided that the Council shall have given Sainsbury or Tesco, as appropriate, written notice of such failure and an opportunity to remedy such failure within 14 days of the date of such written notice if remedying such failure is appropriate in the circumstances of the breach
- 7.2 The levying of any distress or execution against Sainsbury or Tesco or the liquidation of Sainsbury or Tesco (other than a members' voluntary liquidation with the written consent of the Council)

## **8 CONSEQUENCES ON TERMINATION**

- 8.1 On termination of the contract by the Council both Sainsbury and Tesco shall remove the shopping trolley bays and make good the surface of the car park at their own expense and to the satisfaction of the Council provided that if the Council have terminated the agreement in order to redevelop the car park the extent of the making good required, if any, shall be agreed between the parties
- 8.2 In the event that termination is for breach Sainsbury or Tesco, whichever one is in breach, shall remove their shopping trolley bays and make good the

surface of the car park at their own expense and to the satisfaction of the Council

#### **9. WARRANTY**

Each of the parties warrants its power to enter into this agreement and has obtained all necessary approval to do so

#### **10. SEVERANCE**

If any provision of this agreement is declared by any judicial or other competent authority to be void, voidable, illegal or otherwise unenforceable the parties shall amend that provision in such reasonable manner as achieved the intention of the parties without illegality or at the discretion of the Council it may be severed from this agreement

#### **11. CHANGE OF ADDRESS**

Each of the parties shall give notice to the other of the above or acquisition of any address or telephone, fax or similar number at the earliest possible opportunity but in any event within 48 hours of such change or acquisition

#### **12. NOTICES**

Any notice to be served on any of the parties by any of the others shall be sent by pre-paid Recorded Delivery post, or by facsimile transmission and shall be deemed to have been received by the addressee within 72 hours of posting if by pre-paid Recorded Delivery or 24 hours if sent by facsimile transmission if sent to the correct facsimile number provided that any notice to be served upon the Council shall be directed to the Head of Environmental Health Services at The Council House  
Bourne Hill Salisbury SP1 3UZ

### **13. THE COUNCIL'S RIGHT TO ASSIGN**

This agreement and all rights under it may be assigned or transferred by the Council

### **14. PROPER LAW & JURISDICTION**

- 14.1 This agreement shall be governed by English law in every particular including formation and interpretation and shall be deemed to be made in England
- 14.2 Any proceedings arising out of or in connection with this agreement may be brought in any court of competent jurisdiction in England and Wales
- 14.3 The submission by the parties to such jurisdiction shall not limit the right of the Council to commence any proceedings arising out of this agreement in any other jurisdiction it may consider appropriate
- 14.4 Any notice of proceedings or other notices in connection with or which would give effect to any such proceedings may without prejudice to any other method of service be served on any party in accordance with clause 11.

### **15. WAIVER**

The failure by any party to enforce at any time or for any period any one or more of the terms or conditions of this agreement shall not be waiver of them or of the right at any time subsequently to enforce all terms and conditions of this agreement

### **16. COSTS**

Each of the parties shall pay any costs and expenses incurred by it in connection with this agreement

### **17. THIRD PARTY RIGHTS**

A person who is not a party to this agreement has no right under the contract (Rights of Third Parties) Act 1999 to enforce any terms of this agreement

## **18. HEADINGS**

Headings contained in this agreement are for reference purposes only and shall not be incorporated into this agreement and shall not be deemed to be any indication of the meaning of the clauses to which they relate

## **19. ARBITRATION**

All disputes or differences which at any time arise between the parties or any of them whether during the term or afterwards touching or concerning this agreement or its construction or effect of rights, duties or liabilities of the parties or any of them under or by virtue of it or otherwise or any other matter in any way connected with or arising out of the subject matter of this agreement shall be referred to a single arbitrator to be agreed upon by the parties or in default of agreement to be nominated by the President for the time being of the Chartered Institution of Arbitrators in accordance with the Arbitration Act 1996 or any statutory modification or re-enactment of it for the time being in force

### **THE SCHEDULE**

Car Parks	Number of Shopping Trolley Bays	
Central	Sainsbury	7
	Tesco	8
Maltings (lower deck)	Sainsbury	5
	Tesco	5
Brown Street	Sainsbury	1
	Tesco	1
Salt Lane	Sainsbury	1
	Tesco	1



IN WITNESS whereof the parties hereto have hereunto affixed their Common Seals  
the day and year first before written

**THE COMMON SEAL** of )

**SALISBURY DISTRICT COUNCIL)**

was hereunto affixed in the presence of: -)

Authorised Signatory

**THE COMMON SEAL** of )

**SAINSBURY'S SUPERMARKETS)**

**LIMITED [Ltd]** was hereunto affixed in the )

presence of: -)

Director [Authorised Signatory]

Director/Secretary [Authorised Signatory]

**THE COMMON SEAL** of) [EXECUTED AS A DEED BY]

**TESCO STORES LIMITED was)**

hereunto affixed in the presence of: - ) [ACTING BY]

Director

Director/Secretary

**Statement from Tony West of Guilder Lane, Salisbury to the Cabinet meeting Wednesday 2 March 2005**

The Headline "Triumph for the coin-op trolleys" appeared in the Salisbury Journal probably after lengthy discussions between SDC and the Supermarkets in 1991. The latest exercise to rid our City of this menace started again in December 2001 and we are still here discussing a solution.

The Supermarkets have always made it quite clear they were not in favour of trolley locks because customers didn't like them and have shown little concern about the problems they cause. When an agreement had been reached I wrote to Andrew Martin Tesco's Property Manager for re-assurance that the locking system they planned to use would be effective and tried and tested, it immediately failed, through what I believe to be a deliberately ineffective design. One week after the system was installed dumped trolleys started appearing, to the point we are now where our streets and parks are littered with them. At the end of the summer pressure was put on the Southampton Road Store to recover their non-locking trolleys from Castle Street Store and make regular collections, this continued through to December. With depleted stocks Tesco's Castle Street were re-supplied with a large number of non-locking trolleys two days before Christmas, they were immediately disbursed around the City, this is still happening.

When the problem was considered by Cabinet in April 2002 and subsequently in October 2002 it was agreed to trade the loss of revenue on the parking spaces which at that time was £27K, for an effective control of the dumped trolleys. Without any other system on offer, especially at the Castle Street Store you stated that any Supermarket that declined to introduce a coin operated locking system be referred to the Environment Agency, this is clearly shown in the minutes.

At the January Cabinet meeting I asked if the Legal Agreement between SDC and the Supermarkets was adequate and had it been broken by Tesco's. It is quite clear from your Legal Department report that it is not. If you read 3.5 which states "although the Agreement records Sainsburys and Tesco's aspirations to introduce coin deposit shopping trolleys, the Agreement does not contain any actual obligation on them to do so. To that extent they have not broken the Agreement." This suggests the Council's Solicitor had failed to understand fully the problem in hand and had failed to interpret the wishes of the Cabinet. 3.6 suggests it is not possible to determine whether the Agreement has been broken as no allegations have been made, this is untrue. Allegation and complaints have been made continually during the year to Environmental Services and latterly to City Centre Management. 2.7 shows in September a meeting was convened to discuss the escalation of the problem involving the Environment Agency, Wildlife Rescue, Salisbury District Council, Environment and Planning Enforcement and St Edmunds Community Association. This Agreement needs to be cancelled and re-written giving full consideration to the whole problem not just the protection of Council assets. Ratepayers need some return on the massive revenue loss on the trolley bay parking spaces which when the current increase in parking charges are implemented will be £45k. At the same time by improving the design of the trolley bays only half as many spaces would need to be allocated saving nearly £23k. It is essential the responsibility is placed on the Supermarkets to implement effective control.

The recent developments are just more of the same that has failed in the past.

All the suggestions are reactive rather than pro-active. They react to the problem once it has happened, the majority of Salisbury's Residents don't want to see their City littered with discarded trolleys even if they are going to be collected at some point during the day. A collection vehicle driving around will not find all trolleys. How many times will the collector walk across the Town Path or the parks, many are not left in convenient places, it will fail. The telephone doesn't work because they don't answer it, this was confirmed with the use of a mobile phone in the store. Locks of a more robust variety have not been fitted, just the same locks that have constantly failed in the past. Somerfields Store in Shaftesbury installed a coin deposit system which works, they have obviously considered the problems and found a solution. I am reliably informed by the representative currently dealing with the issue at the Southampton Road Store that trolleys will only need to be raised 6 inches above the ground to bypass the magnetic system they plan to install. So this is another less than serious solution.

The Supermarkets need to work on a pro-active system that prevents habitual discarders from accessing their trolleys using a coinless card system.

I believe that supermarkets could have solved this problem during the last fifteen years if they actually wanted to. Can I be assured that the Council will implement more stringent measures to combat this problem. DEFRA have advised that Authorities can issue a fixed penalty notice under the Environment Protection Act 1990, of £50 for littering, this definition covers trolleys. You could also use the same Act to remove trolleys and impound them. When the Clean Neighbourhood Bill, currently being debated in Parliament, becomes law it will be obligatory for Supermarkets to pay the Council collection costs. I believe this would focus the Supermarkets minds on the problem. You have many street staff to use as spotters they could be paid incentive bonus's.

Salisbury Residents have been let down badly. Lets make this part of the "Vision for Salisbury" and free our streets and rivers from Supermarket trolleys.