

TONBRIDGE & MALLING BOROUGH COUNCIL

STREET SCENE and ENVIRONMENT SERVICES ADVISORY BOARD

18 July 2016

Report of the Director of Planning Housing and Environmental Health

Part 1- Public

Matters for Recommendation to Cabinet - Non-Key Decision (Decision may be taken by the Cabinet Member)

1 ENVIRONMENTAL HEALTH PERFORMANCE 2015-2016.

Summary

This report summarises the operational activities of the Council in relation to its statutory Environmental Health functions undertaken by the Environmental Protection Team and Food and Safety Team for 2015/16.

1.1 Background

1.1.1 The Environmental Health function is primarily concerned with protecting the public from the harm they may encounter in the wider environment, food, workplaces and with improving health. Environmental Health Officers act as advisers, educators and regulators and carry out site visits and give assistance to individual householders and businesses and to managers and workers. In certain circumstances, they take enforcement action to ensure compliance with legislation designed to protect the health of the public.

1.1.2 Two Teams work in this area:

- Food and Safety Team (FST) – responsible for the food premises inspection and food sampling programmes, health and safety in our local workplaces providing advice and guidance to employers and responding to requests for service relating to these areas; and
- Environmental Protection Team (EPT) – responsible for requests for service relating to alleged nuisances, responding to planning and licensing applications, contaminated land enquiries, proactive landfill gas and water quality monitoring and meeting the statutory requirements of the environmental permitting, local air quality management and private water supply regimes.

1.2 Food and Safety Team

1.2.1 A significant part of the work of the team is the food premises inspection programme, which includes full or partial inspections of high and medium risk food businesses and questionnaires to low-risk business. A total of 500 full or partial

inspections and 164 information gathering interventions were carried out which includes questionnaires sent to low risk premises. In addition 122 re-visits to food premises were undertaken to ensure legal contraventions had been remedied. All but four programmed interventions to high-risk food premises, that were due in 2015/16, were completed. The reasons that the businesses could not be inspected were outside the team's control and included seasonal and temporary business closures and refurbishment. Specific details of food safety interventions are shown in **[Annex 1]**.

- 1.2.2 The Council's results show that at the end of 2015/16, 96 per cent of our food businesses are broadly compliant and have achieved a rating of 3 or better in the National Food Hygiene Ratings Scheme. Full details are presented in **[Annex 2]**.
- 1.2.3 Food sampling is important to help ensure the safety of food. The Food and Safety team participated in national sampling surveys which examined the safety of salads from takeaways and self-service counters, jacket potato and sandwich fillings from catering premises and cured fish from catering establishments. In addition, samples were taken as a result of food poisoning allegations or complaints of poor hygiene and routine surveillance of a variety of food businesses. In 2015/16, officers took 178 samples and sent them for microbiological examination. Twenty six borderline and fourteen unsatisfactory results were investigated and advice given to businesses to resolve problems. Re-samples were taken where required. Further details can be found in **[Annex 3]**.
- 1.2.4 During 2015/16, a total of 241 reports of food poisoning were made and investigated when food businesses were implicated. This is a decrease of 24 reported cases on last year. Campylobacter cases continue to be the largest number of reported cases of food poisoning in the borough, with 179 cases. The incidence of salmonella was just 11 in comparison. The team provides advice to people suffering from food poisoning or food related disease and, where necessary, further investigations and sampling are undertaken with businesses that may be implicated.
- 1.2.5 Officers continue to deliver food safety and hygiene training as part of the West Kent Local Authority Training Partnership, operated in conjunction with other West Kent local authorities. This year, officers delivered 4 level 2 food hygiene courses at Tonbridge and Malling as part of the partnership arrangement, training 40 food handlers. In addition, 1 level 3 course was offered for those supervising and managing food safety with 8 delegates attending.
- 1.2.6 Thirty two visits were made as a result of accidents at work or complaints about workplaces, mostly relating to workplace transport and slips and trips.
- 1.2.7 The Food and Safety team received 124 service requests in 2015/16. These included complaints about food, food premises and the hygiene of food handlers, as well as workplace health and safety complaints. All these complaints were fully

investigated and relevant action taken. All but five service requests were responded to within the five day target.

1.2.8 **Formal Enforcement Action** – Although our aim is to provide advice and guidance to business operators in the majority of cases, in order to protect public health, it is sometimes necessary to take formal action against businesses. In 2015/16, 10 food hygiene improvement notices were served to secure compliance for offences such as lack of food hygiene training and inadequate food safety management systems. Eleven health and safety notices were also served on other businesses.

1.2.9 One business voluntarily closed for a week due to a pest infestation.

1.3 Environmental Protection Team

1.3.1 During the twelve months from 1 April 2015 to 31 March 2016, 544 requests for service were received to which the team responded to 98 per cent within 5 working days. Of that total, 140 concerned the odour from Drytec, which demonstrates a significant decrease from the previous year (739). Other issues that generated significant requests for service included noise both from domestic and licensed premises, barking dogs, bonfires, various types of accumulations and fly tipping on private land. Specific details of the types of requests received are shown in **[Annex 4]**.

1.3.2 On receipt of a complaint, letters are sent to the complainant (with diary sheets enclosed) and to the person alleged to be causing the nuisance, advising them that a complaint had been received and requesting them that if the allegation is correct to resolve the situation. In the many cases, no further communication is received by officers from either party, indicating that the initial letter to the person alleged to be source of the problem resolves the issue with no further involvement from officers.

1.3.3 On some occasions is necessary for the team to instigate formal action to protect public health. This is usually because the enforcement options, as set out in the Enforcement Policy, have been exhausted. A summary of Notices served in this year is provided in **[Annex 5]**.

1.3.4 The EPT are formally consulted by their colleagues in the Planning Service on applications received and on which the EPT make recommendation for the inclusion of conditions or “informatives” if planning permission is granted. These recommendations are intended to pre-empt and address areas of environmental concern prior to development starting and ensure that appropriate mitigation measures and/or remediation measures are addressed and implemented within the proposal to protect the quality of life for the future occupants of the development and neighbouring properties. During the year the team responded to 544 planning applications.

- 1.3.5 Under the provisions of the Licensing Act 2003, Environmental Health is a statutory consultee in respect of applications for Premises Licences and Temporary Events Notices (TENS). The team are additionally consulted on applications for Events on Open Spaces, where an event is to be held on Council owned land. During the year the team responded to 18 Premises Licence applications, 309 TENS applications and 33 applications for Events on Open Spaces.
- 1.3.6 Certain specified processes are required to obtain a 'permit to operate', under the provisions of the Environmental Permitting Regulations, which control emissions to land, air and water. Responsibility for enforcement of the regime is divided between the Environment Agency and Local Authorities. There are 45 permitted processes within the Borough covering processes which include road stone coating, dry cleaners, paint spraying and concrete batching. The standard of compliance with the permits and any conditions attached remains high.
- 1.3.7 **In December 2015**, DEFRA issued revised guidance in relation to the legislation concerning the Permitting of Small Waste Oil Burners (SWOBs). With effect from 6 April 2016, SWOBs will be regarded as Small Waste Incineration Plants under the Industrial Emissions Directive (IED). The impact of this change is that SWOBs will be regulated under the Environmental Permitting Regulations will be permitted as an A2 process and not a Part B process. This means that the control of their emissions will be subject to stricter conditions for operating, monitoring and reporting. Officers have contacted the relevant premises in the Borough and, as anticipated, the new requirements and charges have resulted in operators switching to burning non-waste fuels in their burners or to an alternative method of heating. Officers also took the opportunity to contact other premises that may have had or be considering obtaining a SWOB to update them on these changes.
- 1.3.8 The Council has an important role in protecting the public from hazards associated with contaminated land. There are three principal aspects to this role:
- identification and prioritisation of known areas of contaminated land within the Borough;
 - ensuring that, through the planning process, areas of potentially contaminated land are identified, investigated and remediated during the development process; and
 - responding to specific enquiries from potential property purchasers who have had concerns raised about potential contaminated land on their prospective property.
- 1.3.9 In 2015/16, the contaminated land inspection strategy has been reviewed and is presented in a separate item to this Board. The EPT provided 34 reports in relation to specific contaminated land enquiries, the majority from prospective property purchasers.

- 1.3.10 There are a number of private water supplies in the Borough and to safeguard the health of people consuming water from these supplies the team is required to risk assess and sample these supplies. Most occur in residential properties, although there are commercial premises that maintain a private water supply. Formal action is instigated should supplies not meet the required health standards. The most common reason for this tends to be as a result of maintenance regimes not being followed. This led to a number of notices being served, which are outlined in **[Annex 5]**.
- 1.3.11 The Local Air Quality Management (LAQM) regime requires the Council to periodically review and assess the air quality within its area. To fulfil these duties officers in the EPT monitor the air quality across the Borough using diffusion tubes and a continuous analyser located in Tonbridge High Street. The results of this monitoring are reported annually to the Department for the Environment, Food and Rural Affairs (DEFRA). They identify areas of poor air quality and may result in the declaration of Air Quality Management Areas.
- 1.3.12 DEFRA published the outcome of their final round of consultation on the review of the LAQM regime in April 2016. The Policy [PG (16)] and Technical Guidance [TG (16)] have been revised and updated. As anticipated the reporting regime has been streamlined to require that Authorities need to produce an Annual Status Report (ASR) only; all other previous reports are no longer statutorily required..
- 1.3.13 As part of the recent Internal Audit of the EPT's investigation of statutory nuisance and in line with the service improvements identified for 2015/16, the EPTs' procedures were revised to reflect current practices.
- 1.3.14 Members will note that the number of complaints received about odours in Tonbridge has significantly reduced in the last year. At the recent Liaison Group meeting the new management of Drytec provided details of their proposed comprehensive improvements for the premises. The works have commenced and are due to be completed by the end of June. Officers feel that the new management regime at Drytec is offering a positive approach to achieving their aim of being a good neighbour.
- 1.3.15 Officers recently received a petition from over 50 residents of the Blossom Bank development in Tonbridge, headed 'Silence Southern Salads.'

The signatures on the petition were complaining about noise from the Southern Salads sites at Cannon Lane and Vale Road, including noise from:

- the on-site generators 24/7;
- refrigerated lorries parked up on site;
- fork lift trucks on site.

Southern Salads have occupied the site at Cannon Lane for over 20 years, with only three noise complaints on record, one received in 2008 with regards to vehicle noise, and two in 2013, one again with regards to vehicle noise, and the other to a misfiring alarm. As no evidence of nuisance was forthcoming these complaints were not pursued. Southern Salads acquired the Vale road site in mid-2014, and it became operational around September that year.

Officers first received complaints about noise from the Vale Road site in October 2014. Officers opened and continue to have constructive dialogue with the management at Southern Salad. The outcome of these discussions is that Southern Salads have:

- provided electrical hook ups on bays at both depots to prevent the need to run the diesel engines whilst loading;
- Fitted soft compound tyres to forklifts to minimise noise as they move around;
- Erected 4m acoustic fence, along the river boundary at the Vale Road service yard.

These measures have resulted in a reduction of the audible noise at properties in Blossom Bank in relation to vehicles and vehicle movements. However it has 'exposed' the noise from the generator at the Cannon Lane site to be audible, particularly later in the evening.

Officers are proposing to carry out further monitoring to assess whether the now dominant noise from the generator amounts to a Statutory Nuisance. Dialogue with Southern Salads continues to endeavour to resolve the ongoing noise issues. Officers have replied to the organiser of the petition outlining the Council's position and action to date.

A further update will be provided to this Board

1.4 Proposed Service Improvements

1.4.1 The Food and Safety Team intend to make the following service improvements in 2016/17:

- Deliver the Estates Excellence health and safety project to approximately 260 small and medium sized business in Larkfield/Aylesford industrial estates. Working with partner agencies to offer support, advice and free health and safety training.
- Providing support and advice to new and existing businesses to help them improve their food hygiene rating.

1.4.2 The Environmental Protection Team proposes the following service improvements in 2016/17:

- Review and implement changes to our approach to air quality management in line with the recently published outcomes of the DEFRA review;
- Update further team procedures to reflect new guidance and best practice.

1.4.3 Both teams will be reviewing their approach to regulation through the Better Business for All agenda, which is demonstrated through training initiatives, the Estates Excellence project and the EPT's approach to the inspection of permitted premises.

1.5 Legal Implications

1.5.1 The Council has a statutory duty to undertake the full range of functions described in this report, with the exception of promotional and business support activity.

1.6 Financial and Value for Money Considerations

1.6.1 All service improvements will be undertaken within existing budgets.

1.7 Risk Assessment

1.7.1 Failure to properly manage and deliver the food safety functions could result in censure by the Food Standards Agency and breach of Section 18 of the Health and Safety at Work etc. Act 1974.

1.7.2 The failure of the EPT to meet its statutory obligations could result in formal complaints and potential criticism from DEFRA. It could also lead to a potential legal challenge.

1.8 Equality Impact Assessment

1.8.1 The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

1.9 Recommendations

1.9.1 It is **RECOMMENDED** that the Cabinet **NOTE** the performance information relating to activities associated with the food and safety and environmental protection functions in 2015/16 and **ENDORSE** the service improvements for 2016/17 as detailed in paragraph 1.4.1 and 1.4.2 of the report.

The Director of Planning, Housing and Environmental Health confirms that the proposals contained in the recommendation(s), if approved, will fall within the Council's Budget and Policy Framework.

Background papers: Nil

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