

TONBRIDGE & MALLING BOROUGH COUNCIL

STREET SCENE and ENVIRONMENT SERVICES ADVISORY BOARD

20 June 2017

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 2016/17.

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 2016/17.

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 443 full or partial

inspections and 254 information gathering interventions were carried out which includes questionnaires sent to low risk premises. In addition 107 re-visits to food premises were undertaken to ensure legal contraventions had been remedied. All but three programmed interventions to high-risk food premises, that were due in 2016/17, were completed. The reasons that the businesses could not be inspected were outside the team's control and included seasonal and temporary business closures. Specific details of food safety interventions are shown in **[Annex 1]**.

- 1.2.2 The Council's results show that at the end of 2016/17, 94 per cent of our food businesses are broadly compliant and have achieved a rating of three 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 sauces from restaurants and takeaways and swabbing of catering premises. 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 2016/17, officers took 119 samples and sent them for microbiological examination. Twenty six unsatisfactory results and three borderline (acceptable) 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 2016/17, a total of 247 reports of food poisoning were made and investigated when food businesses were implicated. Campylobacter cases continue to be the largest number of reported cases of food poisoning in the borough, with 169 cases, ten less than last year. The incidence of salmonella was just 13 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. In 2016/17, officers delivered four Level 2 food hygiene courses at Tonbridge and Malling as part of the partnership arrangement, training 54 food handlers. In addition, one Level 3 course was offered for those supervising and managing food safety with seven delegates attending.
- 1.2.6 Thirty three 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 team delivered 90 visits to businesses in the Larkfield and Aylesford area as part of Estates Excellence. The Estates Excellence project provided advice, support and free health and safety training for small businesses.

- 1.2.8 The Food and Safety team received 144 service requests in 2016/17, an increase of twenty from 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 seven service requests were responded to within the five day target.
- 1.2.9 **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 2016/17, 11 food hygiene improvement notices were served to secure compliance for offences such as lack of food hygiene training and inadequate food safety management systems. Four health and safety prohibition notices were also served on other businesses.
- 1.2.10 One catering business accepted a simple caution for a pest infestation.

1.3 Environmental Protection Team

- 1.3.1 During the twelve months from 1 April 2016 to 31 March 2017, 509 requests for service were received to which the team responded to 98 per cent within five working days. Of that total, 69 concerned the odour from Drytec, which demonstrates a significant decrease from the previous years (739 in 14/15, and 140 in 15/16). 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 majority of 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 it 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 677 planning and discharge of condition 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 and includes music and/or a public address system. During the year the team responded to 28 Premises Licence applications, 343 TENS applications and 26 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 44 permitted processes within the Borough for which we are responsible 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 On 6 April 2016, Small Waste Oil Burners (SWOBs) became regarded as Small Waste Incineration Plants under the Industrial Emissions Directive (IED). The impact of this change was that SWOBs became regulated under the Environmental Permitting Regulations as an A2 process and not a Part B process as had previously been the case. This meant that the control of their emissions became subject to stricter conditions for operating, monitoring and reporting. As anticipated those operators using SWOBs in the Borough have switched to burning non-waste fuels in their burners or to an alternative method of heating, rather than be subjected to the more stringent conditions.
- 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 As well as providing input into planning permission consultations, in 2016/17 the EPT provided 26 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.
- 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 In May 2016 additional diffusion tubes were installed at 1 Whatcote Cottages, and Holly Cottage Maidstone Road, Platt, in response to concerns about the amount of lorries entering/exiting Platt Industrial Estate, with the resulting effects on air quality. With one year's monitoring now complete the annual average Nitrogen Dioxide level for the sites is 19.5 and 23.4 $\mu\text{g m}^{-3}$ respectively, both well below the limit of 40. Consideration is now being given to moving the tubes to another location where air quality is of concern.
- 1.3.13 Members may also be aware that the Government was recently forced to publish its draft UK Air Quality Plan for tackling nitrogen dioxide. This document is at the time of writing out for consultation, with the final plan due for publication on the 31st July. The Consultation period ends on 15 June, however a draft of the Councils reply to this consultation can be seen in **[Annex 6]**.
- A further update on this subject will be provided to the board when we know the implications of the final version of the UK Air Quality Plan.
- 1.3.14 Members will note that the number of complaints received about odours in Tonbridge has significantly reduced again in the last year. Liaison Group meetings with Council officers, residents and Drytec managers continue to be held at least twice a year, and in 2016 the group was able to tour the Drytec facility to view the comprehensive internal improvements that had recently been made to the premises. Officers continue to feel that the new management regime at Drytec is offering a positive approach to achieving their aim of being a good neighbour, and is continuing a programme of renewal of plant and equipment including the imminent replacement of ducting on the roof better suited to withstand high winds, damage to which we understand has been the source of the majority of recent complaints.
- 1.3.15 Officers also continue to run Liaison Group meetings in respect of complaints from Blossom Bank residents about noise from the two Southern Salads depots (Cannon Bridge and Deacon). In October/November 2016 The Council employed an acoustic consultant to monitor noise levels from generators and vehicle chillers and identify ways in which those noises could be mitigated. The subsequent

report identified that whilst generator noise was audible the vehicle mounted chillers were the dominant noise source when in operation. Earlier this year Southern Salads took steps to replace their generators with quieter models. Despite this step noise continues to be a concern for some residents, principally from the Vehicle mounted chillers and the Liaison Group is now looking towards other potential mitigation measures in liaison with the acoustics consultant.

- 1.3.16 Officers will be carrying out further monitoring in complainants' properties to assess whether the changes outlined above have made any discernible difference to that witnessed previously. The Advisory Board will be provided with further updates as the situation develops.

1.4 Proposed Service Improvements

- 1.4.1 The Food and Safety Team intend to make the following service improvements in 2017/18:

- Deliver a gas safety campaign in catering businesses, which is a national priority for 2017/18.

- 1.4.2 The Environmental Protection Team proposes the following service improvements in 2017/18:

- Review and implement changes to our approach to air quality management in line with the soon to be published UK Air Quality Plan for tackling nitrogen dioxide.
- Review and update team procedures to reflect new guidance and best practice..

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.

1.5 Financial and Value for Money Considerations

- 1.5.1 All service improvements will be undertaken within existing budgets.

1.6 Risk Assessment

- 1.6.1 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.

1.6.2 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.

1.7 Equality Impact Assessment

1.7.1 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.

1.8 Recommendations

1.8.1 It is **RECOMMENDED** that the Cabinet **NOTE** the performance information relating to activities associated with the food and safety and environmental protection functions in 2016/17 and **ENDORSE** the service improvements for 2017/18 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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