

Date: 5th October 2017

Title: Report Item 6 – Business in Progress

By: K Larkin (Parish Clerk)

Purpose: To provide an update on progress since the September meeting

Recommendations: To note the progress report

The following are matters of report and/or requests for further instructions arising from the September council meeting:

- **How councils deal with noise** – the guidance published by DEFRA is appended to this report. Wealden District Council can act under this advice when there is a clear breach and they stand a realistic chance of being able to prove it. However, they ask every potential complainant to try to resolve the matter informally first, and they give advice on this at [http://www.wealden.gov.uk/Wealden/Residents/Environment and Pollution/Pollution/Supporting Neighbourhoods/PHCS Before You Report A Pollution Problem.aspx](http://www.wealden.gov.uk/Wealden/Residents/Environment_and_Pollution/Pollution/Supporting_Neighbourhoods/PHCS_Before_You_Report_A_Pollution_Problem.aspx)
- **Emergency Plan** – this is under review by BG/MK
- **Twitten railings** – PH has obtained two quotes for the necessary repair/replacement. With the encouragement of the recent county liaison meeting (SLR), the parish will use these to apply to the county council for match funding.
- **Play area** – the topic of the upgrade is on the main agenda. The council intended to apply to Wealden District Council for a grant, but such grants are only made to community groups, and the parish council will not be eligible. However, the Lead Member is preparing an application to the Big Lottery Fund. Regarding maintenance of existing equipment, Wicksteed have been asked to visit to maintain the Fitness Fun Run (chiefly the barrel roll). Quotes will be obtained for re-fencing the play area, but planning permission may be required depending on the height of the fence. The new signage will be installed shortly.
- **SDNPA Infrastructure Business Plan** – an expression of interest has been submitted for funding for the play area upgrade. The council has also written in support of the proposed new cycle path from Friston to Eastbourne golf club.
- **Damaged seat on the Greensward** – a 5' hardwood Riverbank bench has been ordered from Chic Teak, at £375 plus VAT, but a delivery address needs to be supplied.

How councils deal with complaints about noise at night, intruder alarms, construction noise and loudspeakers in the street

Published by DEFRA – 07 April 2015

Councils must look into complaints about noise that could be a '[statutory nuisance](#)' (covered by the [Environmental Protection Act 1990](#)).

For the noise to count as a statutory nuisance it must do one of the following:

- unreasonably and substantially interfere with the use or enjoyment of a home or other premises
- injure health or be likely to injure health

If they agree that a statutory nuisance is happening or will happen in the future, councils must serve an [abatement notice](#). This requires whoever's responsible to stop or restrict the noise. The notice will usually be served on the person responsible but can also be served on the owner or occupier of the premises.

The abatement notice can be delayed for up to 7 days while the council tries to get the person responsible to stop or restrict the noise.

Councils are responsible for looking into complaints about noise from:

- premises including land like gardens and certain vessels (for example, loud music or barking dogs)
- vehicles, machinery or equipment in the street (for example, music from car stereos)

Statutory noise nuisance laws don't apply to noise from:

- [traffic or planes](#) (they do apply to model planes)
- political demonstrations and demonstrations about a cause
- premises occupied by the armed forces or visiting forces

Councils can decide what level of service they provide to deal with noise complaints, for example, whether to have officers on call at night.

Noise at night: warning notices

To deal with complaints about noise that's louder than a permitted level at night (from 11pm to 7am) councils can issue a warning notice.

They can issue warning notices for noise at night without it being a statutory nuisance.

The warning notice must tell the recipient:

- that the noise is coming from the premises between 11pm and 7am
- that the noise exceeds, or may exceed permitted levels as measured from within the complainant's dwelling
- that the noise must be reduced to below the permitted level in a specified period (this must be at least 10 minutes after the notice is served and must end by 7am)

- what time the notice is issued

Noise from dwellings

If the noise comes from a dwelling the notice must say that the person responsible may be guilty of an offence if noise exceeding permitted levels is made in the period specified.

Noise from other premises

If the noise comes from other premises (not a dwelling), the notice must say that the person responsible for the premises may be guilty of an offence if noise exceeding permitted levels is made in the period specified.

If noise isn't reduced

If the council thinks the noise still exceeds the permitted level after the specified period and wants to prosecute, they must measure the noise level from within the dwelling of the person who's complained.

Permitted noise levels

The permitted noise level using A-weighted decibels (the unit environmental noise is usually measured in) is:

- 34 dBA (decibels adjusted) if the underlying level of noise is no more than 24 dBA
- 10 dBA above the underlying level of noise if this is more than 24 dBA

Penalties for not complying with a warning notice

If someone doesn't comply with a warning notice without a reasonable excuse, councils can:

- give a [fixed penalty notice](#) (FPN) giving them the chance to pay a fine (up to £110 for dwellings and £500 for licensed premises) within 14 days, instead of being prosecuted
- prosecute them if they don't issue an FPN or if the person responsible doesn't pay the fine on time (if convicted they can get a fine of up to £1,000 for dwellings and an unlimited amount for licensed premises)
- remove noise-making equipment like loudspeakers

Noise from intruder alarms

To deal with noise caused by problems with intruder alarms, councils can issue both:

- an abatement notice requiring the noise to stop (councils must do this if the alarm is causing a statutory nuisance)
- a warning notice (for noise between 11pm to 7am)

Alarm notification areas

In alarm notification areas, owners or occupiers with an alarm must give the council details of a key holder who can enter the property and turn off the alarm.

To set up an alarm notification area councils must:

1. Advertise the proposed notification area in a local newspaper or newsletter, allowing at least 28 days for comments.
2. Review comments.
3. Notify all premises in the affected area, highlighting the date the notification area starts (which must be at least 28 days from the notification date), by:
 - letter
 - advertising in a local newspaper

If the occupier or owner fails to give the council details of a key holder, the council can do one of the following:

- issue a [fixed penalty notice](#) giving them the chance to pay a fine of between £50 and £80 (the default amount is £75) as an alternative to being prosecuted
- prosecute them if they don't issue an FPN or if the person responsible doesn't pay the fine on time (if convicted, they can be fined up to £1,000)

What councils can do if they can't reach a key holder

If councils can't reach a key holder they can enter properties without force to silence alarms if all the following apply:

- they've taken reasonable steps to contact the key holder to silence the alarm
- the alarm has been going off constantly for 20 minutes or 1 hour intermittently
- the noise is likely to give people nearby reasonable cause for annoyance

If the council needs to use force to silence an alarm, they need a warrant. Find out more about [powers of entry](#).

Key holders in alarm notification areas

Key holders must do all of the following:

- have keys to the property and be able to access the alarm
- live or be situated near the premises
- know how to turn the alarm off
- agree to be a key holder

For non-residential premises, key holders must be one of the following:

- the owner or occupier of the premises
- someone acting on behalf of the owner or occupier (if the occupier or owner isn't an individual, for example is owned by a company)
- a key holding company

For residential properties, key holders must be one of the following:

- a nominated person or company who is not the owner or occupier
- a key holding company

Noise from construction works

Councils can serve a notice on people carrying out construction or demolition works and tell them how the work should be carried out to avoid a potential statutory noise nuisance.

The notice can specify any of the following:

- a noise level
- the plant or machinery that can be used
- the hours when work can be done
- steps that need to be taken to minimise noise

Those failing to comply with the notice can be prosecuted and fined an unlimited amount, with further fines for each day that they fail to comply.

Applying for consent to carry out work

People can also apply for consent to carry out work. They must include details of all the following:

- the works
- how the work will be carried out
- what steps will be taken to minimise noise resulting from the works

The council must give consent for the work to go ahead if it's satisfied that both:

- the application contains enough information
- it won't need to serve a notice to control noise on the construction site

Loudspeakers in the street

It's an offence to use loudspeakers at any time to advertise:

- entertainment
- trade
- business

It's an offence to use loudspeakers for any purpose in the street at night between 9pm and 8am.

Exceptions: when loudspeakers can be used

Loudspeakers can be used:

- in emergencies
- as a public address system
- in or fixed to vehicles, if certain rules are followed
- at a travelling pleasure fair
- to direct a vessel
- if the council gives consent

In emergencies or for public information

Loudspeakers can be used in an emergency or as a public address system. They can be used by:

- the police
- the fire brigade
- the ambulance service
- the Environment Agency
- water or sewage companies
- councils
- public transport operators to make announcements to passengers or prospective passengers (but not on a highway)

On vehicles

If used in a way unlikely to give reasonable cause for annoyance, loudspeakers can also be used if they're in or fixed to a vehicle. The loudspeaker must be operated solely to do one of the following:

- warn other traffic (like a horn)
- entertain drivers or passengers
- communicate with passengers or drivers
- alert people that fresh food or drink is on sale (without speaking) - like chimes on ice cream vans (only from midday to 7pm)

If an ice cream van operator is prosecuted or gets a noise abatement notice, but they've complied with the [code of practice on noise from ice cream van chimes](#), they may be able to use this as grounds for an appeal or as a defence in court.

Model aircraft noise

If someone flying model aircraft on trade, business or industry premises gets a noise abatement notice, and they've complied with the [code of practice on noise from model aircraft](#), they may be able to use this as grounds for an appeal or as a defence in court.

Noise from industrial, trade or business premises: special rules

If an abatement notice for noise is served on industrial, trade or business premises and they've used the best practicable means to stop or reduce the noise, they may be able to use this as one of the following:

- grounds for appeal against the abatement notice
- a defence, if prosecuted for not complying with the abatement notice

Other ways councils can deal with noise

Councils have [separate powers to deal with anti-social noise](#).

Councils should consider potential noise nuisances when:

- making planning decisions (this may require a [noise impact assessment](#))
- issuing entertainment licences
- making decisions about [building controls](#) (for example, checking that sound insulation is adequate)

Find out more about [how planners can manage potential noise impacts in new developments](#).

Environmental permits

The Environment Agency (EA) controls some potential noise nuisances with [environmental permits](#) as part of pollution control.

Councils need to work closely with EA to make sure that people aren't penalised twice for the same activity. If a facility has an environmental permit, councils must get the Secretary of State's permission before prosecuting for breach of an abatement notice.