



Monday, 18 January 2021

Community Safety Committee  
Tuesday, 26 January 2021

Please find attached the noting reports which relate to Item 12 on the main agenda pack for the Committee.

Yours faithfully

Chief Executive

## NOTING REPORTS

- 12. NOTING REPORTS
- 12.1 Throw lines adjacent to open water (Pages 1 - 4)
- 12.2 Update on issues of noise and odour from premises affecting residents of Trowell and Stapleford (Pages 5 - 8)

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## Report of the Strategic Director

**THROW LINES ADJACENT TO OPEN WATER**1. Purpose of report

To update members on the throw line locations and to provide information on issues relating to usage and vandalism since their installation.

2. Background

A review of the Council's areas of open water in 2017 identified that no formal risk assessment had been undertaken with regards to water safety. It was therefore decided that the Council's Health and Safety Manager, together with the officers in the Environment team would undertake such an assessment.

The initial exercise identified all the major areas of open water in the borough managed by the borough council. These sites are detailed below:

Nottingham Canal – a major land holding running north to south through the borough. Whilst not accessible to boats it does contain large areas of open water.

Ponds – a variety of sizes of open water on a number of sites including Local Nature Reserves, Parks and Housing amenity areas.

SuDS – Sustainable drainage systems at a number of parks and open spaces provided by developers as part of new housing schemes.

Having identified these areas, a formal risk assessment for each site was undertaken. Further information is detailed in Appendix 1.

3. Financial implications

The ongoing repairs and maintenance to the water safety devices is contained within the revenue budgets for managing the relevant sites.

**Recommendations**

**The Committee is asked to NOTE the report.**

Background papers

Nil

**APPENDIX 1****Risk Assessment**

Looking at visitor numbers, location, type of area of open water each site was assessed as:

Red – high risk

Yellow – medium risk

Green – low risk

A list of additional controls and actions was then drawn up to minimise the risk.

These included:

- Improved signage
- Additional signage
- Fencing
- Provision of hand rails
- Provision of throw lines

The installation of the throw lines was the most detailed part of the assessment involving meetings with Nottinghamshire Fire Service, the Canals and Rivers Trust and the Council's Health and Safety Manager. The focus was to identify a system that would work and could easily be understood if it had to be used. On advice from the Fire Service throw lines were chosen over water safety rings. A key part of the decision making process was the use of a numbered key pad to make the devices secure and less vulnerable to vandalism.

The risk assessment identified 4 areas of open water that required throw lines.

Nottingham Canal, Awsworth Fishery – 3 locations

Cooky's Pond, Bramcote – 2 locations

Colliers Wood, Moorgreen – 2 locations

Nottingham Canal, Wroughton Plantation, Trowell – 1 location

Total 8 throw lines

There are also 3 throw lines using the same principle located at Beeston Weir managed by the Canals and Rivers Trust.

**Throw Lines system of operation**

If there is an emergency and somebody is in the water the following procedure applies:

- Dial 999
- Ask for Fire Service
- Quote location on the water safety board at the site, e.g. BBC 06
- The operator will have access to the combination lock at this location and will provide the number for it over the phone

- Open combination lock
- Open door
- Pull line bag out and follow instructions on the water safety board.

A fire team will, at the same time, be directed to the location by the operator with both the postcode for the site and the ordnance survey eastings and northings.

### Update

Since their installation in early 2019, fortunately none of the throw lines have had to be used. There have however been acts of vandalism to one of the key safes and throw lines at Cooky's Pond and all 3 of the key safes and throw lines at Awsworth Fishery. On each occasion the door was forced open and the throw line removed. This has resulted in the supply of new lock housings and throw lines.

The throw lines are inspected monthly to make sure they are operational, the throw line is in place and there is no graffiti present.

If, as part of new housing developments, additional SuDS are created within areas of open space managed by the Council they will be risk assessed and a decision taken as to the requirement for additional throw line locations.

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## Report of the Chief Executive

**UPDATE ON ISSUES OF NOISE AND ODOUR FROM PREMISES AFFECTING RESIDENTS OF TROWELL AND STAPLEFORD**1. Purpose of report

To provide information on issues of odour and noise from premises in Erewash, affecting residents of Trowell and Stapleford.

2. Detail

Concern has been raised in respect of impact on residents, particularly within Trowell and Stapleford, from odour and noise from waste plants located on Hallam Fields Industrial Estate within the neighbouring authority of Erewash. It is believed complaints have increased this year and representations have been made to the local ward Councillors and Members of Parliament. An update has been requested.

The waste plants are regulated (issued permits) by the Environment Agency and this is the most appropriate authority to deal with the complaints from residents.

An overview of the background, complaints and ongoing action is included in the appendix.

**Recommendation**

**The Committee is asked to NOTE the report.**

Background papers

Nil

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## APPENDIX

**Background**

There are three waste/recycling/treatment facilities based on Hallam Fields Industrial Estate in Ilkeston. All of these sites are regulated by the Environment Agency (EA) with permits detailing conditions of operation.

Due to the prevailing wind directions, the majority of residents affected by these premises are within Trowell and Stapleford although complaints are also generated from residents and businesses within Ilkeston.

Councils do have a duty to investigate statutory nuisance and this is determined at the point the complaint is experienced and not at the source – therefore we have a duty to investigate complaints from residents in Trowell and Stapleford, and Erewash BC would normally need to investigate the complaints from residents in Ilkeston.

Erewash Borough Council's Environmental Health Team are also based on Hallam Fields Industrial Estate but have not witnessed statutory nuisance at their location.

The collective impact of several premises would not support a statutory nuisance as the issue must be attributable to a specific premise. This is necessary as an abatement notice would be served on that premise and require them to take specific action to abate the nuisance. If a business is not individually creating a statutory nuisance, we are unable to take action against them and cannot take action against a number of businesses collectively.

Although local councils undertake investigations to determine if a 'statutory' nuisance exists, there are a number of issues that must be considered when a site has an EA issued permit. Compliance with a permit issued by the EA is likely to be considered a 'best practicable means' defence. In effect, this means if a business is following all the controls that they can reasonably be expected to implement then some level of emission such as dust or odour is accepted and therefore unlikely to be considered a statutory nuisance. Any complaints of emissions are more likely to be a breach of permit conditions and are a matter for the EA as the issuing and enforcing authority of the permit.

On this basis, complaints received by Broxtowe BC regarding EA permitted process are directed to the EA hotline for investigation as a potential breach of their permit conditions. Information on this is given on the GOV.UK website: <https://www.gov.uk/guidance/statutory-nuisances-how-councils-deal-with-complaints>

Some complaints in respect of the premises have been in respect of road noise from vehicles travelling to and from the site. Road traffic noise cannot be dealt with as a statutory nuisance.

It is understood that on average, approximately 50 complaints are received annually by the EA in relation to these premises and these are usually over the warmer summer months.

In 2020, it is understood that approximately 160 complaints were made to the EA. Unfortunately, many of the complaints do not specify which premises the odour or

dust are coming from. It is necessary to know specifically which premises is causing the issue and the complainant must be able to say with certainty that the issue is arising from that particular premises. This has generated a delay in action by the EA, as identifying the specific source of the issues raised takes considerable investigation.

Due to the increase in complaints and contact via local councillors, a meeting between officers of Broxtowe BC, Erewash Environmental Health and the EA was held in October 2020 to discuss and review action being undertaken. The EA confirmed that they are the most appropriate enforcing authority to deal with the complaints against these premises. This is on the basis that they have responsibility to ensure the sites they regulate are not causing a nuisance.

The EA confirmed the action they have already taken to deal with the impact on residents. The EA provided additional and significant resource into identifying the source of the complaints and deployed 'Odour Teams' to monitor issues. Even with this resource, due to the close proximity of several waste sites, it took some time to identify the source of the odour complaints. Despite some restrictions on access during the pandemic, the EA then instigated audits of the premises Odour Management Plan, establishing if any amendment was required. It is anticipated that this review will have been completed by early 2021, with a further EA audit to be undertaken in the spring to assess implementation before the warmer weather and associated impacts.

### **Summary**

The EA continues to investigate all of the concerns raised by the residents and are pursuing further action to improve the controls which are in place. The EA will be producing an update for local residents in due course and we will continue to liaise with the EA to review progress.