

Runnymede Borough CouncilREVIEW BOARD11 October 2007 at 7.30 p.m.

Members of the Board present: Councillors P. B. Tuley (Chairman), J. Broadhead (Vice-Chairman), A. Alderson, Mrs F.J. Barden, D.A. Cotty, Mrs E. Gill, D.R. Hamilton, R.N. Jones and A.P. Tollett

Members of the Board absent: None.

Councillor M. J. Brown also attended

292. NOTIFICATION OF CHANGES TO COMMITTEE MEMBERSHIP

The Groups mentioned below had notified the Chief Executive Officer of their wish that the changes listed be made to the membership of the Board. The changes were for a fixed period ending on the day after the meeting and thereafter the Councillors removed would be re-appointed to the Board.

| Group Requesting Change | Remove from Membership | Appoint Instead |
|--------------------------------|-------------------------------|----------------------------|
| Conservative | Councillor H.A. Butterfield | Councillor Mrs F.J. Barden |
| Runnymede Independents | Councillor A.M. Moore | Councillor A. Alderson |
| Runnymede Independents | Councillor B.J. Relph | Councillor Mrs E. Gill |

The Chief Executive Officer had given effect to these wishes in accordance with Section 16(2) of the Local Government and Housing Act 1989.

293. MINUTES

The Minutes of the Review Board meeting held on 5 July 2007 were confirmed and signed as a correct record.

294. DECLARATION OF INTEREST

In respect of the item on the provision of the out of hours noise service, Councillor Alderson attended for the purpose of making representations, answering questions and giving evidence and left the meeting and did not take part in the debate or voting thereon, as he had been a member of the Committee which had taken the decision to discontinue the service.

295. OUT OF HOURS NOISE SERVICE - REVIEW

A request had been received from nine residents seeking a review of the loss of the Council's out of hours noise service. The Chairman of the Board, Councillor Tuley, had given notice that he wished the Board to consider this matter at the meeting.

An out of hours noise service had been provided to Runnymede Borough Council by a contractor for four years, from 1 April 2003 to 31 March 2007. Out of hours meant outside of the normal working day from Monday to Friday. The service had been shared with three other Surrey District Councils; Elmbridge Borough Council, Epsom & Ewell Borough Council, and Woking Borough Council. The cost of the service had been approximately £10,500 a year. Under the service, an independent Environmental Health Practitioner (EHP) would respond to complaints of noise under two sets of circumstances. The first circumstance was after one complaint was received and where the property concerned was on the "hot list". The "hot list" consisted of properties which had long standing noise problems, where Officers were trying to witness a

nuisance or a breach of a notice. The second circumstance where the EHP would respond was where three or more residents made a noise complaint. Having the minimum number of complaints set at three, in the case of those incidents which were not on the hot list, restricted the number of referrals to the contractor and reduced the cost.

Where a complaint of a statutory nuisance was received then the Council had to take such steps as were reasonably practicable to investigate the complaint. In addition, any person aggrieved by a statutory nuisance could complain directly to the Magistrates' Court and the Court could make an Order to abate the nuisance and prohibit its recurrence. The Council was not obliged to provide a noise nuisance service outside of normal working hours.

Although powers to deal with noise nuisance were available to the local authority, Surrey Police had powers to intervene where they considered that a breach of the peace might occur, or where such a breach was already occurring, as a result of noise disturbance. Therefore Surrey Police did sometimes become directly involved in out of hours noise complaints. Runnymede Officers also occasionally sought assistance from the police when they considered that there might be safety concerns as a result of taking action against people causing a noise nuisance and situations could arise when no action could be taken at the time due to such safety concerns. When Officers became aware of potentially noisy events, they had an involvement, wherever possible, in the planning and monitoring of them, in order to minimise disturbance to residents.

An analysis of referrals for 2006/07, which was the last year of the out of hours noise service, showed that 77 calls had been passed to the outside contractors. 50 were on the hot list and 27 involved at least three complainants from households about noise. Therefore, approximately 130 households a year had benefited from the service. 54 referrals were from a domestic source and 23 were commercial in nature. 72 of the incidents were noise related - the other five related to anti-social behaviour, smells and dumped asbestos. Of the 72 noise incidents, 46 related to loud amplified music. The other 26 noise incidents were attributed to various causes.

During 2006/07, 424 complaints concerning domestic noise had been received, 365 of which involved complaints from individuals, 31 with two persons complaining and 25 with three or more persons complaining. In addition, 195 complaints concerning commercial noise had been received, of which 180 involved individuals, 6 involved two persons and 9 concerned three or more persons. Approximately half of the complaints had been received by the Safer Runnymede Centre and it was estimated that three quarters of all complaints referred to noise occurring outside of normal working hours, i.e. weekends and evenings. So far during 2007/08, 250 complaints of domestic and commercial noise had been received. 90 of those had been received by the Safer Runnymede Centre.

The presence of the out of hours service had also reduced the workload of Environmental Protection staff to a certain degree as complaints would be dealt with when they arose during evenings and weekends and not be waiting for Officers to deal with on the next working day. There had been some noise complaints since 1 April 2007 that had not been dealt with when they occurred, especially over weekends, and this had caused some unrest with some residents, prompting the letter requesting this review. However, these complaints had been infrequent. The benefit of the service to residents had to be weighed up against the cost, albeit relatively modest, of the service. There had been an additional workload on staff in Environmental Protection. However, this was not great and Officers had accepted this, being mindful of the financial situation the Council was in, although inevitably there might be some other areas of environmental health work that suffered from time to time as a consequence. Safer Runnymede staff had also had a more difficult task since April explaining to residents, who were occasionally irate, that the Council no longer provided an out of hours service.

Officers reported that the out of hours noise service had not always been effective because on some occasions the EHP was informed that the noise had ceased before arriving. The EHP would then use their professional judgement on whether to visit the property concerned. In order to compensate for the loss of the service, weekend and evening working and proactive visits had increased. Noise nuisance was monitored where possible at the same time as the smoking ban in public places was being enforced. Camcorders had been used to film activity at a building site, where reports of noise had been received by Officers. Sensitive sites such as Quinetiq in Chobham Lane, Longcross, were actively monitored. There had previously been a noise problem with races being held at that site, but no races were envisaged to be held in the future.

Any planned events of which Officers received knowledge would be monitored and if any complaints were received in connection with the site, Officers would respond.

In April 2007, another Council within Surrey had carried out a survey of local authority out of hours noise service provision amongst Surrey Councils and some other Councils in the South East of England. This information had been collected on a confidential basis and therefore Councils were not named. The Board noted this survey which showed a variety of provision, varying from none, as in Runnymede and others at present, to expensive but comprehensive schemes. Some of the more expensive schemes' costs were higher because of involvement with out of hours emergency planning.

The annual saving of £10,500 by stopping the service had been included in the annual budget for 2006/07 and subsequent years and had helped to meet the revenue forecast target of reduced expenditure. At present, the financial forecast showed that the last year in which the General Fund would be in surplus would be 2010/11. There was still some way to go to meet the financial forecast and difficult decisions would inevitably have to be made on whether to continue a range of services. The Board noted that when the Corporate Management Committee had taken the decision to discontinue the out of hours service in September 2005, when looking at a series of service reductions across a number of service areas, the Committee had been mindful that it was a discretionary service which had not been used by many residents. If this service was to be reinstated, under Council policy, compensatory savings would have to be found from elsewhere within the Leisure and Environment Committee's budget.

The Board asked about the definition of a statutory nuisance, and it was noted that this was set out within section 80 of the Environmental Protection Act 1990. Noise emitting from premises could qualify but a judgement would have to be taken by an environmental health professional or a court on whether it was a statutory nuisance depending on the circumstances of each case. It was not just a question of the level of noise (i.e. the amount of decibels). There were other factors such as the number of people affected, the length of time involved, and the seriousness of the matter, that would also determine whether an episode of noise was a statutory nuisance.

The Board received a presentation from two local residents from St. Ann's Hill Road, Chertsey who wished the service to be reinstated. The residents made the following representations:-

- i) that the discontinuation of the service was based on financial considerations alone with no proper evaluation of the impact that the withdrawal of the service would have;
- ii) that members of the public had neither the qualifications nor the professional training necessary to effectively replace the out of hours noise service which had been provided by a professional Officer who had greater powers than the public to deal with noise;
- iii) that the Council was looking for other agencies such as the Police and also to the public to deal with noise problems, rather than dealing with them using its own powers;
- iv) that one year of statistics on service use did not provide sufficient information on which to take a decision and a longer time period showing the use of the out of hours noise service was needed;
- v) that when approximately 75% of complaints about noise nuisance were received out of hours, it was not advisable to discontinue an out of hours noise service;
- vi) that the approach being taken by other local authorities was of no relevance and what mattered was the service provided to the people of Runnymede;
- vii) that the level of uptake of the service was not the criteria against which it should be measured and it was the impact on the quality of life of residents of these incidents that should be borne in mind;
- viii) that by being able to deal with complaints shortly after they had been received and by having professional expertise, the out of hours noise service had been effective in achieving enforcement and providing a deterrent to those had created noise nuisance or might do so in future; and

- ix) that the out of hours service was an essential service which had been abandoned without adequate safeguards or the provision of an effective alternative.

The residents gave examples which illustrated the usefulness of the out of hours service. John Battleday Waterski of Thorpe Road, Chertsey had held an event on 7 July 2007 at which the terms of a Noise Abatement Order had been breached. On this occasion, John Battleday had not observed the time limits on the music, the voluntary monitoring of noise levels, or given advance notice to the Council. The music was required to not be audible beyond the boundaries of the site after 11.00 pm in the evening and it went on until the early hours of the next morning. No action could be taken to stop the noise at the time when it was occurring, as the statutory nuisance had not been witnessed by either the out of hours service or by a Council Environmental Health Officer. There was also a communication problem in this particular case with Safer Runnymede, who had been telephoned and informed of the noise problem. The residents suggested that a contributory factor may have been the number of calls which Safer Runnymede were receiving on that particular evening.

Another example which the residents gave was on a summer Sunday morning, when the out of hours nuisance officer had been able to attend to stop excessive dust and fumes resulting from work being carried out on a property. The out of hours service had been able to intervene in cases of nuisance which were not entirely noise related. The residents also pointed to light and noise pollution from filming which occurred regularly in their area. The out of hours service had been useful in dealing with that problem. A Member of the Board stated that film companies were sensitive to public concerns about their activities. The residents stated that elderly residents in The Grange had also benefited from the service. In the experience of these residents, most noise problems arose at weekends or evenings. The Board thanked the residents for their representations.

In responding to the points made by the residents, Officers stated that normally there would be a much better response than that which had been provided on the evening of 7 July. John Battleday Waterski had been on the hot list. Although 75% of calls were received out of hours, for many incidents Officers were able to respond adequately during the next working day.

The Board noted that the public did have the power to complain to the Magistrates Court about noise and the Court would decide whether there was sufficient evidence to make an Abatement Order. The residents at the meeting stated that they and people they knew had been informed by Officers, in previous discussions, that any evidence the public gave on noise nuisance would not have the same weight as that provided by an Environmental Health Officer or the EHP involved in the out of hours service. The Board noted that this was not necessarily the case. An expert was not the final arbiter in the case of evidence given to the Magistrates Court. If residents could give evidence of sufficient quality, then an Abatement Order could be made.

Complaints made to the Police about noise were referred to the Council, although there were certain circumstances, as stated above, in which the Police might have an involvement, although that would depend on the resources which the Police had available at the time of any incident.

It was noted that the service had previously been provided on a joint basis with Elmbridge, Epsom and Ewell and Woking. If reinstated, it would now cost more than £10,500. The Council had withdrawn from the service, but the other three Councils had continued with it.

The Board was mindful of the financial constraints upon the Council and the fact the out of hours service had not been called out very frequently and was a discretionary service. Council policy was to maintain vigorous control of its finances. The Board took the view that the cost of each call-out had been high, when taking into account the number of times that the service had been called out and the cost of the service, and the Council had to decide on its priorities at a time of resource constraint. The Board, however, considered that noise out of hours would cease more quickly if such a service was in place. The Board also noted that, while the number of cases was small, the impact of each of them could be substantial. It was also Council policy to enhance the quality of life for all Runnymede residents. The Board accordingly agreed that the matter should be considered by the Leisure and Environment Committee.

RESOLVED that –

- i) the Leisure and Environment Committee be requested to reappraise the loss of the out of hours noise service and if it wishes the service to be reinstated, to identify where compensatory savings can be made from within its budget; and**
- ii) a report on the outcome be submitted to the Board's next meeting.**

296. ENFORCEMENT OF PLANNING CONTROL – PROGRESS REPORT

The Board noted the progress report on enforcement of Planning Control as at September 2007.

The Board noted that Officers had not been able to make much progress on many of these cases partly because of reduced resources in enforcement, which now consisted of two part time Officers and one full time equivalent (post vacant) and partly because of pressure from the public for action at two sites. The first of these was at Aymer Drive off Chertsey Lane, where Officers had spent weeks of working time on site but had found no breaches of planning requirements, and the second of these was on the Wentworth Estate Virginia Water, relating to a garage and swimming pool. Investigation of all complaints relating to enforcement was subject to a formal prioritisation system, as previously agreed by the Planning Committee, in which the number of people affected and the irreversibility of the action were key factors.

On particular cases within the report, the Board noted the following:-

i) 35 Liberty Rise, Addlestone

Following a continued breach of an injunction and committal proceedings, the owner had been found guilty and two years imprisonment had been imposed. The case had received national publicity.

(ii) Conifers, 111A, Almners Road, Lyne

A reassessment of personal circumstances of the occupiers (common humanity assessment) was required and it was difficult and time consuming to obtain the necessary information in this case, and those of similar nature, as the occupiers changed frequently and did not want to give the information. The Council was attempting to uphold planning policy, but was finding that courts were often supporting travellers remaining at sites contravening planning requirements, on the basis that these sites would help to contribute towards the Council's required quota of traveller sites.

(iii) Capital House, Woodham Park Road

Planning permission had been granted for a recycling centre. Surrey County Council had lodged an appeal in the High Court. Further action would be discussed with Surrey County Council, depending upon the result of the High Court appeal.

(iv) Amberwood and Lone Pine, Christchurch Road, Virginia Water

A warrant for arrest had been issued but not enforced as yet. There were complex family issues to resolve, but further action was anticipated shortly.

(v) Land adjacent to Stroude Road and Clockhouse Lane West, Egham

At the Board's last meeting in July, Officers had agreed to establish whether the presence of a large number of pigs on this site, resulting in unpleasant odours being experienced by neighbours, might constitute some form of non development control nuisance at this location. It was possible that some form of environmental health action could have been taken if deemed appropriate, but the problem had been solved in any case as the pigs had had to be slaughtered as part of action taken to combat the local

outbreak of foot and mouth disease. Progress had been made in terms of compliance regarding some of the breaches on this site.

(vi) Bourne Valley Garden Centre, Woodham Park Road

The owner had been prosecuted for non-compliance with enforcement notices and had been fined £5,000.

(vii) Tasis School, Coldharbour Lane, Thorpe

There had been a breach of conditions in relation to sheds and the use of the playing field. Notices were being drafted and discussions were ongoing with the owners in relation to compliance. A Member would be advised of the latest position.

(viii) Laleham Boatyard, Laleham Reach, Chertsey

Breach of Condition Notices had been issued and served relating to hours of work and machinery.

(ix) Woburn Park Farm, Woburn Hill, Addlestone

Enforcement notices had been issued in respect of, inter alia, storage of vehicles, film equipment and skips on site.

(x) Blackboy Farm, Addlestone Road, Addlestone

A two year compliance period had been allowed in respect of an enforcement notice for a mobile home on this site, in view of the special circumstances.

297. DELAYS AT LEVEL CROSSINGS

The Board noted the latest position regarding level crossing delays in the Borough and Surrey County Council's response to the Review Board's request for 'intelligent traffic signals' at the Egham Station junction.

At the July meeting the Board had requested Officers to ask the County Council if they could introduce intelligent traffic lights at the Egham Station junction (Station Road/Church Road), as the Board considered that this more sophisticated equipment might reduce delays at that location. Surrey County Council's traffic signals team had looked at whether the signalling equipment (which was the most up to date which was available) at the Station Road/Church Road junction could be altered to relieve traffic congestion caused by the frequent and lengthy periods when the level crossing barriers were down. The signals at the Station Road/Church Road junction operated in four stages. At Stage 1, the green light was shown for traffic to flow in both directions in Church Road. At Stage 2, Church Road eastbound traffic and the right turn into Station Road operated. At Stage 3, the traffic turned left and right out of Station Road and at Stage 4 the signals were all red to allow pedestrians to cross.

The signals team had commented that the only alteration that might help traffic congestion in Station Road would be for the signals to go to Stage 3 when the barriers were down, but this would not reduce the time spent waiting at the barriers and could increase the congestion in Church Road, especially considering the number of times that the barriers were down. The overall cost of installing the radio link between the signals would be in the region of £15,000 and they doubted whether this would achieve any benefit, especially considering that the distance between the barriers and the Church Road junction was nearly 200 metres. In that stretch of road there were side turnings, accesses and parked vehicles. The movement of vehicles from these sources was unpredictable and this would further limit the effectiveness of this solution. Traffic often tailed back from the level crossing along Station Road to Church Road. Traffic was then prevented from turning from Church Road left and right into Station Road. Runnymede Officers considered that there could be a benefit to drivers travelling along Church Road if Stage 1 was extended, although it was considered that the benefit would be marginal compared with the cost of the new equipment. The Board, however, considered that the radio link might have

benefits and was in their view relatively inexpensive, and therefore asked Officers to pursue this further with Surrey County Council.

Officers had reported to the Board at the July 2007 meeting that Network Rail had applied to the Her Majesty's Railway Inspectorate (HMRI), on behalf of the Secretary of State for Transport, for a Level Crossings Order to replace barrier and signalling equipment at the level crossing in Guildford Street, Chertsey. A representation to the Order had been sent by Runnymede to maintain pressure on the HMRI and Network Rail to reduce barrier down times. Network Rail had carried out the work before the consultation period had elapsed and before the Secretary of State had made the Order. Runnymede and Surrey County Council Officers had complained about this to the HMRI. The HMRI had responded by stating that while they had expressed their concern to Network Rail about the inadequate planning that had resulted in this occurrence, as the type of crossing, and the barrier down times had not changed, and the changes were minor and there was no safety risk, on balance, the benefits of renewal of the crossing equipment as carried out, appeared to outweigh the costs and disbenefits of delaying the commissioning. The HMRI also added that paragraphs had been included in the Order, placing duties on Network Rail and Surrey County Council to co-operate in producing a long term strategy for the crossing.

Network Rail had contacted Runnymede Officers with the suggestion that a Road/Rail Partnership was formed with Network Rail, Surrey County Council and other interested organisations, including Runnymede Borough Council, to discuss road and rail issues of common interest. Network Rail had organised an initial meeting for 19 October. Officers would report on the outcome to a future meeting of the Board.

Chairman

(The meeting ended at 9.15 p.m.)