

READING BOROUGH COUNCIL

REPORT BY DIRECTOR OF ENVIRONMENT, NEIGHBOURHOOD SERVICES

TO:	STRATEGIC ENVIRONMENT, PLANNING & TRANSPORT COMMITTEE		
DATE:	22 November 2017	AGENDA ITEM:	12
TITLE:	STATUTORY NUISANCE - READING RAIL TRAIN CARE DEPOT		
LEAD COUNCILLOR:	CLLR TERRY CLLR PAGE	PORTFOLIO:	NEIGHBOURHOODS STRATEGIC ENVIRONMENT
SERVICE:	REGULATORY SERVICES	WARDS:	BOROUGHWIDE
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1.0 PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 To provide information on the outcome of a statutory noise nuisance investigation at Reading Train Care Depot, impacting on residents of Cardiff Road, Reading.

2. RECOMMENDED ACTION

- 2.1 That Councillors note the content of the report.

3.0 POLICY CONTEXT

- 3.1 Network Rail Infrastructure Ltd (NRIL) built Reading Train Care Depot in 2013 under permitted development rights. The depot is currently operated by First Greater Western Limited (trading as Great Western Rail (GWR)) as a light servicing depot carrying out cleaning, maintenance and refuelling of over 40 diesel trains. The depot also includes sidings where trains are stacked for a period overnight before returning to service in the early hours of the morning.
- 3.2 Local residents objected to the development, but as it was carried out under permitted development the Council had no powers to determine the principle for the development going ahead. Nonetheless, NRIL made a commitment to residents that the noise associated with the depot would be no worse than was experienced prior to the development. This proved not to be the case and residents complained about noise, light and odour nuisance. In 2013, following extensive communications with NRIL and GWR, officers served a statutory abatement notice on NRIL, which resulted in them constructing a new 4m acoustic barrier. As a consequence the Council withdrew the notice.
- 3.2 Following the construction of the barrier and changes to the lighting, there was a lull in complaints received from residents. However, early in 2014 complaints began to be received again. Investigations showed that electrification works were impacting on the typical rail operations. Following further lengthy investigations, officers established that a statutory noise nuisance was occurring and that in the opinion of

officers and externally appointed experts, the nuisance was prejudicial to health. Despite the best efforts of the Council to ensure that the nuisance is abated, a shared view on the matter has not been reached with GWR and NRIL. The Council was also advised by its expert that the acoustic fence did not abate the nuisance and that neither the design nor the maintenance of the acoustic fence could be regarded as best practicable means. This means that the noise nuisance remains, which is having a detrimental effect on the quality of life of residents living close to the depot and sidings.

- 3.4 The Council has been in communication with both GWR and NRIL over a considerable period of time. The Council has requested that they suggest steps which they might take to abate the nuisance. Following the Council's indication that it was minded to issue proceedings GWR and NRIL wrote on 8 November 2017 referring to various changes in operational arrangements. However no assurance was given that these steps would abate the nuisance and no timescale was given. In such circumstances and where there is an on going nuisance amounting to prejudice to health the Council is under a duty to serve a notice for statutory nuisance under section 80 of the Environmental Protection Act 1990.

4.0 Current Position

- 4.1.1 As a result of the noise nuisance, statutory notices have been served on Network Rail Infrastructure Limited, First Greater Western Limited and the Board of Directors of each company.
- 4.1.2 Negotiations and work to rectify the matter with both NRIL and GWR have been ongoing for a number of years without a satisfactory conclusion. It is with regret therefore that it has been necessary to undertake formal proceedings. However it has become apparent to the Council that no commitments had been forthcoming from either GWR or NRIL to abate the nuisance, which is why formal proceedings have been instigated. Substantial and careful consideration has been given to the impact of the service of statutory notices, both on the operators and rail users. The Council has issued the abatement notices which give the recipients six months to abate the nuisance. The recipients have a right to appeal the notices to the magistrates' court. During the period of any appeal the notices will not be suspended. The Council has expressed its willingness to attend a prearranged meeting with the representatives of GWR and NRIL. The Council has also expressed the view it is also prepared to consider mediation if satisfied that can bring about a speedier abatement of the nuisance.

5.0 CONTRIBUTION TO STRATEGIC AIMS

- 5.1 The proposed action meets the following Corporate Plan objectives; Safeguarding and protecting those that are most vulnerable and keeping the town clean, safe, green and active.

7.0 COMMUNITY ENGAGEMENT AND INFORMATION

- 7.1 The Bell Tower Residents Group and local residents have been engaged throughout the process, with both officers and the Lead councillor attending residents meetings. Correspondence with key complainants has been maintained, as has a line of communication with Mr. Wilson (former MP) and Matt Rodda MP.

8.0 EQUALITY IMPACT ASSESSMENT AND CRIME AND DISORDER

- 8.1 An Equality Impact Assessment is not relevant to this decision. There are no crime and disorder issues arising from this decision.

9.0 LEGAL IMPLICATIONS

- 9.1 It is unusual for Councils to take action against railway operators and/or NRIL. In some instances issues can be dealt with at the planning stage, or through local meetings. In the present case, however, no planning application was required. .
- 9.2 The Council has been receiving advice from Leading and Junior Counsel specialising in the field of statutory nuisance.
- 9.3 The recipients are required to comply with the terms of the notice which require amongst other things the abatement of the nuisance within six months of the date of the notice. Recipients have 21 days to appeal the notice. Generally, an appeal has the effect of suspending the served notice. However, in the present case, for the reasons set out in notice including the prejudice to health caused to local residents by the noise despite any appeal by the parties to the Magistrates' Court, the notice will not be suspended.

10.0 FINANCIAL IMPLICATIONS

- 10.1 The investigation of this case has required that Leading and junior external Counsel has been sought in addition to a number of technical experts. As such there have been significant costs incurred as a result. The implications of this are being managed through the budget management process.

11.0 Background Papers / Appendices

- 11.1 None