

## POLICY REVIEW AND DEVELOPMENT PANEL REPORT

REPORT TO:	Corporate Performance Panel		
DATE:	24 <sup>th</sup> July 2023		
TITLE:	Hunstanton Promenade Kiosk Waste Water - Update		
TYPE OF REPORT:	Update		
PORTFOLIO(S):	Portfolio Holder Property [Cllr Bal Anota]		
REPORT AUTHOR:	Matthew Henry [Assistant Director Property & Projects]		
OPEN/EXEMPT	Open	WILL BE SUBJECT TO A FUTURE CABINET REPORT:	No

### **REPORT SUMMARY/COVER PAGE**

#### **PURPOSE OF REPORT/SUMMARY:**

A joint report, between Barry Brandford (Waste and Recycling Manager) and Matthew Henry (Assistant Director Property & Projects) was submitted to Corporate Performance Panel (CPP) at its meeting on 8<sup>th</sup> November 2021. The report [Waste Issues Hunstanton Promenade] outlined general waste issues in Hunstanton, and how the Council dealt with these operationally.

The main content of the report dealt with the wider waste collection operations such as general litter bins, litter picking and trade waste collections on and near the seafront of Hunstanton. However, in addition to the general approach to waste in Hunstanton, issues relating to commercial tenants operating kiosk outlets (with the Council as commercial landlord) on the promenade had also been identified. The report presented to CPP in 2021 set out the formal contractual requirements within the commercial leases between the Borough Council and the various commercial tenants.

A number of updates have been provided to CPP in respect of the kiosk tenants and their approaches to dealing with their waste. At CPP on 27 February 2023 a further query was raised about the tenants' waste collection contractors holding the appropriate Waste Management licences and that the proper waste documentation was being provided during the waste collection process.

Further contact has been made with the council's kiosk tenants, and subsequently further background investigations have been undertaken in respect of the rules and regulations relating to Trade Waste and wastewater disposal from commercial premises, including discussions with the borough council's Environmental Health Manager (Commercial) and the Waste and Recycling Manager.

The attached report details the information gathered from each kiosk holder in respect of how they dispose of their waste and identifies the outstanding issues.

#### **KEY ISSUES:**

- Some kiosk traders (with leases from the Borough Council) potentially :
  - not complying with the terms and conditions of their leases in terms of waste disposal, and
  - not complying with statutory requirements

#### **OPTIONS CONSIDERED:**

To be determined.

## RECOMMENDATIONS:

The Property & Projects team will work with the council's Environmental Health and Waste & Recycling teams to ensure that that Trade Waste and wastewater created by the council's commercial kiosk tenants are dealt with in the most appropriate way possible.

## REASONS FOR RECOMMENDATIONS:

It is important that compliance with statutory requirements is achieved.

## **REPORT DETAIL**

### **1.0 Introduction**

- 1.1 Via Corporate Performance Panel information has been provided to the Assistant Director Property & Projects that indicates that Trade waste and wastewater from some of the promenade kiosk operators may not be being dealt with in an appropriate way.
- 1.2 The Property Services Team has been in contact with the various traders who lease kiosk sites on the promenade from the Borough Council and attached is a schedule of information gathered that summarises the disposal of Trade Waste, and wastewater, by the Kiosk traders. [Appendix 1]
- 1.3 A number of issues have been identified that, although relatively minor, may represent a breach, or breaches, of legislative requirements.
- 1.4 The current lease arrangements make it clear that the tenants have a duty of care to ensure that waste is disposed of responsibly.

### **2.0 Wastewater, Solid Waste & Fats and Oils – regulatory overview and commentary**

- 2.1 Below is a commentary and overview kindly provided by Barry Brandford (Waste and Recycling Manager)

#### **Wastewater disposal**

*Wastewater disposal from a commercial operation is to be considered as Trade Effluent, even if it is disposed of at domestic premises having been created at a mobile commercial premises and is controlled by S 118 as defined within S 141 of the Water Industry Act 1991. The term "trade" is very wide within the Act.*

*Anglian Water identify 6 primary Trade Effluent sources but do not identify mobile catering or retail units specifically, but do not exclude them. Below is a link to the Anglian Water guidance, however, a copy is attached to this report for ease of reference. [Appendix 2]*

<https://www.anglianwater.co.uk/siteassets/business/services/led225-trade-effluent-explained.pdf>

*Anglian Water has an enforcement policy for trade effluent which is adopted. Below is a link to the Anglian Water enforcement policy, however, a copy is attached to this report for ease of reference. [Appendix 3]*

<https://www.anglianwater.co.uk/siteassets/business/services/trade-effluent-enforcement-policy.pdf>

*This considers all the points expected including proportionality and targeting. Small quantities of wastewater from cleaning and handwashing in a catering or retail mobile business is unlikely to be a high-profile risk activity targeted for enforcement where this is disposed of into a foul sewer at a domestic or commercial premises in the ownership of the trader.*

*Discharge to a surface water sewer of trade effluent is not normally allowed. Surface water sewers should be used for uncontaminated surface water only because they will ultimately discharge directly to a watercourse without any treatment. In certain locations this will be directly or very locally indirectly into the sea.*

*Low level infractions of the above legislation such as sweeping water containing detergents in normal use of cleaning from the floor of a mobile unit to the ground for them to dissipate is highly unlikely to warrant an intervention at either civil or criminal levels as the actions would be considered de minimis.*

### **Solid wastes & fats and oils**

*These are covered by the Waste (England and Wales) Regulations 2011 and the Controlled Waste (England and Wales) Regulations 2012. These require :*

- *Where waste from a business is disposed of that there is a waste transfer note describing the waste in some detail and be dated and provide the details of the parties concerned in the transfer for each waste type.*
- *Confirm that the person in control of the waste has undertaken measures to separate and recycle wastes.*
- *These regulations apply to all forms of waste produced in the course of the business including waste fats and oils.*

*For mobile food traders the Trade Waste bins etc may be kept at a residential address but must be separate collections from the domestic waste.*

*Council Officers undertaking a range of regulatory activities including Environmental Health, Waste Management and CSNN are authorised in law to make these checks.*

- 2.2 The council's Waste & Recycling Manager also confirmed that a Waste & Recycling Officer visits the kiosk operators annually to undertake Waste Compliance Checks.
- 2.3 In addition to the above, from discussions with the council's Environmental Health Manager, where kiosk operators are preparing and selling food from their premises there are periodic Food Hygiene Inspections undertaken by the Environmental Health

Food Team. The frequency of these inspections is set following a risk-based assessment, but generally speaking take place every 2-3 years, or more frequently where there is deemed to be a greater risk.

### **3.0 Findings**

3.1 Following the collation of information from the council's kiosk tenants, and discussions with the relevant officers within Waste & Recycling and Environmental Health, the summary findings are :

3.1.1 Generally there is compliance with most statutory requirements.

3.1.2 Where there is non-compliance it is likely that these would be considered *de-minimus* and potentially unlikely to be pursued by the regulatory bodies

3.1.3 The main areas of non-compliance have been identified as :

- Recyclable Trade Waste being taken home and disposed of with domestic recyclable waste (green bin).
- General Trade Waste being taken home and disposed of with domestic waste (black bin).
- Wastewater (created by floor cleaning etc) being swept onto promenade.
- Wastewater being collected and emptied into surface water drain.
- Wastewater being collected, taken home and then disposed of within domestic/residential properties (mainly via kitchen sinks).

Note : the kiosks are small premises and it is understood that only small amounts of Trade Waste and wastewater are created.

### **4.0 Next Steps**

4.1 With a number of non-compliance issues being identified, and it being assessed that it is likely that the regulatory bodies would consider these *de minimus* and therefore unlikely to take enforcement action, the following course of action is proposed :

4.1.1 The Property & Projects team will work collaboratively with colleagues within Environmental Health and Waste & Recycling teams to encourage the kiosk tenants to comply with the statutory requirements.

4.1.2 The Property & Projects team will contact each council kiosk tenant setting out the requirements for dealing with Trade Waste and wastewater.

4.1.3 The Property & Projects team will request confirmation annually from the tenants that they are complying with the requirements and produce documentary evidence in respect of Waste Transfer Notes for Trade Waste and fats and oils disposal.

4.1.4 The Waste & Recycling Officer will continue the annual inspections to undertake compliance checks.

4.1.5 Where kiosks prepare and/or sell food the Environmental Health team will continue their risk-based assessments and undertake periodic Food Hygiene Inspections.

4.2 In addition to the above the Property & Projects team will also contact the council's Resort Services team to see if they can help with monitoring day-to-day compliance. Please note, as stated in previous reports, these issues are difficult to police.

## **5.0 Monitoring Report**

- 5.1 A schedule of the council's kiosk sites and the identified issues (and compliance) are set out within Appendix 1. Where there has been no response, these will be pursued.
- 5.2 No monitoring report has been submitted, however, both Property Services and Resort Services will seek to monitor tenant compliance as best they can. In addition the Waste & Recycling and Environmental Health teams will continue their periodic inspections.

## **6.0 Corporate Priorities**

- 6.1 Although it is considered that the relevant regulatory organisations would not take any enforcement action against the identified breaches owing to their being *de minimus*, the council as commercial landlord can exert some influence on how the council's tenants operate i.e. in compliance with the lease terms
- 6.2 Tenant compliance requirements are set out within the lease contract documents made between the Borough Council of King's Lynn & West Norfolk and the kiosk operators, as detailed within the report to Corporate Performance Panel at its meeting on 8<sup>th</sup> November 2021.

## **7.0 Financial Implications**

- 7.1 Not applicable

## **8.0 Any other Implications/Risks**

- 8.1 Not applicable

## **9.0 Equal Opportunity Considerations**

- 9.1 Not applicable

## **10.0 Environmental Considerations**

- 10.1 Although the potential breaches of the regulatory requirements appear to be relatively minor and/or infrequent, the council has the opportunity to ensure that any impact upon the local environment caused by the activities of its commercial kiosk tenants is minimised as far as possible.

## **11.0 Consultation**

- 11.1 Not applicable

## **12.0 Conclusion**

12.1 Situation will be monitored between Property & Projects, Waste & Recycling, Environmental Health and Resort Services.

### **13.0 Background Papers**

13.1 Waste Issues Hunstanton Promenade [Corporate Performance Panel 8<sup>th</sup> November 2021

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