

Environmental Protection - Case File

The peaceful village of Chadwick All Saints is very seldom the centre of anything that might be described as an environmental health problem, comprising, as it does, a 15th Century church, village shop, pub and perhaps 200 or so properties spread out over the hill-side along leafy lanes. The last complaint that anyone can re-call was when residents objected to the ringing of the bells for the Royal Wedding in 1981. Most of the residents in the main terrace of 19th Century cottages on the High Street are elderly people who have lived there for generations. Those in the larger and grander properties tend to be professionals who 'commute' to work in Chadwick and beyond, or are second-home owners living, for the most part, away from the village and using their properties at weekends.

The peace of this rural idyll appears to have been shattered by a family who have moved into a former farm-house, where each weekend since the beginning of the summer, what has been described as 'hoards' of young people have descended, friends of the five children that range in ages from 8 to 17. A letter of complaint from Colonel Caruthers, and signed by him and 12 of his (mainly) elderly neighbours, alleges that the owner-occupier of this large detached house (Willett's Farm, Grange Drove) has chosen to allow the substantial garden that backs on to their properties to become overgrown and is permitting it to be used as an 'adventure playground' with rope swings and tree-houses erected, night-time camping, singing to amplified music and large bonfires which cause smoke to blow into their open bedroom windows. Rats have also been seen on many occasions, and the suggestion is that these are being attracted by food waste that is being allowed to accumulate. The final specific accusation is that the occupier is not maintaining the drainage system properly as an unpleasant smelling liquid can be seen oozing from the hedgerow into a stream by the side of the road.

The letter concludes by saying that there is little point in trying to reason with the parent as she is seldom there, and when she is, she's rude and dismissive. The complainant believes her to be a drug-taker as he saw her with his binoculars standing at the back door smoking 'a funny-looking cigarette', and that judging by the empty bottles that find their way into their gardens, unlawful alcohol consumption. Colonel Caruthers also suggests that there is little point visiting the property during the week, as things are quiet then. It's the weekends when things go wild. Accordingly, the complainant and under-signed are all willing to allow you to visit their homes to see and hear for yourself what is going on.

You agree to take up this invitation the following Saturday evening, but decide to go up there earlier on in the afternoon to see if you can identify the cause of the drainage problem. First,

though, you check with Planning and Building Control to find out if any development has been considered in recent years that might give you a 'feel' for what is going on. It comes as some surprise to find that a recent application to install a substantial 'packaged' sewage treatment plant by Jordan Brothers (Builders) on behalf of the client (Mrs Michelle Elizabeth Gatcombe) was rejected after letters of complaint were received from neighbours when they learnt that the installation was powered and might produce an intermittent noise. Accordingly, it is likely that the septic tank installed by the farmer back in the 1970s (when the property was only required to serve the sanitary needs of three people) is still the only means of dealing with foul water produced at Willett's Farm, only now it has to cater for a much larger family.

You drive out the Chadwick All Saints, park up, and walk along the road beside the ditch complained of in the letter. Sure enough, you see some oily water in the otherwise dry ditch and strands of what appear to be toilet paper. Given the topography, and relationship with other properties in the area, it seems unlikely that the sewage can come from anywhere else but Willett's Farm. Without venturing onto the property, you stand at the entrance gate for 15 minutes, in which time you see an adult brown rat (*Rattus norvegicus*) foraging in the bin area where bags of uncollected domestic waste, some of them split with their contents exposed, are piled up. You know that there is a policy of only collecting waste in 'wheelie bins', so this waste is unlikely to be removed in its current state.

You proceed on to the home of one of the signatures of the letter, Mrs Tweedie, who welcomes you to sit in her summer-house whilst observing the goings-on at Willett's Farm. Nothing is seen or heard until shortly after 10pm when the distinctive bass sound of 'Garage' music is heard from the far end of the lawn, interspersed by screaming and shouting from the house. As the noise increases in volume, you become conscious of young people in the woods at the end of the garden, and so close to the complainants' properties. Anxious to avoid being seen, you return to Mrs Tweedie's house, and from the rear bedroom where she sleeps, the distinctive bass signature of the music is clearly evident, and this continues, on and off, until you leave the property at 01.00.

Determined that you should try to sort out the various problems as quickly as possible, you return to Willett's Farm the following day (Sunday) at 11.30 and identify yourself to middle-age women, who you take to be Mrs Gatcombe. As predicted, she is dismissive of the children's behaviour claiming youthful exuberance and the value of encouraging her children's creative and social development. She dismisses the suggestion that she is encouraging pests by not properly storing her waste, on the basis that the Council are quite wrong in not collecting black plastic sacks, which she says is perfectly acceptable at her other home in London. Finally, she

shrugs her shoulders on being told about the sewage waste finding its way into the ditch, suggesting that she feels that they ("those nose-y old birds") had the opportunity of stopping this when they were consulted on the replacement system, so if anything, "hey deserve what they get". When asked if you can inspect the drainage system she waves you towards a manhole cover in the drive with the parting line "Do what you like, but don't fall in".

Accordingly, you take the plan of the existing system copied from the planning application, and seek to confirm its situation and condition. Clearly, even Mrs Gatcombe appreciates that the current septic tank is inadequate, but it doesn't take long to determine that the immediate problem is that the septic tank is overflowing – it is surcharging freely from both tanks – and that this could be relieved by emptying the sludge and checking outlets to the 'field' system for leaks, as there was a suggestion from one complainant that the lady might have deliberately allowed the system to surcharge.

Environmental Protection - Tasks

Task 1

It is Monday morning, and although you may consider that there are good grounds for immediate statutory action to deal with a number of matters observed over the weekend, the view is taken that the person responsible for controlling noise, preventing a pest infestation and maintaining a sound system of drainage, should be given the opportunity to put these matters right informally, before notices are served. Accordingly, draft a letter to Mrs Gatcombe in which you set out these issues in terms of their impact on health, the environment and general well-being, and the powers available to the local authority in the event that she decides not to so act. This letter should detail the legislative provisions available in the event of their continuing contravention, but with a mind to the need to seek a more permanent resolution of the drainage problem.

(70 marks)

Task 2

Your telephone call to the principal complainant on the Monday morning informing him of the action taken to investigate the allegations set out in the petition, results in an invitation to meet the group at Mrs Tweedie's home the following afternoon. You agree to do so, but in advance of the meeting, prepare some notes for yourself in which you advocate the group adopting a more positive attitude to a 'packaged' sewage treatment plant, should Mrs Gatcombe be persuaded to submit a further planning application for one to be installed.

(30 marks)

<p>For the purpose of this examination you should justify any assumptions you have made within the answers given</p>
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Environmental Protection - Marking Advice

- 1 *It is Monday morning, and although you may consider that there are good grounds for immediate statutory action to deal with a number of matters observed over the weekend, the view is taken that the person responsible for controlling noise, preventing a pest infestation and maintaining a sound system of drainage, should be given the opportunity to put these matters right informally, before notices are served. Accordingly, draft a letter to Mrs Gatcombe in which you set out these issues in terms of their impact on health, the environment and general well-being, and the powers available to the local authority in the event that she decides not to so act. This letter should detail the legislative provisions available in the event of their continuing contravention, but with a mind to the need to seek a more permanent resolution of the drainage problem. (70 marks)*

It is important that the letter is properly addressed, with the appropriate salutations and valedictions, and indicating that the investigation resulted from the receipt of a complaint, but that subsequent observations confirmed the existence of problems that fell to Mrs Gatcombe to remedy. The fact that the letter might be a prelude to legal proceedings being initiated should be suggested by the references at the head of the letter (Environmental Protection Act 1990, Public Health Act 1936, Prevention of Damage by Pests Act 1949, Noise Act 1996) and some sort of statement to the effect that they will be re-considered after a reasonable period has elapsed and action initiated if there has been improvement. Although the letter should sound a word of warning to the lady about the outcome if no further action is forthcoming, it should be polite and offer the lady a series of options that will likely cause the problems to be overcome.

It should be noted that the Task talks about the need to set out the issues in terms of impact on health, the environment and general well-being and the powers available to the local authority if action is not forthcoming, so this should be spelt out in terms of all three issues:

Noise – concede that the impact of the noise on the elderly residents might be worse because of their age, possible infirmities and the fact that they are likely to go to bed earlier than young people, it is enough to demonstrate that they have been subject to a statutory nuisance under section 79(1)(g) – noise emitted from premises so as to be prejudicial to health or a nuisance – but if CVMDC has adopted the Noise Act 1996 it might consider the noise within a complainant's dwelling and if it exceeded the permitted noise level set out in the Permitted Level of Noise (England) Direction 2008 then an offence would be committed and a warning notice served, followed by a fixed penalty notice and subsequent prosecution. The Noise Act also provides for entry to premises for the purpose of seizing noise emitting equipment. Explain that she and her family might expect that they can reasonably enjoy their own property (including the of making of some noise, periodically) but anything after 11pm is likely to attract critical attention, and if this amounted to anti-social behaviour on the part of her children, then further action might be forthcoming.

Pests - point out that you yourself witnessed the state of the refuse storage arrangements at Mrs Gatcombe's home and considered them unacceptable and a possible source of nuisance actionable under Section 80, Environmental Protection Act 1990, but for the moment the health impact of a rat infestation must be addressed by having removed the accumulation of waste

(noting that it is for the Council to decide how domestic refuse is stored ahead of collection) and securing the control of infestation by the involvement of a suitable contractor. A failure to do so, and the discovery of a continuing infestation, would likely lead to the service of a notice under the Prevention of Damage by Pests Act 1949.

Drainage – there are clearly two issues here to do with the surcharging manhole serving the septic tank: the first, the potential environmental damage this might be caused to surrounding watercourses (in which case the Environment Agency might become involved), and the second, potential nuisance or prejudice to health arising from smell or physical contact with the material emerging from the man-hole and trickling down across the land, or through a defect in the field drainage system. Although one is looking for a permanent satisfactory outcome, for the present, Mrs Gatcombe needs to be told that it is an offence under Section 50, Public Health 1936 to permit a septic tank to over-flow (actionable by prosecution and the possible imposition of a daily penalty), indicating that the surcharge needs to be remedied by clearing what is causing it to become stopped up. However, if it is anticipated that the work of remedying the defect causing the surcharge will require works of repair to be required, or, that by being insufficient for the number of people served a more substantial system needs to be installed, it will be necessary to serve a notice under Section 59, Building Act 1984. You might make known the fact that the council would favour the installation of a system that better served the 6 persons now living at the property and will be canvassing those who have previously objected to the installation of a 'packaged' system, though in the meantime, remedying the surcharge remains the priority.

2. *Your telephone call to the principal complainant on the Monday morning informing him of the action taken to investigate the allegations set out in the petition, results in an invitation to meet the group at Mrs Tweedie's home the following afternoon. You agree to do so, but in advance of the meeting, prepare some notes for yourself in which you advocate the group adopting a more positive attitude to a 'packaged' sewage treatment plant, should Mrs Gatcombe be persuaded to submit a further planning application for one to be installed. (30 marks)*

Your 'notes' should prompt you to allow a short period of time at the outset to discuss the more general issues to do with noise and pests, as the residents will probably wish you to tell them what you have done (and are intending to do) on other matters. Perhaps one might seek to promote a 'live and let live' mentality amongst those complaining about the young family, leading (one might hope) in a more harmonious co-existence, though this might be too early to suggest.

However, you should seek to move the discussion on to the substantive issue and set out in a sensitive but firm way, where and why the current system is falling down – designed for far fewer occupants and so of limited capacity, old and 'low tech', poorer final effluent quality – and why a 'packaged' system would be an improvement – 'higher-tech', may incorporate more efficient biological filters using rotating discs or injection, improved final settlement stage removing finer solids before discharge etc. Whilst conceding that with an electric motor

operating there will be some noise produced, you should emphasize that the box could be insulated and so sited that it would be of minimal disturbance since they are designed to be located close to residential properties.

Throughout, you should remain impartial and not be indiscrete about any dealings you are having with Mrs Gatcombe herself. Yours is a mission to promote a more efficient and effective means of draining the property, though you might have in mind the possibility that this might cause those attending the meeting to be persuaded of the value of a packaged septic tank system and lead to them to choose to up-date their systems, where appropriate. The reduced cost of a system shared by more than one property might be mentioned.