

CABINET

6 OCTOBER 2023

REFERENCE FROM COUNCIL

A.3 E-PETITION: 'BRIGHTLINGSEA STENCH'

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To formally report the receipt of an e-petition submitted requesting that Tendring District Council carries out a further investigation into the phenomenon of the 'Brightlingsea Stench'.

EXECUTIVE SUMMARY

An e-petition submitted by Matthew Court, as lead petitioner, was received on 31 August 2023. The e-petition was active in the period from 1 August to 31 August 2023 and was validly signed by 110 persons. It states:-

"We the undersigned petition the Council to:-

- Immediately reopen the investigation into the persistent stench issue in Brightlingsea.*
- Engage external environmental experts, if necessary, to support and expedite the investigation into the source and nature of the problem.*
- Provide regular, transparent updates to the public on the progress of the investigation, findings, proposed solutions, and expected timelines.*
- Actively coordinate with the Environment Agency and any other relevant authorities to advocate for the needs of Brightlingsea residents and seek their intervention if required.*
- Implement temporary measures to mitigate the impact of the stench on the residents of Brightlingsea while a long-term solution is being found.*
- Form a community task force, including residents, council members, and experts, to ensure direct community participation in the ongoing efforts to resolve this issue.*
- Carry out a comprehensive assessment to understand the potential health impacts of the stench on Brightlingsea's residents."*

The petitioners' stated justification for this e-petition is that:-

"The persistent stench that has plagued the residents of Brightlingsea for over a year is more than just a nuisance; it's a matter of public health, well-being, and the quality of life for every person living and working in the affected area, including the school which has its main playing field nearby. It has turned what should be a pleasant environment into a place where people cannot even open their windows or spend time outside without discomfort.

The initial investigation by Tendring District Council was a step in the right direction, but the premature closure of the investigation without finding a source or solution is deeply disappointing and frankly, unacceptable. This decision gives the impression of a council that is either unable or unwilling to fully address the problem, which is a disservice to the people it is supposed to represent and protect.

This e-Petition is not just about the stench; it's about the role of Tendring District Council and councillors as our elected representatives. It's about how we, as a community, expect our concerns to be addressed, our voices to be heard, and our wellbeing to be prioritised. The actions listed in this petition reflect those expectations.

We understand that finding a solution may not be easy or immediate, but we insist that the council take these necessary steps, engage with the necessary bodies, utilise all available resources, and provide the leadership and representation that Brightlingsea needs and deserves. We look forward to seeing a renewed effort from the Council in tackling this ongoing issue and restoring the quality of life in this part of our beloved town.”

Pollution and environmental health is an executive function and therefore the Cabinet is the appropriate body to consider this matter.

In accordance with the Council's adopted Scheme for Dealing with Petitions the receipt of this E-Petition was reported, for Members' information, to the meeting of the Full Council held on 26 September 2023. This matter has now been investigated and a report prepared and presented to the Cabinet on the basis that the Petition contained between 30 and 500 signatures.

Having discussed the petition it will be for Cabinet to decide what action, if any, will be taken.

RECOMMENDATION(S)

That, having duly considered the Petition together with the information provided in this report, the Cabinet decides what action, if any, it wishes to take.

REASON(S) FOR THE RECOMMENDATION(S)

To comply with the adopted scheme for dealing with petitions, as set out in the Council's Constitution.

ALTERNATIVE OPTIONS CONSIDERED

There are several courses of action available to the Cabinet once the petition has been considered, including:

- *No action (with reasons as to why no action is proposed)*
- *Taking the action requested in the petition*
- *Taking an alternative or amended course of action to that requested in the petition (with reasons as to why such action is being taken)*
- *Undertaking research into the matters raised (this could include referring the matter to the relevant Portfolio Holder, or officer of the Council) and holding a meeting with the petitioners.*

- *Referring the petition to a Committee or an external person/body (such as the County Council or Government body or Public Services or the Ombudsman or Member(s) of Parliament)*
- *Holding a public meeting*
- *Holding an inquiry*
- *Providing a written response to the lead petitioner setting out the Council's views on the request in the petition*
- *Deferring consideration of the petition to a future Cabinet meeting*
- *Calling for a referendum (if permitted under the legislation and subject to costs)*

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

In respect of the Corporate Plan 2020/24 Priority Themes the Cabinet's decision will contribute to Community Leadership through partnerships:

- Health and Well-being.

LEGAL REQUIREMENTS (including legislation & constitutional powers)

Pollution and environmental health is an executive function that is delegated by the Leader of the Council to the Cabinet collectively and, individually, to the Environment Portfolio Holder (depending on the nature of the decision required) in schedule 3 of part 3 of the Council's Constitution. The overall function of the Council's Executive is the discharge, in accordance with the Council's policy framework all functions of the Council (including "local choice functions") except those functions which cannot by virtue of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) and other legislation, be the responsibility of the Executive.

FINANCE AND OTHER RESOURCE IMPLICATIONS

Not immediately applicable, although subject to Cabinet's response, consideration may have to be given in due course to the impact on the Council's financial position.

USE OF RESOURCES AND VALUE FOR MONEY

External Audit expect the following matters to be demonstrated in the Council's decision making:

- A) Financial sustainability: how the body plans and manages its resources to ensure it can continue to deliver its services;*
- B) Governance: how the body ensures that it makes informed decisions and properly manages its risks, including; and*
- C) Improving economy, efficiency and effectiveness: how the body uses information about its costs and performance to improve the way it manages and delivers its services.*

As such, set out in this section the relevant facts for the proposal set out in this report.

The following are submitted in respect of the indicated use of resources and value for money indicators:

A) Financial sustainability: how the body plans and manages its resources to ensure it can continue to deliver its services;	Not Applicable in this instance.
B) Governance: how the body ensures that it makes informed decisions and properly manages its risks, including; and	Nothing in addition to those matters already set out in the report.
C) Improving economy, efficiency and effectiveness: how the body uses information about its costs and performance to improve the way it manages and delivers its services.	Not Applicable in this instance.

MILESTONES AND DELIVERY

Not Applicable in this instance.

ASSOCIATED RISKS AND MITIGATION

Not Applicable in this instance.

OUTCOME OF CONSULTATION AND ENGAGEMENT

The Council's adopted Scheme for Dealing with Petitions states, inter alia:-

- Receipt of a petition will be formally acknowledged to the lead petitioner in writing or by email as appropriate, within five working days of its receipt.
- The appropriate Ward Member(s) will be informed of receipt of a petition and when and how the petition will be considered.
- When a petition is being considered by Cabinet or Council/Committee...the lead petitioner will be invited to address the Cabinet or Council/Committee, outlining the reasons for the submission of the petition and what action they would like the Council to take. The lead petitioner (or his or her representative) will have a time limit of three minutes for their speech and the petition will then be discussed by Councillors. A Ward Councillor can, at the request of the lead petitioner, present the petition to Cabinet or Council/Committee on behalf of the relevant petitioners.
- The lead petitioner will be informed, in writing, of the Cabinet or Council's decision and this information will also be published on the Council's website via the Minutes of the relevant meeting at which the petition was dealt with. If a further meeting is to be held to consider the issues raised in the petition, the lead petitioner will be supplied with the relevant details and will also be given the opportunity to attend and address that meeting and if appropriate, answer any questions posed at the meeting.

EQUALITIES

In line with the Public Sector Equality Duty, public bodies such as the Council must, in the exercise of their functions, give due regard to the need to eliminate discrimination, harassment, victimisation, to advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not.

The protected characteristics are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race religion or belief, sex, sexual orientation.

Not Applicable in this instance.

SOCIAL VALUE CONSIDERATIONS

There are no social value considerations relevant to this report having regard to the Public Services (Social Value) Act 2012.

IMPLICATIONS FOR THE COUNCIL'S AIM TO BE NET ZERO BY 2030

There is no immediate impact on the Council's aim for its activities to be carbon neutral by 2030 including the actions, policies and milestones in its Climate Change Action Plan.

OTHER RELEVANT CONSIDERATIONS OR IMPLICATIONS

Set out what consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are then set out below.

Consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are set out below.

Crime and Disorder

None

Health Inequalities

None

Area or Ward affected

Brightlingsea

PART 3 – SUPPORTING INFORMATION

ASSISTANT DIRECTOR (HOUSING & ENVIRONMENT)'S ASSESSMENT AND ADVICE

The Council has an ongoing investigation into complaints about unpleasant odour in Brightlingsea, most recently during the course of this Summer. Most of the reports received have been anecdotal with limited evidence provided as to where and when the odour is experienced and the impact it has on residents. Since the end of June 2023 there have been 12 individual complainants of which six provided their addresses in the area. None of these complainants have yet returned witness report diaries for consideration. There is not therefore any documented evidence as to the impact the odour is having on local residents.

The Council assesses odour complaints under the statutory nuisance regime set out in the Environmental Protection Act 1990 and so far it has not been possible for officers to witness an odour sufficiently strong and durable as to constitute a statutory nuisance.

The Council has been in correspondence with the Environment Agency (EA) over the matter, especially as they are the regulator for parts of a waste processing site in the Town that has the greatest potential to give rise to the type of odour that is being complained about. All waste processing activities on that site are being undertaken in accordance with their permits that put in place controls around emissions arising as a consequence of the processing activity.

Regular updates have been provided to the Town Council and officers have spent many hours following up reports and making random visits to the area, often out of hours, in an effort to witness the problem.

There is not currently any evidence that anyone has suffered any ill health as a result of the odour and as yet officers have yet to witness the odour or receive documented evidence of when it occurs and who it affects. Investigations will continue but it should be highlighted that even if a definitive source is found this alone may not be enough to justify further statutory action beyond advice and guidance.

Environment Portfolio Holder's Comments:

"This is a matter I have taken a personal interest in. I have visited the area twice, once with officers and representatives from Brightlingsea Town Council and a second time to meet with residents.

I have therefore witnessed first-hand the detailed and committed work our officers have put into trying to witness and locate the source of the odour. I have also heard from residents about how it affects them. I have experienced an odour very near to the waste processing site that I felt was to be expected given the nature of the activities undertaken on the site. Knowing that activities on the site are regulated both by the EA and the Council gives me reassurance. The odour I experienced was not one so strong or persistent that it could be experienced further away from that site.

As our Assistant Director has said, activities on the site are subject to environmental controls. The Council has been in correspondence with the EA and all activities are being undertaken in accordance with permit conditions that have been monitored and recorded, which include assessments as to whether odour is being generated. Should residents be able to furnish officers with witness report diaries evidencing the dates and times they are affected by the odour these will of course be followed up."

BACKGROUND

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PREVIOUS RELEVANT DECISIONS TAKEN BY COUNCIL/CABINET/COMMITTEE ETC.

None

BACKGROUND PAPERS AND PUBLISHED REFERENCE MATERIAL

E-Petition to the Council submitted by the Lead Petitioner (Mr. Matthew Court).

APPENDICES

None

REPORT CONTACT OFFICER(S)

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