

REPORT TITLE Environmental Protection Act 1990 –
Miss Jennifer Mason Case ref T/000031- Outcome of prosecution
proceeding's on 13th November 2017

Submitted by: Head of Environmental Health Services

Portfolio Operational

Ward(s) affected All

Purpose of the Report

To inform committee of the outcome of prosecution proceedings against Miss Jennifer Mason Environmental Protection Act 1990 for failing to comply with a noise abatement notice on various dates between 8th February 2017 and 2nd August 2017.

Recommendations

To receive the report

Reasons

The Council has a statutory duty to investigate noise complaints under the Environmental Protection Act 1990. A formal statutory noise abatement notice has been served and prosecution proceedings have been taken in the magistrates' following a failure to comply with the legal notice without reasonable excuse.

1. Background

- 1.1 Chair's approval has been given to instigate proceedings against Miss Mason a resident of Coppice Road, Talke for offences occurring between 8th February 2017 and 2nd August 2017. The case concerned failing to comply with a noise abatement notice which required the abatement of a statutory noise nuisance caused by barking and howling dogs by 6th January 2017 .
- 1.2 The case was heard on the 13th November 2017 in Newcastle under Lyme Magistrates' court. Miss Mason entered a guilty plea.
- 1.3 The Magistrates' considered the facts of the case and the previous offending history. They also took account of the evidence provided by an affected neighbour, evidence obtained on the Councils noise monitoring equipment, evidence gathered via the Noise App as well as evidence from your officers. Miss Mason informed the court that she was making steps to relocate the dogs from the house into a garage which would be soundproofed.
- 1.4 The Court accepted the guilty plea of failing to comply with noise abatement notice on various dates between 8th February 2017 and 2nd August 2017
- 1.5 Having considered the evidence and taken account of the guilty plea the court imposed the following penalty on Miss Mason
- 12 month conditional discharge
An order to pay a contribution towards the Council's costs of £700
Victim surcharge £20
Total £720 to be paid at £10 a fortnight commencing 11th December 2017

- 1.6 The outcome of this case was subsequently reported by Staffordshire Evening Sentinel, Radio Stoke and also promoted via the Council's website.

2. Issues

- 2.1 The noise abatement notice remains in force, any future breaches will be investigated, and action taken in line with established policies and procedures.
- 2.2 The current council scheme of delegation requires that prosecution proceedings brought under Part III of the Environmental Protection Act 1990 are approved by the Public Protection Committee.

3. Options Considered

- 3.1 The action taken is in line with the council's adopted procedures.

4. Recommendation

- 4.1 To receive the report

5. Outcomes Linked to Sustainable Community Strategy and Corporate Priorities

The report relates to the adoption of a consistent and effective enforcement which contribute to the following:

1. A clean, safe and sustainable borough
2. The negative impacts that the Council, residents and local businesses have on the environment will have reduced.
3. A healthy and active community
4. Fair, proportionate and consistent enforcement creates an environment for prevention, maintenance or improvement in health and wellbeing.

6. Legal and Statutory Implications

- 6.1 The Council has legal powers to undertake the action subject of this report and the authority to proceed is in line with the Council's constitution.
- 6.2 The Council's Enforcement Policy 2014-17, details that a graduated and proportionate approach to enforcement will be undertaken.
- 6.3 It also required that due regard to the public interest test is made in relation to enforcement action undertaken. It is considered that in this case the public interest test is satisfied for the proposed course of action given the ongoing situation.

7. Financial and Resource Implications

- 7.1 The legal costs in taking this action have been recognised by the Court and a partial costs award has been made which has reflected the investigation and prosecution costs.

8. Major Risks

- 8.1 None identified.

