

Report Title : Environmental Protection Act 1990 and bonfires

Report to: SCRUTINY

Date of meeting : 28th November 2023

Responsible Officer: James Wilson – Head of Environment and Sustainability.

EXECUTIVE SUMMARY / INTRODUCTION

This report details how the Environmental Protection Act 1990 and other legislation can be used to tackle bonfire. It highlights to members the existing and new guidance and details

RECOMMENDATIONS :

Note the contents of this report.

Provide feedback on the proposed amendments to the bonfire guidance which are based upon the newly released government guidance.

1. Introduction

The issues of burning waste and bonfires causes both pollution to our atmosphere and nuisance to local residents. The Council receives numerous complaints every year about the burning of both commercial and domestic waste.

There are a various sections of different legislation at our disposal to tackle burning of waste and bonfires depending on the issues they are causing, these are covered in the section below.

The government recently issued updated guidance on outdoor burning and this report details how the Council will update its guidance based on these updates.

2. Legislation details.

The Council has the following legislation at it's disposal in order to control the outdoor burning of waste and other materials:

Environmental Protection Act 1990

Section 33 (c) treat, keep or dispose of controlled waste in a manner likely to cause pollution of the environment or harm to human health.

Allows the Council to investigate and prosecute both businesses and residents for burning waste household or other type of waste that would give rise to pollution including but not limited to:

- Plastics
- Paints
- Rubber
- Furniture
- Treated wood

The Council can only enforce once the incident has occurred, and enforcement would be used as a deterrent for future behaviour.

Section 79 (1) - Statutory Nuisance

(b) smoke emitted from premises so as to be prejudicial to health or a nuisance.

(c) fumes or gases emitted from premises so as to be prejudicial to health or a nuisance.

(d) any dust, steam, smell or other effluvia arising on industrial, trade or business premises and being prejudicial to health or a nuisance.

The above section highlights the wording in relation to statutory nuisance powers. Should the Council receive complaints that the fires are regular enough or there is a likelihood of reported fires to cause a nuisance, the Council can serve an abatement notice to prevent this behaviour from continuing.

Depending on if this is a business or residential property, the council can apply different sections of the act as listed above, as some are not relevant to both property types.

If the abatement notice is not complied with then the Council will prosecute for failure to comply with the abatement notice.

Under section 79 the Council has a duty to investigate and if we witness a nuisance, we are obliged to serve notice within 7 days.

Clean Air Act 1993

Section 2 – Prohibition of dark smoke from industrial or trade premises.

This legislation allows for the Council to investigate, serve a notice and prosecute for emitting dark smoke from an industrial or trade premises.

3. Current Guidance

The Council has had guidance on its website for several years, attached in Appendix 1. The guidance is focussed on domestic bonfires, outlining when a bonfire is permissible and advice on how to minimise impact on others.

Its also covers the following:

- Methods for disposal of garden waste.
- How to report an issue with bonfires

This guidance does not cover the burning of general waste or burning waste on commercial premises, we will update the guidance to include this based on the recent release of new guidance from government on reducing air pollution from outdoor burning (Appendix 2).

The Council has an enforcement policy detailing the way in which it will enforce within it's legal powers. This policy includes the enforcement of the legislation detailed in this report. As a result of the range of tailored legislation available to the council to enforce and prosecute on burning, it is not recommended to create a further policy, which would only duplicate what is already available, and would not be legally enforceable.

No other Norfolk Council have a specific policy on burning, but all have guidance documents and links to government guidance on how to minimise nuisance and what can and can't be burned.

4. Financial Implications

None

5. Risk Implications

None

6. Legal Implications

None, the Councils is used to using these powers to tackle a wide range of offences.

7. Conclusion

The Council has published guidance on domestic burning for some time and has used its enforcement powers when necessary to tackle problem burning across the Borough. There is a need to update the guidance to ensure we cover all aspects including commercial burning as outlined above, to incorporate the latest guidance from central government.

To ensure members are aware of the laws around fires and to assist them in giving advice when contacted by a constituent, we will also produce a members information sheet on fires.

The team will also take the opportunity to correspond public campaigns at prudent times of the year, such as bonfire night, and spring garden clearances, to remind the public what is and isn't acceptable and provide advice.

8. Background Papers

Government new guidance on reducing pollution from outdoor burning.

<https://uk-air.defra.gov.uk/library/assets/documents/OutdoorBurning.pdf>

Great Yarmouth web site link for guidance on bonfires:

<https://www.great-yarmouth.gov.uk/article/2082/What-are-the-laws-around-bonfires>

Areas of consideration: e.g. does this report raise any of the following issues and if so how have these been considered/mitigated against?

Consultations	Comment
Monitoring Officer Consultation:	
Section 151 Officer Consultation:	
Existing Council Policies:	
Equality Issues/EQIA assessment:	

Guidance on Bonfires



Bonfires are an historic way of disposing of rubbish.

However, they can be a cause of pollution so are not the most environmentally friendly way of getting rid of rubbish.

Bonfires can also be very irritating to neighbours by preventing them from enjoying their property and land.

There are a number of alternatives to having a bonfire which Great Yarmouth Council would recommend.

This guidance aims to provide the reader with information on your rights as a person having a bonfire, what to do if you are affected by bonfires and other methods of dealing with garden waste

Am I allowed to have a bonfire?

If you are disposing of garden waste, there are no laws that specifically prohibit bonfires.

However, if a bonfire interferes with the enjoyment of a neighbour's property, e.g. fills their garden with smoke so they can't open their windows or use their garden, you may be responsible for a statutory nuisance under section 79/80 of the Environmental Protection Act 1990. The Council enforces this legislation which can result in an unlimited fine in the magistrates court for people who carry on causing a nuisance after being requested by the Council to stop.

Burning household waste will pollute the environment and may cause harm to human health. The burning of household waste is therefore prohibited under section 33 of the Environmental Protection Act 1990. The maximum penalties for this offence on conviction are a £50,000 fine and/or five years imprisonment.

So what should I do with my waste?

We would prefer that garden waste is either composted or recycled as this is kinder to the environment.

Composting

Most garden and vegetable kitchen waste can be composted. Compost will produce a useful soil conditioner. Do not compost meat or other products of animal origin. Woody garden waste can be shredded before composting but please ensure if you are shredding that you do not cause a noise nuisance to your neighbours. Advice on composting is available from the following:

Domestic composting

- Royal Horticultural Society www.rhs.org.uk (the RHS is the leading garden organisation in the UK)
- Garden Organic www.gardenorganic.org.uk (Garden Organic is the working title of the Henry Doubleday Research Association)

Recycling

You can recycle waste and uncooked vegetable peelings in your brown bin if you subscribe to the service. You are able to place leaves, twigs, pruning waste, grass cuttings, weeds and plants, cut flowers, plant and hedge trimmings and small branches under 10cm in diameter and 60cm in length in the brown bin. Unfortunately you are **not** able to dispose of soil, turf, compost, sand, stones or ash in the brown bin.

Further information on recycling and the Council's Brown Bin service can be found on the Bonfires webpage.

If you are planning a bonfire

If you have considered all other methods of disposal and have decided that having a bonfire is the best way to get rid of your garden waste, the first thing you should do is inform your neighbours.

Simple information such as how much material you have to burn and how long the fire might last for can go a long way to keeping good relations with your neighbours. Also be sure to tell them that if the smoke is bothering them then they should come and speak to you first and let you know so that you can do something about it. Most importantly, if they do come to you with a problem – *do something about it!*

Do not light the bonfire if conditions are unfavourable – for example, if smoke is likely to blow onto your neighbours home or garden.

Local weather conditions will affect the impact the smoke has on your neighbours. Still conditions will prevent the smoke from dispersing while windy conditions will blow smoke into neighbouring properties and across roads causing annoyance and possibly danger.

Bonfires can be a fire hazard; fire can spread to fences or buildings and scorch trees and plants. Sealed cans or bottles in a fire may explode.

Bonfire guidelines

To reduce the possibility of causing a nuisance to your neighbours:.

- Do not have a fire if the wind is variable or if it is blowing directly towards neighbouring properties
- Burn dry material only
- Never burn household rubbish, rubber tyres, or anything containing plastic, foam or paint
- Never use old engine oil, methylated spirits or petrol to light a fire or to keep it going
- Avoid lighting a fire in unsuitable weather conditions - smoke lingers on still days and if it is windy, smoke may be blown into neighbouring properties or across roads
- Avoid burning at weekends and on bank holidays when people want to enjoy their homes and gardens
- Avoid burning when the air quality in your area is 'poor' or 'very poor'. (You can check this by phoning 0800 556677, or by checking at www.defra.gov.uk)
- Never leave a fire unattended or leave it to smoulder - douse it with water if necessary and make sure it is out and will not continue to smoke once you have left it.
- Allow any fire to burn down as much as possible before extinguishing it. Established fires tend to give off less smoke and throwing water over a large fire will eject ash into the air, increasing the chances of annoying your neighbour.

If you have problems with a bonfire

If you are affected by a problem of bonfire smoke you may consider one of the following options:

1. It is best to approach your neighbour first and explain the problem. You might find this awkward, but they may not be aware of the problem and it may make them more considerate when planning and lighting a bonfire.
2. If this approach fails, contact the Environmental Services team at the Council. The Council is legally obliged to investigate all complaints of nuisance in their area, which includes bonfire smoke.
3. Section 82 of the Environmental Protection Act 1990 allows you to take private action through the magistrate's court but you should seek legal advice before doing so. Also. The Council's Community Protection Team can advise you about private remedies for resolving your complaint to help you decide the best way forward.
4. Under the Highways Act 1980 anyone lighting a fire and allowing smoke to drift across a road faces a fine if it endangers traffic. If this is the case you should contact the police.

Further advice

If you would like further advice or would like to report a bonfire nuisance, please contact Environmental Services on

Telephone: 01493 846478

Email: health@great-yarmouth.gov.uk



Department
for Environment
Food and Rural Affairs

Reducing air pollution from outdoor burning





Outdoor burning

Before burning any materials outside, remember that doing so can cause air pollution. If you decide to burn outdoors, **you must not:**

Burn household waste, and other types of waste, if it will cause pollution or harm your health or that of others (Section 33 (c) of the Environmental Protection Act 1990). For example, plastics, paints, rubber, furniture, treated wood, kitchen units, and old decking are likely to produce hazardous smoke. Household waste should be disposed of or recycled via your local authority waste service.

Allow the smoke to drift across the road and become a danger to traffic (Section 161A of the Highways Act 1980).

Produce smoke that will interfere with others living nearby, preventing them from using or enjoying their homes or affecting their health (Section 79 of the Environmental Protection Act 1990).

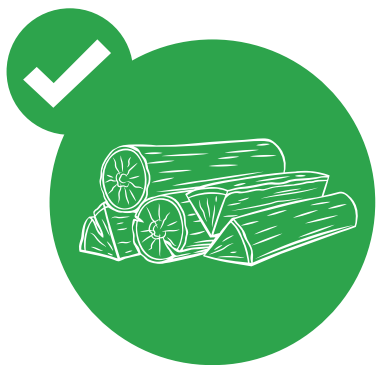


Did you know?

Air pollution is one of the greatest environmental threats to public health in the UK



Outdoor burning



If you decide to burn outdoors, **you should:**

Only burn dry materials, such as dry wood, or smokeless fuels as you would if you were burning indoors. Wet wood creates more air pollution than smokeless fuels or dried wood. Garden waste is also often wet and will create lots of smoke. Instead of burning garden waste, compost at home or use your local authority's garden waste collection service. Contact your local council to find out how to dispose of garden waste.



Be considerate of your neighbours - smoke may blow into their garden or into their house.



Use outdoor burning appliances in accordance with the manufacturer's instructions, and ensure they are not creating excessive smoke that might count as a nuisance. This includes appliances such as barbecues, pizza ovens, chimineas, and fire pits.



Did you know?

Annual mortality of human-made air pollution in the UK is roughly equivalent to between 29,000 and 43,000 deaths every year



Burning away from the home

Laws on burning away from the home may vary depending on the area. Ensure you are following local laws before having bonfires, barbecues, or engaging in any other outdoor burning activity in places other than your home.

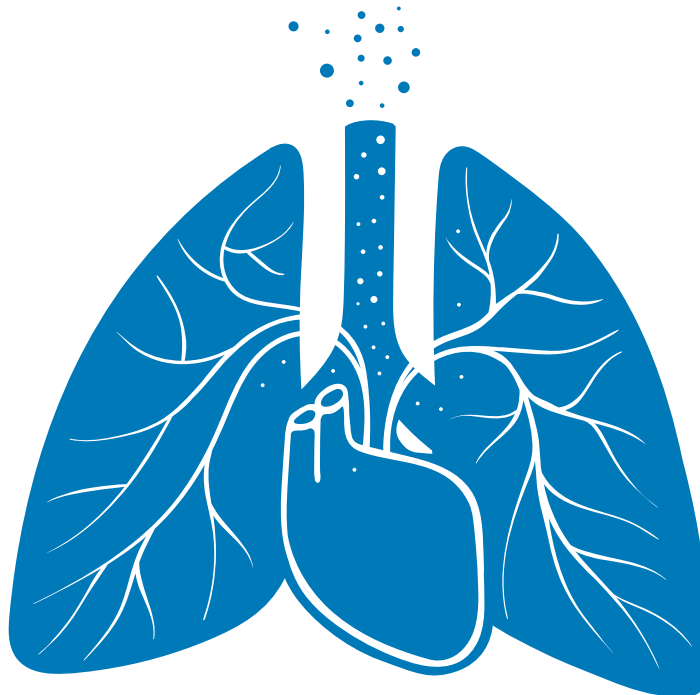


If you witness smoke emissions that are a nuisance or harmful to human health, you can complain to your local authority. If your local authority considers that a statutory nuisance has happened, they can issue an abatement notice to the person responsible. Failure to comply with the abatement notice could result in prosecution and a fine (the amount is set by the court). Search [gov.uk](https://www.gov.uk) for Nuisance smoke: how councils deal with complaints – GOV.UK (www.gov.uk) to find out more.



Did you know?

Burning of any kind produces particulate matter (PM), which is the pollutant of greatest harm to human health. Fine PM (known as PM_{2.5}) is a particular concern as it may pass through the lungs into the bloodstream.



Long-term exposure to PM can shorten life expectancy and cause cardiovascular and respiratory diseases. It is also linked to a wide range of other health effects including adverse birth outcomes, diabetes, dementia and cancer



Preventing wildfires

During dry weather, there is an increased risk of wildfires, which are dangerous, damaging to the environment and contribute to poor air quality. Although they are called wildfires, most are human made, so it's important you understand **how to prevent them**:

Take your litter home.

Don't leave bottles or glass in woodland – sunlight shining through glass can start fires (take them home and recycle them).

Extinguish cigarettes properly and don't throw cigarette ends on the ground – take your litter home.

Never throw cigarette ends out of car windows.





Preventing wildfires

Only use barbecues in a suitable and safe area and never leave them unattended.



Avoid having bonfires in very dry weather.

Avoid having bonfires in areas with long grass. Tall and dry grass will burn more intensely than short grass.



Talk to your children about the dangers of playing with fire and matches. Keep matches and lighters stored well away from children and teenagers.



If you see a fire in the countryside, report it to the fire and rescue service immediately. When visiting the countryside, follow The Countryside Code: advice for countryside visitors - GOV.UK (www.gov.uk).



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