South Northamptonshire Council

Cabinet

10 October 2016

Fly tipping & Environmental Enforcement

Report of Head of Environmental Services

This report is public

Purpose of report

To update the Cabinet on fly tipping and make the Cabinet aware of the planned actions to keep the district free of large amounts of fly tipping

1.0 Recommendations

The meeting is recommended:

1.1 To note the fall in fly tipping recorded in 2015/16 following several years of small fluctuations.

1.2 To note the successes of the Environmental Enforcement Team in bringing action against fly tippers.

1.3 To support the proposed actions including the introduction of fixed penalty notices for small fly tips.

2.0 Introduction

2.1 Fly tipping can be a significant problem when businesses or households dispose of their waste thoughtlessly.

2.2 Over recent years there has been between a fairly constant number of fly tips per year. The number of fly tips in the period 2009/10 – 2014/15 averages 342 per year.

2.3 The amount of fly tipping over this same period has shown a small fluctuation ranging from 306 to 383. However, in 2015/16 there was a significant fall with the number of fly tips falling to 274. In contrast, there was a rise in fly tipping in Cherwell in 2015/16.

2.4 Most of the fly tips are household waste, small in size and can be quickly removed. However, a small number are more difficult and involve asbestos or tyres. These are more challenging to remove and more costly to dispose.
2.5 Nationally there also has been a rise in fly tipping in 2014/15 with a near 6% rise. National data for 2015/16 will not be available until autumn 2016.

2.6 To stem any future rise in fly tipping a number of actions are proposed. These include measures to raise awareness of how to dispose of waste properly and the introduction of fixed penalty notices for fly tipping.

2.7 Over the last few years the amount of enforcement against fly tipping has increased. The enforcement team have built up experience and worked closely with the legal team on bringing forward possible prosecutions.

2.8 All fly tipping incidents are investigated. Some incidents have no evidence. Other incidents have some evidence and/or witness statements. A formal caution may be used where there has been limited involvement by the offender, have been quick to admit their part in the offence and have shown some level of remorse.

2.9 Unfortunately the average fine for fly tipping is relatively low with the average fine in the adjacent Cherwell area over the last four years being a little over £385.

2.10 From May 2016, the government has allowed the introduction of fixed penalty notices for fly tipping. The maximum charge can be £400. However the average fine in the Cherwell area has been around £385 and for small fly tips a fine is likely to be lower. Hence it is proposed that this Council introduces fixed penalty notices for small fly tips (car boot size or smaller) with a charge of £250, reduced to £150 if paid within 14 days. This is likely to mean that costly court action is not usually used for the smallest fly tips. Of course if the perpetrator is not prepared to accept the fixed penalty notice then court action will follow. For fly tips greater in size than a car boot or for material such as asbestos or tyres, court action alone will be used.

3.0 Report Details

Fly tipping

3.1 Over recent times fly tipping levels have been fairly stable with an average of 342 fly tips per year. There have been small fluctuations but no large changes. Last year the number of fly tips fell to 274, almost a 20% fall on the average between April 2009 & April 2015. The number of fly tips in each year is set out in the table below.

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of fly tips</th>
</tr>
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<tbody>
<tr>
<td>2015/16</td>
<td>274</td>
</tr>
<tr>
<td>2014/15</td>
<td>308</td>
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<td>2013/14</td>
<td>369</td>
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<td>336</td>
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<tr>
<td>2008/09</td>
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3.2 Most of the fly tips are household waste and either single items or a small car boot load. Such fly tips are not only an eyesore but are also detrimental to the environment.

3.3 All fly tips are investigated and then quickly removed. Some fly tips have no evidence as to where the waste has come from and no witnesses. However, other fly tips have names & addresses in the waste and/or witnesses to the fly tip.

3.4 Where evidence exists a case file is built up and if sufficient evidence exists, formal action will take place. In most cases this involves going to court. In some cases where the circumstances and the level of co-operation of the alleged offender have been very good then the route of a formal caution may be used. The number of formal cautions and prosecutions are set out in the table below

<table>
<thead>
<tr>
<th></th>
<th>2012/13</th>
<th>2013/14</th>
<th>2014/15</th>
<th>2015/16</th>
<th>Total</th>
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<tbody>
<tr>
<td>Formal cautions</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
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<tr>
<td>Prosecutions</td>
<td>0</td>
<td>0</td>
<td>1</td>
<td>5</td>
<td>6</td>
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3.5 All fly tips are captured on an Environment Agency system called Waste Dataflow. This system captures data on not only fly tipping but also on the wider waste agenda including recycling. To ensure an overall national picture can be built up from local data a number of issues have to be recorded for each fly tip. This includes the land type the fly tip was on, the type of primary waste in the fly tip and the size of the fly tip. On size, the categories are

- Single black bag
- Other single item
- Car boot load or less
- Small van load
- Transit van load
- Tipper lorry load
- Significant/multiple loads

Each of the sizes has a standard clearance & disposal cost attached so the overall cost of fly tipping can be calculated.

3.6 Of the fly tips in South Northants, the majority are household waste items. This percentage varies each quarter but is never below 50% and often is nearer 65%. In addition more than 50% of the fly tips are either single items or a car boot load or less.

3.7 From May 2016, local authorities are able to issue fixed penalty notices for fly tipping. With the average court fine being only £385, using a fixed penalty notice maybe a better option for some fly tips. The issuing of fixed penalty notices for fly tips of a car boot load or less and for single items may be a more cost effective and practical approach. The intention is to issue a fixed penalty notice of £250 reduced to £150 if paid within 14 days. In the event of individuals not accepting a fixed penalty notice or refusing to pay, then the court route would be followed.
3.8 The Enforcement team regularly meets with their counterparts in neighbouring authorities. These meetings give the opportunity to look at trends, share intelligence and look at any fly tips which may have cross boundary issues.

**Surveillance and fly tip hotspots**

3.9 Where locations are regularly subjected to fly tipping then an action plan can be developed to deal with this. This action plan may include signage or may include leaving the fly tip in place with signs asking for witnesses. Social media and press releases are also used. Additional patrols and inspections may also occur.

3.10 The use of covert cameras is strictly regulated by the Data Protection Act 1998 and the Regulation of Investigatory Powers Act 2000 (RIPA). This legislation only allows covert cameras where the offence is punishable by a prison sentence. This does apply to fly tipping, which can result in a maximum of six months in prison. However permission has to be granted by a magistrate and then only when strict criteria are met.

3.11 As a result of these requirements and the difficulty in positioning cameras the covert cameras are not used often.

**Disposing of household waste**

3.12 There should be no reason for residents to fly tip waste. The Council offers a comprehensive set of services to the householder. Each property receives a collection of household residual waste every two weeks. Each property also receives a collection of dry recycling materials, garden waste and separate food waste collections also on a two weekly basis. In addition batteries and small electrical items are collected at the kerbside if residents put the batteries in a clear plastic bag and small electrical items in a carrier bag and then place the bag on top of any of the bins.

3.13 The Council also has some competitively charged services for residents. This includes the bulky waste service. This service will take up to six bulky items (a three piece suite, a table, a chair & a washing machine for instance) for a one off charge of £30.

3.14 For residents who wish to dispose of waste at the Household Waste Recycling Centre in Towcester, the site is open five days a week.

3.15 For Brackley and surrounding areas this Council operates the site at Farthinghoe which not only takes a wide range of items for recycling and also items which can be reused. The site is open seven days a week. No residual waste is taken at the site.

3.16 In addition to disposal, a number of options exist for items which can be reused. Charities shops will take surplus clothes and small household items. A number of options exist for reusing furniture including a variety of third sector organisations.
3.17 To make residents aware of how to dispose of their waste responsibly, a campaign to raise awareness will be developed. This will use articles in SNC Review, the website and leaflets and possible roadshows.

3.18 Residents who pay unauthorised individuals or organisations to dispose of their waste can be prosecuted for breaching duty of care regulations. Residents must check that the person taking away their waste holds a registered waste carriers licence. If they do not check this and the waste is traced back to them, they can be prosecuted under Duty of Care.

3.19 By raising awareness to residents and businesses that there are easily accessible services available to dispose of waste and the consequences of not using these services, the number of fly tips should be brought back under control.

4.0 Conclusion and Reasons for Recommendations

4.1 Fly tipping is not a major problem in the South Northamptonshire area but it is irritating and unnecessary. Residents and businesses have a duty of care to dispose of their waste in a responsible manner.

4.2 Fly tipping fell in 2015/16 and actions are being put in place to ensure fly tipping doesn’t increase. By raising awareness of the need to be responsible with waste and by introducing fixed penalty notices for fly tipping, the number of fly tips will be kept under control.

5.0 Consultation

Neighbouring authorities in Northamptonshire
Cherwell District Council

6.0 Alternative Options and Reasons for Rejection

6.1 The following alternative options have been identified

Option 1: To support the proposed changes

Option 2: To reject the proposed changes

Option 3: To ask officers to consider alternative improvements

7.0 Implications

Financial and Resource Implications

7.1 There are no significant additional costs associated with this report. Moving to issuing fixed penalties for small fly tips will bring in very small amounts of additional income to offset a small proportion of costs.
Legal Implications

7.2 The Council now has the power to issue fixed penalty notices for fly tipping, as an alternative to prosecution in the Magistrates Court.

Comments checked by: Nigel Bell, Team Leader Planning & Litigation
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Risk

7.3 The number of fly tips is monitored through the performance management. The number of fly tips will be managed through the operational risk register and escalated through to the corporate risk register as and when necessary

Comments checked by Louise Tustian, Senior Performance Officer, 01295 221786, louise.tustian2@cherwellandsouthnorthants.gov.uk

8.0 Decision Information

Key Decision – No

Financial Threshold Met: No
Community Impact Threshold Met: No

Wards Affected
All

Links to Corporate Plan and Policy Framework

Protect the District

Lead Councillor

Councillor Dermot Bambridge, Portfolio Holder for Environmental Services

Document Information

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