

## **SLOUGH BOROUGH COUNCIL**

**REPORT TO:** Neighbourhood & Community Services Scrutiny Panel

**DATE:** 1<sup>st</sup> March 2018

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**WARD(S):** All

### **PART I** **FOR COMMENT & CONSIDERATION**

#### **FLY TIPPING IN SLOUGH**

##### **1. Purpose of Report**

- 1.1 This report sets out the legislation available to the Council to allow them to undertake enforcement and legal action with regards to fly tipping.
- 1.2 At a previous panel meeting it was asked for clarity and a review with regards to the following -.
- A. The extent to which fly tipping was caused by private individuals, commercial enterprises and the turnover of housing stock is unclear.
  - B. The legal powers and regulatory tools available to the Council to stop fly tipping were unclear.

##### **2. Recommendations**

The Panel is requested to resolve that:

- a) The Panel to note the key actions developed.
- b) To consider the approach taken which is detailed and provide comments and advice to achieve a better outcome.

##### **3. The Slough Joint Wellbeing Strategy, the JSNA and the Five Year Plan**

The connection between health and good quality environment is well established. SBC's 5 Year Plan sets out the ambition to regenerate neighbourhoods, improve the quality of the environment and to contribute to reducing waste generation, responsible waste disposal and handling and meeting waste recycling targets.

##### **3a. Slough Joint Wellbeing Strategy**

The eradication of fly tipping supports the following priority of the strategy:

- Housing

3b. **Five Year Plan Outcomes**

The actions detailed in this report assist with the following outcome:

- Slough will be an attractive place where people choose to live, work and visit.

4. **Other Implications**

(a) Financial

There are no direct financial implications of the proposed action.

(b) Risk Management

Recommendation	Risk/Threat/Opportunity	Mitigation(s)
The entire process in this area is a risk based approach and the actions taken / policies adopted are within the legislative and regulatory framework..	There is no risk or threat to the current situation regarding the nature of this report. There are however opportunities in implement and using the legal powers available.	Through partnership working we could reduce or mitigate any potential risks.

(c) Human Rights Act and Other Legal Implications

There are no human rights or other implications

(d) Equalities Impact Assessment

An EIA is not required.

5. **Supporting Information**

5.1 Fly-tipping is defined as the illegal depositing of waste in an unauthorised location. Fly-tipping is a criminal offence in the UK by virtue of Section 33 of the Environmental Protection Act 1990 and is punishable by an unlimited fine or up to five years imprisonment if convicted in the Crown Court (HMSO, 1990). The evidence test for conviction is “beyond all reasonable doubt” and requires witnesses to give live evidence in court. Local Authorities (LAs) share responsibility for the enforcement of this statute with the Environment Agency.

5.2 Fly-tipping is a ‘catch-all’ terminology conventionally used to describe offences wide ranging in their extent; from deposits of single sacks of household rubbish to industrial scale tipping of tonnes of commercial waste. The House of Commons Environmental Audit Committee in 2003 expressed concern that the term fly-tipping underplays the severity of an offence that has a profound impact on the environment and society (Papworth and Thompson, 2009).

5.3 In 2013/2014 English Local Authorities (LAs) dealt with 852,000 cases of fly-tipping. This represented a significant increase of 20% compared with the

previous year (Priestly, Bennet and Pratt, 2016). There was a further 5.6% increase in 2014/2015 with local authorities reporting 900,000. The estimated cost to English Local of clearing this fly-tipped waste Authorities was £50 million (DEFRA 2015).

- 5.4 The DEFRA Fly-tipping Statistics for England 2016/17 (APPENDIX 1) indicates - For the 2016/17 year, local authorities in England dealt with around 1 million (1,002,000), fly-tipping incidents a 7% increase from the previous year 2015/16. Two thirds (67%) of fly-tips involved household waste. Total incidents involving household waste increased by 8% from 2015/16. Consistent with previous years, the most common place for fly-tipping to occur was on highways, which accounted for almost half (49%) of total incidents in 2016/17. The number of highway incidents has increased by 4% from 2015/16. As in the last few years, the most common size category for fly-tipping incidents in 2016/17 was equivalent to a 'small van load' (33% of total incidents), followed by the equivalent of a 'car boot' (27%). The estimated cost of clearance for fly-tipping to local authorities in England in 2016/17 was £57.7 million. Local authorities carried out 474,000 enforcement actions in 2016/17, costing around £16 million, a decrease of 20,000 actions and £0.9 million in cost from 2015/16. The number of fixed penalty notices issued increased by 56% to 56,000 in 2016/17. This is now the second most common enforcement action (after investigations), and accounted for 12% of all enforcement actions in 2016/17.
- 5.5 The apparent increase in fly-tipping is a major cause for concern for LAs in the UK as they are legally obliged to keep public land within their jurisdiction free from litter and refuse and are therefore unable to avoid the costs associated with the collection and disposal of fly-tipped waste. However the impact of fly-tipping is not merely financial. It is postulated that fly-tipping impacts more widely on the environment, the economy and society.
- 5.6 The natural response of LAs and the Environment Agency to dealing with fly-tipping is to regulate and enforce, and both organisations have a range of enforcement tools at their disposal (Webb 2006). However, for a variety of reasons criminal convictions for fly-tipping are relatively few. 1% of the cases reported in 2014/15 resulted in a criminal conviction (DEFRA, 2015). Furthermore there is evidence concerning the effectiveness of enforcement and other interventions in tackling fly-tipping and other environmental offences such as littering.
- 5.7 In 2016 a Dissertation Paper was written entitled "An Investigation into Fly-tipping in the Borough of Slough" (Appendix B). This paper specifically focussed upon the circumstances around the issue of fly-tipping within Slough taking into account a number of Council reporting databases and collating the results for comparison. This paper suggested in its conclusions that if fly-tipping is to be tackled effectively, a more proactive evidence based approach is required, involving careful examination of the factors which drive people to illegally dump waste, so that local strategies can be devised, implemented and assessed.
- 5.8 In 2015/16 Neighbourhood Services received 920 complaints classed as fly tipping.

In 2016/17 Neighbourhood Services received 1190 complaints classed as fly tipping.

This does not include complaints made directly to Environmental Services which on average over the same period equated to about 500 to 800 reports per year of fly tipping. Typically the items fly tipped ranged from bags of domestic waste, furniture, house hold items, tyres and other vehicle parts, rubble and bricks, wooden pallets and fencing material etc.

5.9 The issue in dealing with reported fly tips is two fold –

1. Are the items fly tipped dangerous and therefore require immediate removal? This happens with such items as caravans packed with waste, lorry trailers packed with waste, fuels and oils, gas cylinders, asbestos, highly flammable material and any other items that present a danger or risk to both vehicle and air traffic and the public. Rapid removal often damages or causes the loss any evidence within the waste to suggest where it came from.
2. Is there any evidence within the waste to identify ownership or where the waste came from. Details such as this are rarely if ever found within certain types of waste. Sometimes it can be located in domestic waste and other such waste that contains any paperwork. However people are wise to this and often remove any trace of names and addresses now due to well publicised identity theft. Finding such evidence can also be a timely, dirty process and often required dealing with contaminated articles covered in food waste, excrement, water, oil etc.

5.10 In 2015 Slough Borough Council successfully prosecuted a serial fly tipper after a two year investigation that involved seizing two vehicles, covert surveillance and a technical and very time consuming investigation. The outcome was an 18 month prison sentence. The full costs of this case were never fully recovered by the council.

5.11 In 2017 Slough Borough Council successfully prosecuted an individual for the illegal dumping of builders waste within a carpark at Herschel Park (Appendix C). The investigation began in April 2016 and it took until December 2016 to complete the investigation so securing the evidence necessary to allow the council to successfully prosecute the individual concerned. In this example the cost to remove the waste dumped in the car park was £750. The costs to prosecute the individual responsible were £3200. The costs awarded to the council for their expense upon successful prosecution was £1720 paid off at a rate of £300 per month. Assuming payment of these costs there is a deficit shortfall of at least £2230.

5.12 In 2017 an area of enclosed and fenced private land off the Bath Road and another area of enclosed and fenced private land was trespassed upon by a group of individuals and then systematically filled with waste from typically house renovation work as part of a commercial activity over a period of about 3 weeks (Appendix D).

5.13 The private landowners in this case were responsible for the eviction of the trespassers and are now responsible for the removal of the waste from their land.

In this case the Environment Agency is the enforcing authority due to the amount of the waste deposited. However these incidents in Slough are part of a growing problem nationally that involved both areas of private land and empty industrial units and buildings.

**The extent to which fly tipping was caused by private individuals, commercial enterprises and the turnover of housing stock is unclear**

- 5.14 There is no data available to confirm a specific profile of a fly tipper in Slough. Evidence of the type and quantity of waste fly tipped suggests strongly that they are from all of these categories.

**The legal powers and regulatory tools available to the Council to stop fly tipping were unclear**

- 5.15 There is a difference between stopping something and or dealing with the after effects of something being done.

**Reactive** -There is clear legislation in place under the Environmental Protection Act 1990, Cleaner Neighbourhood and Environment Act 2005 and the Control of Pollution (Amendment) Act 1989 to deal with the offence of fly tipping where evidence permits.

**Pro- active** -There is also clear legislation in place under the Town and Country Planning Act 1990, Anti Social Behaviour Crime and Policing Act 2014 and Environmental Protection Act 1990 that can legally require owners of vacant land, property or where waste is being fly tipped on land or property to take action to prevent fly tipping where evidence permits and ownership and responsibility can be defined clearly.

**What We Have Done So Far**

- 5.16 We have taken the following forms of action:

- Investigated reports of fly tips where there is evidence of a potential offender and taken legal action where possible.
- Run a series of multi agency operations to specifically target the carriers and transporters of waste and issued notices and FPNs to unauthorised waste carriers.
- Seized vehicles and had them disposed of where they are used in the commission of fly tipping offences. (Appendix E).
- Worked with neighbouring police and council teams to deal with cross boundary offenders who fly tip in Slough.
- Provided intelligence and worked with the Environment Agency to tackle commercial cross boundary fly tipping offenders.
- Identified vulnerable properties and land in Slough and ensure that they are secured to prevent unlawful entry that would allow fly tipping.
- Used all available legislation and powers pro-actively to tackle problems and address issues and in addition using partners enforcement powers to address other matters.

## **What We Plan To Do**

- 5.17 Currently the Resilience and Enforcement Team are working with a Thames Valley wide Police partnership initiative to tackle transient groups that are connected with unlawful waste collection and transport. To this end we have in principle agreed locally a process going forward and designed a publicity strategy. In addition the Resilience and Enforcement have been given the delegated authority to use other legal powers to tackle transient unlawful encampments on private land where there is a clearly identified proportionate need.
- 5.18 For the Resilience and Enforcement Team to design and implement a project over the next 12 months that aligns with and supports the councils aspirations for the environmental improvement of Slough High Street. This will specifically focus on waste and waste related issues.
- 5.19 The Resilience and Enforcement Team to undertake over the next 12 months intelligence led project in conjunction with other council departments such as Environmental Services, Parks and Highways and other applicable external partners such as the Environment Agency (Appendix F). This is to use data and information gathering techniques to tackle the aspects around fly tipping to include identifying locations, trends, waste types and quantities of waste in a process of addressing identified issues, offenders and offences in a way that addresses fly tipping in a preventative way. Also to look at best practise elsewhere and try a variety of initiatives as part of this project.

## **6 Comments of Other Committees**

This report had not been considered by other committees.

## **7 Conclusion**

This report provides details of actions taken and planned to deliver a key part of the 5 Year Plan (Outcome 3 - Slough will be an attractive place where people choose to live, work and stay). The objectives and the resulting actions demonstrates the Council's commitment to improving the environment across the borough.

We would welcome member's comments and suggestions to improve the process and our approach to achieve better outcomes.

## **8 Appendices Attached**

- 'A' - DEFRA Fly-tipping Statistics for England and Wales
- 'B' - Investigation into Fly-tipping in the Borough of Slough
- 'C' - Photograph (14<sup>th</sup> April 2016) of fly tip in Herschel Park car park
- 'D' - Photographs throughout 2017 of fly tipping incidents on private land
- 'E' - Guidance on seizing vehicles for suspected waste crime

'F' - Press Release: New Steps to Tackle Illegal Waste and Fly-tipping

9 **Background Papers**

None