

Cherwell District Council

Executive

3 October 2016

Fly tipping & Environmental Enforcement

Report of Head of Environmental Services

This report is public

Purpose of report

To update the Executive on fly tipping and make the Executive aware of the planned actions to reduce the number of fly tip instances.

1.0 Recommendations

The Executive is recommended:

- 1.1 To note the rise 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 390 – 470 fly tips per year. The number of fly tips in the period 2009/10 – 2014/15 averages 430 per year.
- 2.3 The number of fly tips over this same period has shown a small fluctuation ranging from 390 to 469. However, in 2015/16 there was a more significant rise with the number of fly tips increasing to 558. For the first three months of 2016/17, there has been a further small rise with the number of fly tips increasing to 145 in 2016/17 from 137 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 2017.
- 2.6 To stem the rise in fly tipping a number of actions are proposed. These include communication 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 maybe 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 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 for a fixed penalty notice for fly tipping is £400. However with the average fine having only been £385 and the likely fine for a small fly tip is likely to be lower. Hence it is proposed that fixed penalty notices for small fly tips (car boot size or smaller) be introduced with a charge of £250. If this paid within 14 days it would be reduced to £150. This is likely to mean that costly court action is not usually used for the smallest fly tips. However, 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 430 fly tips per year. There have been small fluctuations but no large changes. Last year the number of fly tips rose more significantly to 558, almost a 30% rise on the average between April 2009 & April 2015. The number of fly tips in each year is set out in the table below

Year	Number of fly tips
2015/16	558
2014/15	447
2013/14	469
2012/13	390
2011/12	429
2010/11	420
2009/10	448
2008/09	670

- 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.

	2012/13	2013/14	2014/15	2015/16	Total
Formal cautions	6	9	8	7	30
Prosecutions	1	2	11	9	23

- 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 Cherwell, the majority are household waste items. This percentage varies each quarter but is never below 50% and often in 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 then difficulty in positioning cameras, the covert cameras are not used often. When the requirements were a little less onerous they were used more frequently but they only resulted in one successful prosecution.

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 and garden waste/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 three bulky items (a three piece suite for instance) for a one off charge of £16.
- 3.14 In addition if residents wish to have a major clear out, for a one off charge of £48 residents can have the use of a 1100 litre bin (either for residual waste or for garden waste) for two weeks. In comparison, a skip can cost considerably more than £200.
- 3.15 For residents who wish to dispose of waste at the two Household Waste Recycling Centres in Alkerton or at Ardley, the sites are open seven days a week.
- 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 encourage residents to use the services available during Neighbourhood blitz events, a free bulky waste collection service is offered to residents within the Neighbourhood blitz area.

- 3.18 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 Cherwell Link, the website, leaflets during Neighbourhood blitz events and roadshows.
- 3.19 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.
- 3.20 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 Cherwell 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 rose in 2015/16 and actions are being put in place to reduce fly tipping. 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 brought back under control.

5.0 Consultation

Neighbouring authorities through the Oxfordshire Environment Partnership

Overview & Scrutiny Committee

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

Comments to be checked by:

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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:

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Risk

- 7.3 The number of fly tips is monitored through the performance management system. 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:

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8.0 Decision Information

Key Decision

Financial Threshold Met: No

Community Impact Threshold Met: No

Wards Affected

All

Links to Corporate Plan and Policy Framework

Cherwell: Safe, Clean and Green

Lead Councillor

Councillor Debbie Pickford, Lead Member for Clean and Green

Document Information

Appendix No	Title
None	
Background Papers	
None	
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