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## **ECONOMIC DEVELOPMENT, ENVIRONMENT AND INFRASTRUCTURE SCRUTINY PANEL**

A meeting of the Economic Development, Environment and Infrastructure Scrutiny Panel was held on Wednesday 3 November 2021.

**PRESENT:** Councillors S Walker (Chair), R Arundale (Vice-Chair), D Branson, D Coupe, T Furness, B Hubbard, T Mawston and M Storey

**OFFICERS:** S Lightwing, G Field and D Metcalfe

**APOLOGIES FOR ABSENCE:** were submitted on behalf of Councillor M Saunders

### 21/32 **DECLARATIONS OF INTEREST**

There were no declarations of interest received at this point in the meeting.

### 21/33 **MINUTES - ECONOMIC DEVELOPMENT, ENVIRONMENT AND INFRASTRUCTURE SCRUTINY PANEL - 6 OCTOBER 2021**

The minutes of the meeting of the Economic Development, Environment and Infrastructure Scrutiny Panel meeting held on 6 October 2021 were taken as read and approved as a correct record.

### 21/34 **FLY TIPPING AND BULKY WASTE COLLECTION SERVICE - UPDATE**

The Director of Environment and Community Services and the Operational Community Service Manager were in attendance at the meeting to provide an update on Fly Tipping and the Bulky Waste Collection Service.

The Council had introduced a new approach to fly tipping and this was beginning to show some success. The new flying squad was trying to get fly tips cleared as quickly as possible, as well as taking more enforcement action. The Council had been more proactive about asking members of the public to report fly tipping and more CCTV would also be introduced. Reference was made to a previous campaign by the Council against illegal fly posting that had been successful and promoted the message that incidents would be dealt with immediately and through the court system if necessary.

Staffing in the Environmental Neighbourhood Safety Wardens team had been increased in March 2021 and a new approach to tackling fly tipping had been introduced. The team comprised: a Senior Neighbourhood Safety Environmental Warden, six Environmental Neighbourhood Safety Wardens and five Area Care Operatives. With the new team, when a job was logged the team would attend, investigate the matter and then clear the fly tipping material at the same time, rather than operatives attending to carry out different elements of the process at different times.

The team were responsible for responding to fly tipping/dumped material, abandoned vehicles, untaxed vehicles, littering, stray dogs, PSPO prohibition breaches, flyposting and illegal advertising and supporting the Warden Service with any requirements.

The Council had a number of informal and formal powers to deal with the issues listed above as follows:

Advice and guidance. Officers would seek to help individuals, existing and prospective businesses and other organisations to comply with legal obligations by providing information and guidance to help resolve potential problems.

Informal warnings. Informal warnings in the form of Community Protection Notices, could be issued to reinforce advice and guidance where minor breaches of the law had been discovered but where it was thought inappropriate to take formal action. Warnings could be verbal or written and follow up visits could be made to ensure that steps had been taken to

rectify the problem. Warnings issued in respect of significant breaches of legislation would include timescales within which the breaches should be rectified and would always result in follow up visits to ensure compliance.

**Statutory Notices.** Some legislation provided for the service of statutory notices, which required a person, business or organisation to comply with specific legislation. The notice would explain what was wrong, what was required to put things right, the timescale in which to put things right, and what would happen if the notice was not complied with. In some circumstances, where a formal notice has been served, there might be a right of appeal against the Council's decision. In such cases, an explanation of the method of appeal would be provided at the time the notice was issued. In general, it was the Council's policy to either formally caution or prosecute individuals, businesses, or organisations that did not comply with a properly written and served Statutory Notice.

**Fixed Penalty Notice (FPN).** FPNs could be issued for certain offences and allow individuals or businesses to discharge their liability for an offence, avoiding prosecution and a criminal record. Issued only when an offence had been committed, an FPN was a proportionate response where there was evidence to support prosecution if the offender failed to pay the fixed penalty. Payment of the FPN prevented any further action. No record of the FPN was kept - except by the Council for up to three years. There was no formal appeal process for a FPN. If there was disagreement that an offence had been committed and the Fixed Penalty Fine was not paid, the matter would be decided by a Court. Recent prosecutions by Middlesbrough Council had initially been dealt with by the issue of an FPN.

There were various charges for different offences and the Council had a policy in place which provided a breakdown of the penalties for fly tipping, littering, dog fouling and vehicle issues.

**Formal Caution.** Under certain circumstances a formal caution could be used as an alternative to prosecution and would usually be considered before making a decision to prosecute. A formal caution was a serious matter and would be recorded. In addition, it might be used to influence any decision on whether or not to prosecute should the individual, business, or organisation offend again. Formal cautions remained on record for a period of three years. Formal cautions were intended to deal efficiently with certain offences, avoiding unnecessary appearances in Court, and reducing the chance of re-offending. Before issuing a caution, there must be sufficient evidence of guilt to give a realistic prospect of conviction; and the offender must understand the significance of the formal caution and sign a declaration admitting the offence.

**Prosecution.** The Council would use discretion in deciding whether to initiate a prosecution and generally would only bring proceedings when it was considered to be in the public interest. A decision to prosecute would only be taken when there was sufficient evidence for a realistic prospect of conviction, and would take into account any statutory defence available to the defendant and any contributory factors which might preclude a successful prosecution. The decision to prosecute would always take into account the criteria laid down in the Code for Crown Prosecutors. Advice would be sought from the Council's Legal Team.

**Execution of Works in Default** (where the recipient of a statutory notice had not complied with the notice). Where the requirements of the notice were not carried out, in many instances the Council was empowered to do whatever was necessary in execution of that notice and recover the costs of doing so from the person responsible.

Since the 1 April 2021 until 30 September 2021 the Environmental Wardens Team had dealt with a total of 3974 cases, with 2818 of those being in relation to dumped material/fly tipping. It was pleasing to note however that there had been a reduction in reports coming into the organisation for fly tipping offences. There had also been an increase in the number of positive reports about improvements in the general appearance of the town.

An overview of the total reported incidents of fly tipping showed that it continued to reduce since the new team had been introduced.

Examples of enforcement action taken were presented to the Panel.

Fly tippers had been warned their vehicle could be crushed if they were caught offending in Middlesbrough. In the first case of its kind in the town, Environmental Officers tracked down

and destroyed a vehicle used in an alleged case of fly tipping. The suspect was accused of dumping bricks, rubble and carpets at the former Southlands Centre site on Ormesby Road in July. Officers tracked down the suspect before seizing and crushing his van, worth around £1,000, using powers under the Environmental Protection Act. The owner had been summoned to appear at court for fly tipping. In another joint investigation with other Tees Valley authorities, a car used for fly tipping was also seized. Enquiries were ongoing with the DVLA to establish whether seized vehicles could be re-sold, or crushed vehicles weighed in, with the proceeds being re-distributed to community groups.

CCTV had been increased across Middlesbrough and had been installed at hotspot locations for fly tipping. Examples were provided of recent incidents caught on camera where offenders had been seen fly tipping, FPNs had been issued and paid in full by the perpetrators. Since the installation of CCTV the areas that were monitored were much cleaner and the cameras and enforcement measures appeared to be acting as a deterrent.

After receiving several complaints about abandoned vehicles, untaxed vehicles and vehicles parked in contravention of double yellow lines, the Council embarked on two days of action. In excess of 25 vehicles were in breach of legislation that the Council could take action against. Council Officers engaged with businesses at the location to educate them around their responsibilities and there was a significant improvement in the general area. Two vehicles were later seized. Three untaxed vehicles were also removed from the roadside in North Ormesby and Newport.

New arrangements for junk job collections were introduced in October 2019 which included a free junk job collection service with a waiting period of up to 12 weeks, and a premium charge service collection costing £20 for up to five items and collected within 3 weeks.

From April 2020 to March 2021, 3681 non electrical items were booked in for collection and 2217 electrical items. From April 2021 to October 2021, there were 2571 non electrical items and 1663 electrical items booked in. Approximately two thirds of the collections were paid for and around one third were free.

As of 1 February 2021 the number of mattresses collected increased from approximately 50 to 100 per week and since that date a total of 3300 mattresses had been collected within a waiting time of approximately two to three weeks.

In relation to items left on the roadside for scrap collectors, the correct procedure was for the collector to complete waste transfer notes and speak to the owner at the property where the item was left. Technically, if this didn't happen, offences were committed under the Environmental Protection Act. The Council could legally take action against both the collector and the person leaving the item out for collection.

In order to take enforcement action against a parked vehicle, the vehicle had to be in contravention of some form of legislation. Lots of areas in the town had traffic regulations in place. However if a vehicle was causing an obstruction, if it was parked on a footpath for example, legislation was available to both the Council and the Police for removing and seizing that vehicle.

An issue was raised in relation to eye sore properties and the Panel was advised that this did not fall into the remit of the Directorate. Panel was later informed that there would be a presentation on this topic at the December meeting.

It was clarified that when the Council arranged to collect an item it was from the property and not from the land outside it. This enabled a distinction to be made between items left out for collection and items that had been fly tipped.

A Councillor shared his experience of difficulties encountered when trying to dispose of a piano and finding a company that was able to do this. The Director agreed to look into this issue further as it was not something that had been raised with him previously.

A question was raised into CCTV and whether it might be intrusive into people's properties, for example, where it was needed in an alleyway. The officer explained that privacy screens could be used on the CCTV cameras to ensure that householders' privacy was maintained at

all times. A privacy impact assessment was carried out whenever CCTV was installed. Legally the Council could only monitor public open space.

It was confirmed that no bonfires were permitted on public land and the Council was proactive in collecting any waste that had been gathered for this purpose. There was an inter-agency approach between the Council, Police, Fire Brigade and other organisations in the lead up to Bonfire Night to try and reduce the issues.

A query was raised as to whether there was any link between an increase in fly tipping and residents having to wait 12 weeks for free bulky waste collection. There was a suggestion that when residents were told how long they might have to wait for an item to be collected they might fly tip it rather than wait. It was explained that prior to the new service, the collection wait was around 8 weeks, and the current 12 weeks' wait was the maximum, with collections often being made sooner. In addition, other ways of waste disposal were available, including the premium collection service and the Haverton Hill Tip.

The Council had provided ways for people to dispose of their waste items and it was individuals' responsibility to do this. One way to address the length of the wait for bulky waste collection would be to apply additional resources to the service, although that could potentially be to the detriment of other services within the Directorate as there was a finite budget. The cost of collection and disposal of the 3300 mattresses collected to date this year was approximately £50,000. A Councillor commented that a re-allocation of resources from the fly tipping squad to the bulky waste collection team could be a way of reducing the amount of fly tipping by stopping it at source. However it was also noted that it was difficult to quantify how long people would actually be willing to wait for an item to be collected before deciding to fly tip it.

The excellent work of Street Wardens across the town was highlighted. It was noted that the team was funded from the Indigenous Growth Fund and this funding was due to cease next year. The Director was asked what plans were in place to continue funding the Street Wardens and it was explained that this would be a political decision with regard to the Medium Term Financial Plan and the Council's next budget.

It was confirmed that all Street Wardens now carried body worn cameras which were activated when they attended an incident. It was also clarified that all Council staff were proactive in reporting fly tipping to community services so that it could be dealt with as quickly as possible.

The Chair thanked the officers for their attendance and presentation.

**AGREED** that the information provided was received and noted.

21/35

## **SCRUTINY REVIEW OF THE GREEN STRATEGY**

Panel Members discussed Terms of Reference for the scrutiny review of Middlesbrough Council's Green Strategy.

**AGREED** that the following Terms of Reference were approved:

- A) To examine the Council's proposals to meet Government targets for greenhouse gas emissions, make Middlesbrough more climate resilient, and minimise the environmental impact of services.
- B) To investigate in detail the following elements of Middlesbrough Council's Green Strategy Action Plan:
  - Land Use and Wildlife.
  - Culture and Community.
  - Sustainable Transport.
- C) To identify and investigate examples of best practice that can be adopted in Middlesbrough.

21/36 **DATE OF NEXT MEETING - 1 DECEMBER 2021**

The date and time of the next meeting was confirmed as Wednesday 1 December 2021 at 10.30 am.

**NOTED**

21/37 **OVERVIEW AND SCRUTINY BOARD UPDATE**

The Chair provided a verbal update on the Overview and Scrutiny Board meeting held on 20 October 2021.

21/38 **ANY OTHER URGENT ITEMS WHICH IN THE OPINION OF THE CHAIR, MAY BE CONSIDERED**

None.