

<b>22 February 2018</b>		<b>ITEM: 7</b>
<b>Cleaner Greener and Safer Overview and Scrutiny Committee</b>		
<b>Fly Tipping of Alleys</b>		
<b>Wards and communities affected:</b> All	<b>Key Decision:</b> Key	
<b>Report of:</b> Gavin Dennett – Environmental Health and Trading Standards Manager		
<b>Accountable Assistant Director:</b> Andy Millard – Assistant Director Planning Transport and Public Protection		
<b>Accountable Director:</b> Steve Cox – Corporate Director of Place		
<b>This report is Public</b>		

### **Executive Summary**

Over recent years a number of incidents of fly tipping or unauthorised rubbish disposal in private alleys have been reported to the Council. This is often unsightly and in some cases can present a risk to public health.

There is no formal policy on the approach that should be taken by council officers to resolve these service requests.

At the meeting of 28 June 2017 the Council passed a motion calling on the Cleaner, Greener and Safer Overview and Scrutiny Committee to conduct a full review of fly tipping in private alleys in order to:

- Understand the scale of the issue across the Borough.
- Review the impact on residents of the Council's approach to fly tipping in private alleys.
- Evaluate potential policy responses, including understanding the cost to the council of taking action and exploring new, more innovative solutions.
- Make recommendations on the best approach to improving the situation.

The purpose of this report is to report back on the findings of the review undertaken in response to the Council motion.

## **1. Recommendation(s)**

### **1.1 That Cleaner Greener Safer Overview and Scrutiny Committee recommend to Cabinet the following policy approach for dealing with the issue of fly-tipping in private alleyways:**

- i. That the Council launch a communications campaign to raise awareness of the responsibilities of all parties in relation to the clearance of alleys and providing information to facilitate resident organisation of and participation in community initiatives to combat fly tipped alleys.**

**That in instance where fly tipping in alley ways is identified, officers follow the following sequential approach:**

- ii. Signposting of concerned residents to the Community Environment Development Fund, to assist in target hardening or other measures such as gating to reduce the incidence of fly tipping in alleyways.**
- iii. Formally request that the occupiers of adjacent premises clear up their alleyway if concerns about non-hazardous alleyway accumulations persist.**
- iv. Offer a paid service to clean up alleyway accumulations on a cost recovery basis where the steps above do not result in the fly tipping being removed**
- v. As a last resort, pursue enforcement action to ensure the removal of potentially hazardous accumulations against the occupiers of adjacent properties and to charge occupiers accordingly.**

## **2. Introduction and Background**

- 2.1 Incidents of fly tipping or unauthorised rubbish disposal in alleys are generating requests for service from the Council. So far in the 2017/18 financial year, 348 such requests have been received.**
- 2.2 The de facto position is that where alleys are in Council ownership these are cleared by the Council. Where the alleys or other similar spaces are not in Council ownership it is not the Council's responsibility to clear accumulations. The responsibility for clearance in these cases passes to the owner of the land. In the case of alleys, where no single owner can be identified the Council can require the occupiers of adjacent properties to clean the alley. The power for councils to require adjacent property occupiers to clean alleys is provided by the Public Health Act 1936. There is no equivalent power to require the owners of adjacent premises to clean the alley. The Council has no formal policy governing its application of the Public Health Act provisions or procedures for arranging clearance in such cases.**
- 2.3 As set out in the report to the previous meeting there is currently no formal policy in place to guide officers in dealing with service requests relating to fly tipped private alleys. This gives rise to a risk of inconsistent responses to these**

requests and budget pressures for departments attempting to get fly- tipped alleys cleared. The principal options available to the Council for dealing with rubbish in alleys were identified in the previous report to this committee as follows:

- The Council requires residents to collectively clear the rubbish or pay for its removal and undertake appropriate enforcement action where notices are not complied with. This option would entail action/cost on the part of residents of properties around affected alleys and could attract criticism from the residents concerned who might feel unjustifiably penalised (notably, if they were not directly responsible for the accumulations). There are also charging and legislative issues that would need to be considered as part of the review.
- The Environment and Highways Directorate undertake the clearance of rubbish in alleys at the Council's expense. This option would impose costs on the Council's Environment Service as they would have to collect and dispose of fly tipped material or other rubbish reported at these locations. There is no current budget for this work.
- No action is taken by the Council to clear rubbish from these locations and no enforcement action is taken. This option could give rise to alleys becoming a risk to public health and or unsightly to residents who use them and live in the vicinity. As such it could draw criticism of inaction by the Council.

### **3. Consultation Feedback**

- 3.1 The review consisted of a number of elements. The first was a meeting between officers and the reviews Lead Member to scope out the review. This was followed by a call for comments and suggestions from Cleaner Greener Safer Overview and Scrutiny Committee, the formulation and conduct of a consultation exercise to gauge public attitudes to the issue of fly tipped alley ways and a request for information on the practice with regard to fly tipped alleys at other local authorities.

#### **Cleaner Green Safer Overview and Scrutiny Committee Comments**

- 3.2 The Councillor suggestions are summarised with officer comments in Appendix 1. In general the suggestions from Councillors on the committee indicated a preference for preventative type activity to reduce the problem of fly tipping in alleys before it occurred. The majority of these suggestions, for example Waste Carrier Licence checks, are being undertaken by various council teams already. In these cases the committee may wish to consider the option to increase funding to undertake more work in these areas. Those suggestions that are not currently the subject of any council activity are Facebook monitoring and subsequent licence checking, the provision of bulky refuse collection points at suitable points around the area and communication with private landlords on their responsibilities for waste. Whilst these suggestions may contribute to reducing fly tipping more generally they do not particularly address the issue of

tipped alleys and so are not recommended as part of a package of measures to solve this issue.

### **Public Comments**

3.3 The consultation exercise results are included as Appendix 2. The feedback provided by respondents to the consultation indicated that:

- **70%** of the people who answered the survey are unaware of who is responsible for maintenance. Could a recommendation be for communications to let residents know where responsibility lies. Whilst residents are unaware of the responsibility they will assume that it is a Council matter and will continue to reflect badly on the Council.
- **61%** of respondents are not aware of any maintenance that takes place in their alleyway.
- **65%** of respondents would be willing to be involved in Community Organised Work. This could support use of the Community development Fund for resident led Alley gating Schemes/Bids.
- **87%** of respondents support enforcement action against those who fail to maintain alleyways that they are responsible for.
- There were 77 respondents to the consultation.

### **Local Authority Benchmarking**

3.4 A request for examples of other approaches to dealing with fly tipped alleys was made via the Association of Public Service Excellence (APSE) portal. To date no responses have been received. If any responses are received Members will be updated orally at the meeting.

## **4. Issues, Options and Analysis of Options**

4.1 The Council requires a policy to guide the actions of officers tasked with addressing fly tipping in alleys. This will ensure a consistent approach is taken to resolving these matters. In addition to the three options previously identified and set out in paragraph 2.3 above, the review has identified further potential approaches that could be adopted either to contribute to the resolution of alley fly tipping issues or as standalone solution.

Collectively the potential options identified are as follows:

- a. Residents to pay for alleyway clearance under legal notice.
- b. Where the Environment and Highways Directorate Service consider the fly tip to be noxious or immediately harmful they may, at their discretion, remove.

- c. No action by the Council.
- d. Additional covert CCTV deployment to gather evidence against fly tippers for prosecution.
- e. Council operate a clear all policy for all land including private alleyways, even though there is no statutory obligation on the Council to undertake such work.
- f. Promotion of community initiatives such as clear up sessions and community action programmes including signposting residents to Community Environment Development Fund to assist with the funding of preventative measures.
- g. Communications campaign.
- h. Council request residents to clean up their alleyway, where reports of accumulations are received.
- i. Council offers a service to residents to clear up their alleyway on a cost recovery basis.

Option a could be used when clearance is not time critical i.e. when there is no immediate risk of harm to residents and so the Council has time to issue legal notices and wait for appeal periods to expire. However, the estimated cost to the Council to fund this option would be £100k per year with only part of this being recovered from residents where they opt for council clearance and thus incur admin charges. The unrecoverable amount is estimated to be £50k.

Option b could be used when prompt clearance reduces potential impacts on public health due to the nature of the fly tipped material or its location. The estimated cost of this option would be £250k per year to cover collection and disposal costs.

Option c has no cost implications but would be likely to lead to public health concerns and criticism of the Council.

Option d could be used to gather evidence and could contribute to combatting fly tipping of alleyways. The estimated capital cost of this would be £75k for the initial purchase of equipment with an ongoing revenue cost estimated at £50k per year to cover installation, redeployment and monitoring of CCTV and processing of evidence obtained by CCTV for prosecution purposes.

Option e this option would provide a comprehensive answer to the issue of fly-tipping but is not a statutory requirement on the Council. The associated costs would be considerable and would almost certainly increase with time as the application of the policy became known to parties who may then feel able to dump whatever they wanted wherever they wanted in the knowledge that the Council would clear it up.

Option f would be a positive step to improve the state of the environment in a locality. This option could provide some input into mitigation against the effects of fly tipping.

Option g would help to inform people about the correct disposal of waste, how to report offenders and how to engage in initiatives to keep their alleys clear. This is seen as a potential contribution that could be used in conjunction with other options as part of the Councils work on fly tipped alleys. The Council's communications team could manage suitable communications campaigns at appropriate intervals.

Option h could encourage residents to clear up their alleyway and avoid public health issues or blighting of residents own environment.

Option i would give residents the option to collectively fund a professional clear up of their alleyways.

## **5. Reasons for Recommendation**

5.1 The issue of fly tipping in alleyways is prevalent in a number of areas of Thurrock and gives rise to an eyesore and in some instances could give rise to public health risks. Mitigation of the effects of alleyway fly tipping is therefore consistent with the Council's priority to promote and protect the green environment.

5.2 The options selected recommended from the long-list outlined in section 4 seek to reduce the detrimental effects of alleyway fly tipping whilst working within the existing budget envelope. Collectively they provide concerned residents with a variety of approaches to ensuring that fly tipping instances are effectively and efficiently addressed.

## **6. Consultation (including Overview and Scrutiny, if applicable)**

6.1 An online consultation exercise has been undertaken via the Council's consultation portal. Responses are summarised in Appendix 2.

Association of Public Service Excellence (APSE) consultation via the portal No responses received to date, Members will be updated orally at the meeting on any responses received.

## **7. Impact on corporate policies, priorities, performance and community impact**

7.1 Impact will be dependent on the recommendations taken forward to the Council.

## **8. Implications**

### **8.1 Financial**

Implications verified by: **Laura Last**  
**Management Accountant – Corporate Finance**

The recommendation of this report has a budget implication for the removal of hazardous waste, in instances where cost recovery is not possible.

### **8.2 Legal**

Implications verified by: **David Lawson**  
**Deputy Head of Legal and Deputy Monitoring Officer**

The Council is under no legal obligation to remove waste on private land. The Council has powers to require landowners to clear waste from their land and has powers to enter land and clear it, and may seek reimbursement for our costs.

### **8.3 Diversity and Equality**

Implications verified by: **Natalie Warren**  
**Community Development and Equalities Manager**

There are none arising directly from this report.

### **8.4 Other implications** (where significant) – i.e. Staff, Health, Sustainability, Crime and Disorder)

None identified.

## **9. Background papers used in preparing the report** (including their location on the Council's website or identification whether any are exempt or protected by copyright):

Council motion.

## **10. Appendices to the report**

Appendix 1 – Cleaner Greener and Safer Overview and Scrutiny Committee Suggestions Summary.

Appendix 2 - Consultation Responses Summary (to be distributed at the meeting).

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