



CABINET
8th SEPTEMBER 2004

**AGENDA
ITEM:**

A LITTER PLAN FOR WALSALL

Ward(s): All

Forward Plan: Yes

Portfolio: Councillor M Longhi, Environment

Service Area: Built Environment

Summary of Report:

The purpose of this report is to secure approval of a Litter Plan for Walsall aimed at reducing the amount of litter, dog faeces and fly-tipped material within the Borough, working with partner organisations where appropriate.

Background Papers:

The Dogs (Fouling of Land) Act 1996 – Report to Cabinet on 24th March 2004

Recommendations

1. To endorse the proposals in the appended Litter Plan for Walsall and to refer it to the Housing and Community Safety Regeneration, Environment Scrutiny and Performance Panel.
2. To delegate editorial changes to the Litter Plan, including formatting, to the Executive Director.

Signed:

Signed:

Executive Director: S Davidson-Grant

Portfolio Holder: Councillor M Longhi

Date:

Date:

Resource and Legal Considerations

The Local Authority has a statutory duty to enforce the provisions of the Environmental Protection Act 1990

Cabinet approved the introduction of The Dogs (Fouling of Land) Act 1996, with effect from the 1st July 2004, at its meeting of 24th March 2004.

An investment bid of £35,000 was submitted by 'Public Protection' and approved as part of the 2004/05 budget to provide for additional support for the litter enforcement programme. This budget has since been transferred to 'Street Pride' who have responsibility for managing the programme.

Citizen Impact

The eradication of litter, fly tipping and dog fouling will have achieved significant improvement in the environment and quality of life for Walsall residents.

Environment Impact

The eradication of litter, fly tipping and dog fouling will be a major contribution towards achieving the vision for Walsall, in particular, ensuring a clean and green Borough of which everyone feels proud.

Performance Management and Risk Management Issues

Litter is a significant issue for residents of the Borough which is reflected in the number of complaints received. More pro-active enforcement, by means of the issue of fixed penalty notices, will have a beneficial impact on this Borough-wide problem. There is a commitment within the Public Protection Service Plan and the Street Pride Service Plan, 2004-09, to develop a proactive and co-ordinated approach to anti-litter enforcement.

Equality Implications

Implementation of the proposed Plan will lead to improved quality of life for all Walsall residents.

Consultation

The proposed Plan was produced in consultation with other Service Areas, the Environment Agency, representatives of Walsall businesses and residents and ENCAMS (formerly Tidy Britain Group).

Vision 2008

The Litter Plan makes a direct contribution to the Council's Vision 2008 and, in particular the following:-

- Ensuring a clean and green Borough
- Encouraging everyone to feel proud of Walsall
- Strengthening the local economy
- Transforming Walsall into an excellent local authority

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1. POLICY CONTEXT - LINKS TO LIVEABILITY & SUSTAINABLE COMMUNITIES AGENDAS

- 1.1 Central government is committed to improving the quality of life in every community by making public spaces and local environments more liveable-cleaner, safer and greener. This is referred to as the 'liveability agenda' and six priorities have been identified as improving liveability at the local level including:
- Improving the physical fabric and infrastructure
 - Making places cleaner and maintaining them better
 - Making places safer by tackling anti social behaviour and improving personal safety
 - Creating attractive and welcoming parks, play areas and public spaces
 - Engaging and empowering local people and communities
 - Providing for children and young people and tackling inequalities
- 1.2 These quality of life aspects are reflected in the vision for Walsall, in particular, the achievement of a clean and green Borough, ensuring that all people are safe and secure, that Walsall is a healthy and caring place of which everyone is proud, that access to local services is improved and Walsall becomes an excellent local authority.

2. WALSALL CONTEXT

- 2.1 The liveability agenda influences the work of partners involved in delivering the priorities and themes identified by the Walsall Borough Strategic Partnership (WBSP). The Litter Plan would contribute towards the stated priorities of ensuring a clean and green borough and improving the image of Walsall through raising aspirations, improving liveability and regenerating the fabric of neighbourhoods.
- 2.2 The emerging Environment Theme Group of the WBSP will have responsibility for producing the Liveability Strategy for Walsall. This theme group will consist of a range of stakeholders from the environmental sector and will be formally incorporated by November 2004. It is intended that the strategy, which will identify a set of key liveability targets based around the six priorities, will be produced by the end of 2004. The Litter Plan could be used to inform the content of the Liveability Strategy and become one of the key targets.
- 2.3 The priorities will be delivered at the local level through nine Local Neighbourhood Partnerships. These are charged with producing Local Neighbourhood Plans which, through consultation with local stakeholders, will identify actions that improve the local environment in which people live and work.
- 2.4 The approval of a Plan will demonstrate the corporate commitment to inform and enlist the support of residents in eradicating litter, fly tipping and dog fouling and to take appropriate enforcement action against those who refuse to accept their responsibility for the environment.

3. LITTER PLAN

- 3.1 The Litter Plan has been drafted as a companion document to the emerging Street Management Strategy for the Borough.
- 3.2 The Plan, a copy of which is appended, provides for dedicated resource to develop both education and enforcement activities. The Litter Education Officer is already in post and the Litter Enforcement Officer has been appointed and should be in post by late August. These posts form part of Street Pride's Policy & Performance Unit. These two officers will work closely with the Dog Wardens in Public Protection on both enforcement and education.
- 3.3 On the 1st July 2004, The Dogs (Fouling of Land) Act 1996 was implemented throughout Walsall, the effect being that any person in charge of a dog must immediately remove any faeces deposited by that dog on any land, public or private, to which the public have access.
- 3.4 A fixed penalty scheme, currently £50, may be operated in relation to dog fouling or contraventions of the anti litter legislation, and a computer programme, "Enforcer", designed to help manage fixed penalties, has been purchased for operation jointly by Street Pride and Public Protection.
- 3.5 The draft Plan proposes that punitive action is the norm for offences against either the anti-litter or dog fouling legislation, usually by means of a fixed penalty with prosecution for non payment, in more serious cases.
- 3.6 A further proposal is to expand the enforcement capabilities available to the Authority by authorising additional officers already in post, initially those in Street Pride, under the relevant part of the Environmental Protection Act. Appropriate training and support will be provided by officers of Public Protection.
- 3.7 The enforcement and education programmes will be complemented by the activities of the Litter Hit Squad. A system will be implemented whereby fly-tipped material which contains evidence of its origins will be photographed in-situ and then promptly removed with the evidence being retained for investigation for punitive action where possible.
- 3.8 The initial concept of the plan arose from a series of meetings which involved representatives from the Chamber of Commerce, a residents group, adjacent local authorities and the Environment Agency, all of whom expressed support.
- 3.9 Future consultation will be through Local Neighbourhood Partnerships, liaison groups involving other local authorities and enforcement agencies and business forums.
- 3.10 It is anticipated that increased enforcement and educational activity, coupled with the enhanced street cleaning implemented as part of the Gold Standard for Walsall Town Centre and the illegally displayed poster removal campaign, will make a significant contribution towards achieving a clean and green Borough.



Walsall Metropolitan Borough Council

A LITTER PLAN FOR WALSALL

‘Taking pride in our Borough’

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1.0 INTRODUCTION

1.1 Broad Aim

Litter, and its associated scourges of dog fouling, fly-tipping, fly-posting and graffiti, has a major detrimental impact on the quality of our environment. Apart from the obvious visual detractions, they attract rodents and other pests, can be harmful to wildlife, have the potential to transmit infection and their presence can lead to loss of trade to local businesses with subsequent impact on the local economy.

To help meet this challenge on behalf of our communities, we have prepared this Litter Plan with the overall aim of reducing the amount of litter, dog faeces and fly-tipped material in Walsall.

1.2 Objectives

We have developed five principal objectives in support of this aim:-

- i) To enforce existing legislation relating to litter, fly-tipping, duty of care and fouling by dogs.
- ii) To educate key target groups with a view to changing attitudes and influencing actions.
- iii) To review the ways in which we clean our environment by means of constant monitoring, research and consultation with Local Neighbourhood Partnerships and residents' groups
- iv) To set criteria for environmental design with a view to eliminating the potential for litter and fly-tipping covering, for example the location and design of signage and litter bins.
- v) To monitor and review the success of our enforcement and education programmes with other enforcement agencies, local businesses and Local Neighbourhood Partnerships with a view to continuous improvement.

2.0 POLICIES AND PROCEDURES

2.1 Legislative Context

- 2.1.1 The primary legislation relating to litter and refuse is the Environmental Protection Act 1990.
- 2.1.2 Controlled waste is defined in Sec. 75(4) of the Act as “household, industrial and commercial waste or any such waste”. Sec. 75(3) states that “anything which is discarded or otherwise dealt with as waste shall be presumed to be waste unless the contrary is proved”.
- 2.1.3 Part II of the Act places responsibility on anyone who keeps treats or disposes of controlled waste to do so in a way which does not cause pollution of the environment.
- 2.1.4 That person also has a duty of care to ensure, so far as is reasonable, that any other person dealing with that waste does not cause pollution of the environment.
- 2.1.5 The above provisions do not apply to householders.
- 2.1.6 Part IV of the Act creates the offence of depositing and leaving “anything whatsoever” which leads to the defacement of a public open place by litter. In addition to prosecution it also allows the operation of a fixed penalty scheme to deal with offenders. The maximum fine on conviction is £25.00 and the fixed penalty is currently £50.00.
- 2.1.7 The other principal legislation is the Refuse Disposal Amenity Act 1978, which empowers local authorities to remove such motor vehicles and other refuse by creating the offence of abandoning a motor vehicle or other items on land in the open air, and jointly delegates enforcement of this legislation to the Council and the Environment Agency.

2.2 Litter Enforcement Policy

- 2.2.1 Vision 2008 aims to make Walsall a clean and green Borough and, to that end, we will take appropriate action by way of enforcement and education to eliminate litter in all its forms.
- 2.2.2 We will pursue this aim by providing appropriate measures to secure compliance with existing law and to enable the development and implementation of an education and information programme to target schools, community groups, business and the general public.
- 2.2.3 In drafting this policy, due regard has been had to the CPS Code for Crown Prosecutors and the Attorney General's guidelines.

Subject to the provision of satisfactory evidence, and compliance with the General Enforcement Policy approved by them, all offenders against the litter, fly tipping and dog fouling legislation will be subject to formal punitive action. This includes young people of secondary school age.

All offenders subject to formal action will be offered the opportunity to pay the fixed penalty, if any, prescribed by legislation rather than prosecution before the courts. Anyone opting to do so and paying the penalty in full within the prescribed time, will not be subjected to prosecution. Offenders failing to pay the fixed penalty will be liable to prosecution.

All businesses which fail to demonstrate that they have considered and comply with their duty of care under the Environmental Protection Act will be subject to formal action, not excluding prosecution.

2.3 Enforcement Priorities

Enforcement will be focussed on a number of specific activities:-

- a) Ensuring that all business in Walsall have proper systems to store and dispose of waste properly where possible. Environmental Health Officers will check this as part of their routine programmed visits to premises. However, many of the businesses not complying with their duty of care are classified in food safety and health and safety at work terms as low risk and will be visited only infrequently or not at all. The Litter Enforcement Officer will therefore undertake this role including advice on the availability of trade waste services in both the public and private sectors.
- b) Targeting fly-tippers and prosecuting identified offenders under duty of care provisions or, in the case of householders, either prosecute under the litter provisions or impose a fixed penalty. This will be linked to the Litter Hit Squad to ensure rapid removal and disposal of fly tipped material whilst obtaining photographic evidence and material for legal action where evidence of its origins is found.
- c) Targeting litter offenders (both pedestrians and in vehicles) imposing fixed penalties with prosecution for non-payment or in more serious cases. Any action in this area requires co-operation by West Midlands Police to identify the offender or the registered keeper of the vehicle. An arrangement to identify registered keepers by way of the Police national computer already exists and this will be enhanced.

2.4 Human Resources

There is currently one post dedicated specifically to enforce the duty of care and litter provisions of the Environmental Protection Act. Additional enforcement is undertaken by the Environmental Health Officers who observe offences during their routine duties.

Street Pride monitors the cleanliness of the Borough and will be authorised to act under the appropriate parts of the EPA in relation to litter, duty of care and fly tipping.

2.5 Service of Fixed Penalty Notices

All employees of the Local Authority will be encouraged to report offences against the litter or dog fouling legislation, which they witness. A programme of briefings and appropriate training will be developed and implemented by senior managers. Where this involves a motor vehicle and the witness obtains a registration number, the Police will be asked to identify the registered keeper of the vehicle in accordance with the arrangement currently existing between the Council and West Midlands Police. The Council is authorised to make postal requests for official checks from the Driver and Vehicle Licensing Agency in Swansea.

Having identified the registered keeper a fixed penalty notice will be issued to him/her in accordance with the Enforcement Procedure.

Notices will be issued on the day the report is received, providing that an officer at or above the level of Principal Environmental Health Officer or equivalent is satisfied with that evidence. Notices shall only be signed by officers specifically authorised in writing to do so.

Details of all notices served will be recorded on the "Enforcer" database, jointly operated by Public Protection and Street Pride.

In those cases where an officer at or above the level of Service Manager considers it appropriate informal action in the form of a warning letter may be issued to an offender rather than them being prosecuted.

2.6 Prosecution

In the event of an offender declining to accept a fixed penalty notice or, having agreed to do so, failing to make full payment within the statutory time, authority to prosecute that person shall be, in accordance with the existing general enforcement policy, delegated to the Head of Public Protection or Head of Street Pride.

In those instances where a Service Manager considers that the amount of the fixed penalty does not reflect the seriousness of the offence or the offender has a history of previous offences, then the option to accept a fixed penalty may not be offered to the offender.

2.7 Formal Caution

In those circumstances in which the Head of Public Protection or Street Pride considers it to be appropriate, he will issue a formal caution rather than issue a fixed penalty or prosecution.

2.8 Publicity

As a means of promoting compliance with the litter legislation, we will actively seek to promote and publicise the results of our enforcement activities.

2.9 Feedback

The Council will encourage feedback from residents and businesses on its litter activities, consider appropriate responses to that feedback and implement changes, where appropriate, to secure improvements.

2.10 Liaison

We will actively seek to promote liaison and joint working with our neighbours and partner agencies to promote consistency of enforcement and dissemination of good practice. To contribute to, and benefit from, national developments to and initiatives on litter related issues, we will join the ENCAMS People and Places scheme.

Litter fouling and fly tipping cross boundaries. Those who offend in Walsall will do so elsewhere. Local liaison groups will be established involving residents, voluntary organisations and other interested groups in Walsall. In addition, we will work to establish a regional group of enforcement agencies to promote consistency of enforcement and share best practice.

In addition, continuous consultation will be maintained with Local Neighbourhood Partnerships and the Business Forum, and their responses will be considered as part of the continuing review of the effectiveness of the enforcement and education programmes.

2.11 Litter Enforcement Procedure

Enforcement will be based upon the fixed penalty notice (FPN) scheme.

A pre-printed report form will be available to all local authority staff to report incidents of littering or dog fouling. All staff reporting incidents by phone will be requested to provide the information detailed on the form.

A dedicated telephone line will be available with 24hr answering facilities for the public and staff to report incidents of littering. A similar facility will be available by e-mail and on the Council's website.

In the case of an offence committed from a vehicle where the registration number of that vehicle is known the protocol between the Council and West Midlands Police will be utilised to identify the registered keeper.

Only officers specifically authorised in writing to do so may utilise this protocol.

Subject to the evidence being sound, a fixed penalty notice will be issued to the offender. Only officers specifically authorised in writing may sign fixed penalty notices.

In the event of non-payment of a fixed penalty, prosecution under Section 87 of the Environmental Protection Act 1990 or the Dogs (Fouling of Land) Act 1966 will be pursued.

In the event that an offence is considered to warrant a higher penalty than the prescribed fixed penalty, legal proceedings under Part 4 of the Environmental Protection Act 1990 may be instituted.

Details of all successful prosecutions shall be provided to the Councils' Communications Officer for distribution to the local media.

2.12 Authorisations

The following categories of officers will be authorised in writing to enforce the provisions of the Environmental Protection Act 1990 and the Refuse Disposal Amenity Act 1978:

- a) All operational officers of the Environmental Health Division and Pollution Control Division – the entire Environmental Protection Act as delegated to the local authority.
- b) The Streets Inspectors, Co-ordinators and Area Managers of Street Pride, all operational officers of Street Pride – the Provisions of Section 33 and 34 and Section 87, 88, 93, 99 Environmental Protection Act relating to the control of litter and controlled waste, the Dogs (Fouling of Land) Act 1996 and the Refuse Disposal Amenity Act relating to vehicles and other items abandoned on land in the open air.

2.13 Fixed Penalties

The Environmental Protection Act (Sec.88) and the Dogs (Fouling of Land) Act allow local authorities to operate a fixed penalty scheme in relation to litter and fouling whereby offenders have the option to pay a prescribed penalty, currently £50, rather than be prosecuted. Penalties will be retained by the Authority and allocated to anti-litter and fouling activities.

The fixed penalty notice is a prescribed form and payment should be made within fourteen days with prosecution for non-payment.

All fixed penalties will be administered on the computer package called "Enforcer" which has the facility to produce the penalty notices and any accompanying letters and keep track of payments received and progress re prosecutions for non payment.

In order to maintain meticulous records of fixed penalty notices issued and to safeguard staff integrity, all notices will be centrally issued and signed only by officers specifically authorised to do so.

2.14 Dog Warden Service

The Dog Wardens, Litter Enforcement Officer and Street Pride Education Officer will provide mutual support and assistance in relation to enforcement and the development and presentation of educational and promotional materials relevant to litter, fly tipping and fouling. The duties of the Enforcement and Education Officers are listed in appendices 1 and 2 to this Plan.

2.15 Education

In order to achieve its vision of a clean and green Borough, we will use every opportunity to inform our residents of the unacceptable and unnecessary nature of litter and dog fouling. This process will begin in primary schools and developed and enhanced for presentation to older age groups in conjunction with the Dog Warden Service's activities to promote responsible dog ownership.

Liaison with residents and voluntary groups and the community wardens will be developed together with liaison with other enforcement agencies and adjacent local authorities to promote consistency of enforcement and disseminate good practice.

The local media, and the internet system, will be utilised to promote awareness of litter issues, consult residents and report on enforcement activities. An up-to-date web page will be maintained detailing activities and initiatives.

In-house training on litter and fouling issues will be provided to both operational and appropriate administrative colleagues by the Street Pride Education Officer, Dog Wardens and other officers of Public Protection.

2.16 Community Wardens

The local knowledge and contacts with schools, businesses and residents of Community Wardens will be fully utilised to disseminate advice and information on litter related matters and to refer matters for investigation and possible enforcement to the Local Authority. In appropriate situations, joint working with the Litter Education and Enforcement Officers and the Dog Wardens will be developed.

3.0 **REVIEW PROCESS**

- 3.1 The Litter Plan will be reviewed on an ongoing basis with a formal review every twelve months commencing March 2006 in line with the annual service plan review process. The Litter Plan will also be incorporated into Street Pride's Quality Assurance System (ISO 9001:2000).

LITTER ENFORCEMENT OFFICER

DUTIES

1. To receive reports of contraventions of the anti litter, refuse and dog fouling legislation and issue fixed penalty notices to offenders.
2. To monitor payment of fixed penalties and take legal proceedings in appropriate cases of non payment.
3. To prepare reports to senior officers, Elected Members and the Justices in appropriate cases.
4. To investigate reports of fly tipping and other unlawful deposits of waste, arrange its' removal and take appropriate enforcement action.
5. To visit industrial and commercial premises to ensure that adequate and appropriate arrangements have been made for the storage and disposal of waste including enforcement action for contraventions.
6. To organise joint enforcement activities with the police and other enforcement agencies to combat litter and fly tipping.
7. To liaise with the media, other agencies, voluntary and residents' groups to promote anti-litter issues.
8. To work jointly with the Litter Education Officer to promote litter awareness.
9. To identify litter problem areas and initiate appropriate remedial action.
10. To investigate reports of graffiti, fly posting and leaflet distribution likely to adversely affect the environmental quality of the Borough
11. To comply with the authority's policies relating to health and safety at work, equalities and service provision
12. Such other duties, commensurate with the salary grade, as may be reasonably requested.

STREET PRIDE EDUCATION OFFICER

DUTIES

1. To raise the profile of waste, recycling and litter in the Borough by delivering a programme of educational activities and promotional events.
2. To produce educational information and information leaflets.
3. To develop a programme of in-house staff training to enable staff to reduce their own waste.
4. To undertake staff training with the Enforcement Officer to improve litter abatement procedures.
5. To develop joint working across Council Departments to enable better co-ordination and co-operation of waste minimisation, recycling and litter abatement activities.
6. To liaise with other authorities and external agencies to undertake joint activities and share best practice.
7. To provide advice and guidance on litter related issues to elected members, colleagues, the public and local businesses.
8. To liaise with local media to ensure regular publicity for related issues, including the provision of articles for publication, competitions etc.

ENCAMS (FORMERLY TIDY BRITAIN GROUP)

The People and Places, a partnership for Councils and major landowners, has been developed over the last 15 years to help local authorities and major landowners improve local environmental quality and reduce anti-social behaviour. The programme constantly evolves to meet the needs of over 180 partners including local authorities, registered social landlords, British Waterways and Network Rail.

The programme uses extensive research into issues such as:

- Litter
- Flyposting
- Graffiti
- Fly-tipping and
- Dog fouling

It also provides a platform for partners to share ideas and solutions.

A range of tools and networking opportunities are available to help partners tackle Streetscene issues. An annual partnership fee provides:

- Development of an Action Plan to address local environmental quality and anti-social behaviour.
- Regional/National Officer support – including 4 visits per year.
- P&P Annual Conference – a unique forum for exchanging information with our 180+ partners plus speakers from central government and other agencies concerned with our common issues.
- National/Regional Network Meetings – 4 meetings each year providing opportunity to network and discuss topical issues.
- Training Courses – 4 places on any ENCAMS training course.
- Web pages and discussion Board – unique to P&P partners this password-protected area of the ENCAMS website also offers case studies on a whole range of issues.
- P&P Support pack – partnership information and guidance on local government structures and Best Value. Also includes an interactive CD full of information and tips on issues such as abandoned and nuisance vehicles, graffiti and fly posting.
- Public Information Literature – 100 free copies of each publication.
- A presentation to your key stakeholders – detailing the elements of the P&P partnership.
- BV199 Survey Methodology Validation

Additional Support

Specific modules designed to address local environmental quality are available to P & P Partners as follows:-

- Tidy Business Standards – A tool kit to help businesses comply with waste legislation, minimise waste and enhance their local environments.
- Neighbourhood Environmental Action Teams – A programme which helps partners engage with residents and create community pride whilst improving local environmental quality.
- Managing Fast Food Litter – Legislative, campaigning and case study information.
- Litter and Waste Management for Events – A guide for local authorities and events organisers in setting up a management system.
- Managing Beach Environments – Detailed information on how to manage every aspect of the beach environment.