

## **Council Meeting -19th July 2010**

### **Notice of Motion – Businesses dealing in scrap and other associated activities from their homes**

#### **Introduction**

The following notice has been submitted from Councillors Robertson and Thomas:

*“This Council welcomes both the efforts of individuals and those running a business, to increase recycling.*

*Council notes the Notice of Motion passed on 2nd July 2007 relating to residents dealing in scrap and associated businesses from their homes without planning permission, where “this Council resolves to make every effort via a full strength enforcement team to stop this activity and to urge and give every assistance to our partners such as the environmental agency and the police . Further this Council will also share such information with Walsall Housing Group to encourage them to enforce their tenancy agreements which are clearly being broken in these cases and where appropriate information will be shared with our statutory partners.”*

*This Council notes with concern that since that notice, the problem appears to have become considerably worse and is affecting an even wider area of streets in this Borough. Council resolves to have urgent discussions with local Councillors, the Police, the environmental agencies, Walsall Housing group, and other appropriate agencies on how this serious anti social behaviour can be permanently stopped, while still encouraging the efforts of the more responsible people in recycling various forms of scrap or ‘tat’.”*

#### **Background Information**

The issues raised in the notice of motion cover a number of different regulations and services provided by Walsall Council. The information below describes some of the ways in which this is being addressed. Details of relevant legislation and guidance are provided in the Appendix.

#### **1 Environmental Enforcement**

Cabinet on 13 January 2010 received a report outlining a range of measures and actions being taken across council service areas to tackle environmental crime. Cabinet approved an environmental enforcement improvement plan to address reporting and recording of environmental incidents, environmental enforcement procedures and competency and sharing resources and training, to be delivered through a joint enforcement board involving various council services. Coupled with the partnership working to tackle environmental issues around anti social behaviour and crime and disorder through the Borough Tasking Group measures have been put into place to increase enforcement outcomes. These joint working measures are intended to tackle issues that cut across different types of legislation, service areas and partner agencies, including such matters as are raised in this notice of motion.

The Community Services and Environmental Scrutiny and Performance Panels have also both had reports on environmental crimes and enforcement.

## **2 *Planning Enforcement***

The planning service has responded to the increase in demand for the investigation and enforcement of breaches in planning control since it reorganised its development management section following a recent restructure in order to accommodate budget savings for 2008/9 and 2009/10. Despite these financial pressures and in recognition of the need to manage the councils busy enforcement workload the capacity to deal with planning enforcement matters has not been reduced and maintained at four dedicated officers. However, available capacity has indeed been enhanced as the responsibilities for dealing with these matters has been removed from a small team to embedding the capacity within the two area based development management teams which can flex resources towards enforcement when priority arises. The issue of managing the type of cases referred to in the notice of motion is therefore now the responsibility of the area planning manager for their areas and the priority of dealing with scrap metal recycling businesses that are working from home has already been identified as a priority.

## **3 *Enforcement measures***

The council's enforcement policy requires all officers to use a broadly similar approach in order to achieve consistency. This uniformity of approach extends to all areas of enforcement. The majority of statutes require prescribed procedures to be adopted and followed.

Any investigation where a statutory breach is observed will result in one or more of the following actions being taken:

- informal action
- the serving of statutory notices
- the use of formal cautions
- prosecutions.
- the suspension and revocation of licences.

In December 2009 the environmental health division in partnership with the West Midlands Police undertook an exercise in Pleck stopping vehicles carrying waste and inspected their documentation. All of those vehicles stopped either provided the documentation at that time or were able to do so within a reasonable timescale after the event. Although the event took place in Pleck the waste carriers were from a range of addresses across Walsall. Pollution control have also spoken to other West Midlands Councils on methods for dealing with the issue and are contacting Walsall OCU for assistance in setting up patrols for an exercise to tackle the problem. Only the police have powers to stop a vehicle on the highway; therefore any project would have to have their support.

Joint working is underway between Walsall Housing Group (WHG) and the police on potential steps to progress to tackle traders that live in WHG properties and who may be breaching tenancy conditions. Environmental health have also met with WHG to offer assistance to tackle the issue in the Blakenall/Goscote/Harden area.

## **4 *Complaints***

Public safety have received 6 complaints in relation to noise from waste carriers and 6 complaints in relation to possible highway offences including obstruction/damage to the highway and repairing vehicles on the highway during 2009/10.

To date during 2010/11 Public safety have received 3 complaints of noise and 3 complaints of obstruction/damage to the highway and repairing vehicles on the highway. Pollution control have been gathering evidence and intelligence on nuisance vehicles and have spent time last weekend in areas of known problems monitoring noise levels.

There have been 17 cases reported to the planning enforcement section since 2 July 2007. These are within the following wards:-

Bentley / Darlaston North	2
Blakenall	5
Bloxwich East	4
Bloxwich West	1
Brownhills	1
Darlaston South	2
Palfrey	1
Pelsall	1
Pleck	1
Pheasey Park Farm	1
St Matthews	1
Streetly	1
Willenhall South	3

All of these matters have been investigated or the investigations are still underway.

In addition scrap metal dealers are becoming an increasing nuisance at household waste recycling centres where, at weekends, they are waiting outside the centres in an attempt to remove items from visitors before they could deposit them in the correct disposal area.



Jamie Morris  
Executive Director

9 July 2010

## **Appendix: Relevant Legislation and Guidance**

### **Clean Neighbourhoods and Environment Act 2005**

The Clean Neighbourhoods and Environment Act 2005 amended various provisions in the Environmental Protection Act 1990 and deals with many of the problems affecting the quality of our local environment - which forms part of a continuum with anti-social behaviour, vandalism, disorder and levels of crime.

Amongst other things, the Act introduces new offences relating to nuisance parking, and amends the law relating to abandoned and illegally parked vehicles, it addresses various issues relating to noise nuisance and also makes miscellaneous provision about waste, including:

- the registration of carriers of particular kinds of waste,
- the illegal deposit of waste ("fly-tipping"),
- the powers and duties of local authorities to collect and dispose of waste and
- provision to deal with waste generated at construction sites.

It also seeks to address the nuisance caused by people repairing their vehicles on the street and makes it therefore an offence to carry out "restricted works" (repairs, maintenance, servicing, improvement or dismantling).

### **Recycling**

As members will be aware residents are able to dispose of their waste through a number of services offered by the council:

- Kerbside wheelie bin collections – for smaller household consumable items such as paper, cardboard, glass, cans, kitchen waste, nappies, garden waste.
- Bulky collection Service - The bulky collections service is the removal of household items for Walsall residents at a nominal charge. Examples of the types of items we collect – beds, tables, chairs, three piece suites, cookers, fridges, freezers, wardrobes, fire hearths and grates
- HWRC (Household Waste Recycling centres) – located at Fryers Road, Leamore and Merchants Way, Aldridge - The centres will receive household wastes that residents are unable to place in their wheeled bins, such as garden waste or bulky household items. The containers for household wastes are segregated to allow maximum recycling. Items that can be taken to the centres free of charge are scrap metal, wood, cardboard, garden waste, electrical goods, plasterboard etc.

### **Regulation of Scrap Metal Dealers**

The activities of scrap metal dealers are covered by regulations issued under the Scrap Metal Dealers Act, 1964, Registration of Scrap Metal Dealers and the requirement to keep a register is administered through the Licensing section. Scrap dealers have to register with the Local Authority, however this is merely a registration and not a licence. There are no powers to refuse registration.

No person may carry on business as a scrap metal dealer unless he is registered by the Council. Scrap metal dealers who:

(a) occupy a scrap metal store in the Council's area; or

(b) have their place of residence in the area.; or

(c) occupy a place in the area wholly or partly for the purpose of their business may apply to the Council for registration by furnishing the required particulars on the attached form. The Act provides that any person who carries on business as a scrap metal dealer without being registered is liable, on summary conviction, to a fine not exceeding £1000.

The Act further provides that every scrap metal dealer shall, at each place occupied by him as a scrap metal store, keep a register with details of-

(a) all scrap metal received at that place, and

(b) all scrap metal either processed at, or dispatched from, that place.

Enforcement of these requirements is undertaken by the police, and a number of joint visits have been carried out to registered premises with council officers to ascertain compliance and to investigate potential links to the increase in reported thefts of metals highlighted at Borough Tasking.

### **Transport of Waste**

In general to collect and transport most types of waste other than your own you are required to have a licence that is issued and regulated by the Environment Agency.

The council issues guidance to waste carriers who are governed by controls on the transport of controlled waste , as follows:

“Unless you qualify for an exemption, if you want to transport controlled waste in England and Wales as part of your business or with a view to profit, you need to register as a waste carrier.

However, you don't need to do this if:

- you are carrying waste that you have produced, unless it is building or demolition waste;
- you are moving waste between different places within the same premises; you are transporting waste from outside Great Britain to a place within it and the waste is not landed in Great Britain until it arrives at that place;
- the waste is being transported by sea or air from a place in Great Britain to a place outside Great Britain.”

### **Types of Waste**

Having defined the material was waste, various pieces of legislation including the Environmental Protection Act 1990, the Controlled Waste Regulations 1992 and the Waste

Management Licensing Regulations 1994 seek to further define the types of waste as they are legally defined by the processes or premises from which they are produced.

- Controlled waste encompasses household, industrial and commercial waste.
- Household waste is that which arises from dwellings of various types including houses, caravans, houseboats, campsites, prisons and wastes from schools, colleges and universities.
- Commercial waste comes from premises used wholly or mainly for trade, business, sport, recreation or entertainment; excludes household and industrial waste.
- Industrial waste is waste from a factory or industrial process; it excludes wastes from mines and quarries and agricultural wastes.
- Wastes from agriculture (non natural wastes) and mining and quarrying recently came into the same controlled waste regime.
- Some controlled wastes are further classified and subject to further regulation because of the nature of the waste and the need to handle them differently.
- Clinical waste comes from hospitals, nursing homes, dentists, surgeries etc. and can include wastes from the household.
- Similarly, hazardous/special wastes are hazardous for a variety of reasons including toxicity, explosiveness etc. They also must be handled and dealt with differently to other wastes