

Agenda Item No:

Report to: Cabinet

Date of Meeting: 6th March 2017

Report Title: Improving the Hastings Street Scene

Report By: Mike Hepworth
Assistant Director Environment and Place

Purpose of Report

To provide Cabinet with details of a range of linked initiatives that will lead to improved street scene for Hastings. They include raising public awareness about street scene offences, a pilot with a specialist street scene enforcement contractor, and new ways of working for the Council's Warden Service.

Recommendation(s)

Authorise the Assistant Director Environment and Place to:-

- 1) Implement a 12 month litter and dog control enforcement pilot with a specialist environmental enforcement contractor;
- 2) Review the pilot and assess the scope for future specialist enforcement options;
- 3) In consultation with the Lead Member for Environment and Place, the Director of Operational Services and the Chief Legal Officer, to review and update the Council's enviro-crime enforcement policy on an ongoing basis as and when necessary. Starting immediately with the suggested changes to the sections relating to the level of payment for littering, dog fouling and fly tipping FPNs, and the criteria for issuing FPNs or prosecuting for fly tipping offences. Then in parallel with the introduction of the Hastings Public Space Protection Orders, the use of the new anti-social behaviour (ASB) powers.
- 4) In consultation with the Council's Executive Manager of People, Customer and Business Support develop the Council's Warden service into a service better able to address the emerging ASB agenda and enforcing Public Spaces Protection Orders.

Reasons for Recommendations

The work set out in this report will contribute to the Council's vision for a safer cleaner town, and in the longer term reduce the cost of environmental services such as those associated with street cleansing and environmental enforcement.

Background

1. Enviro-crime and anti-social behaviour (ASB) affecting the quality of the street scene in Hastings has long been a serious issue. The main concerns are:-
 - Littering;
 - Dog Fouling;
 - Fly tipping including small amounts of waste dumped in black sacks, and bulky items often associated with the private rented housing sector.
2. Since 2008/9 the Council's Street Wardens have actively enforced littering and dog control offences, issuing from 200 to 250 Fixed Penalty Notices (FPNs) every year, as well as prosecuting offenders who refuse to pay the FPNs. We generally seek to publicise any prosecutions through media releases, as a deterrent to other offenders.
3. However, the Warden Service has a limited capacity, which has been reduced as the service has been progressively downsized, and then restructured in 2012 when East Sussex County Council (ESCC) terminated the local agency agreement for on street parking enforcement, and outsourced the work to a private contractor. For example in 2009 there were 12 Warden staff primarily responsible for enviro-crime and dog control enforcement, as well as 19 Civil Enforcement staff carrying out on and off street parking enforcement. Whereas we now have only 8 Wardens and 2 Lead Wardens covering everything the old Warden Service did in 2009, plus the off street parking enforcement work that the large dedicated parking enforcement team used to do.
4. At that time we merged the remaining off street parking enforcement service with our street warden service, forming a relatively small generic Street Warden team covering a wider range of functions including:-
 - Off street car parking enforcement;
 - The Wardens help our small waste team monitor our contractor performance through daily checks, such as those relating to the waste and cleansing contractor, and the public conveniences cleansing contractor. A large proportion of the service requests reported on My Hastings for street cleansing/litter bin issues are made by the Wardens.
 - Enviro-crime and dog control enforcement such as for littering and dog fouling, including patrolling hotspots;
 - Dealing with abandoned vehicles and getting them removed;
 - Investigating a range of other anti-social behaviour/low level crime and disorder issues, such as last year when they dealt with the tents on the beach/foreshore, and illegal camping at Cinque Ports Way, which had the potential for major negative impact on local tourism and the businesses that depend upon it.
 - Locking and unlocking Council buildings and car parks every day and night as a more cost effective alternative to the previous arrangements where we paid a security contractor to do this;

- The Wardens liaise with the organisers of large public events that affect our car parks, such as on May Day, Carnival and Bonfire;
 - Providing back up for other services such as the environmental health out of hours service, and our pest control operative;
 - Security such as at polling stations during elections, and at public meetings as and when necessary;
 - The Wardens are our main human resource if we have to implement the Council's severe weather event response plan, driving our small gritting vehicles;
5. As mentioned above our Street Wardens are assuming the lead role for the Council in addressing the emerging street community ASB issues associated with the welfare reforms and changes to local policing priorities. As a result, it has become clear that the role of our Wardens needs to be reviewed and priorities set for their future development.
 6. For example, although the Police and Crime Commissioner and our local Police Commander have supported our proposals for introducing Public Space Protection Orders (PSPOs) to address drug, alcohol, and ASB issues associated with the wider street community, they have also made it clear that they expect the Council to deliver much of the enforcement, some of it in partnership with them.
 7. The current team does not have the capacity to meet this multi-faceted agenda. New resources and a clear sense of priorities are required.

Consequences of Negative Street Scene

8. Littering, dog fouling and fly tipping has consequences including:-
 - The need to spend about £80,000 pa on removing bulky fly tips through our waste and cleansing contractor Kier;
 - The potential for a negative impact on the local economy, for example tourism;
 - The need to spend more on general street cleansing contract costs than would be necessary if there was a lower level of offending.
9. The Council receives many complaints from residents, businesses and visitors, and our budget is essentially subsidising the anti-social minority that refuse to act responsibly and in compliance with the law. The general public and business regularly highlight littering and fouling as serious issues to Members.

Options for Improving the Hastings Street Scene

10. Officers have explored several options including the following.

Public Awareness Raising and Behaviour Change

11. We recently started a high profile behaviour change campaign using social media materials and posters focussed on littering and dog fouling. There has been a big positive public response to the campaign, with lots of people asking for a more rigorous and robust approach to enforcement against people committing these common offences, as well as helpful intelligence on where and when offending is taking place.

12. This campaign will be sustained for the next few months, and will also be developed to address fly tipping. However, although we expect it to result in some behaviour change amongst offenders, experience from previous campaigns suggests this will be limited.
13. Our Wardens have already had some success issuing additional FPNs resulting from intelligence received through the campaign, and we will publicise this. However, our Wardens don't have the capacity to make a significant impact on offending behaviour in the longer term.

Working with Specialist Environmental Enforcement Contractors

14. For over 10 years specialist contractors have been delivering specific environmental enforcement services for local authorities. The market for these services appears to be expanding, as just one national operator currently has over 30 local authority clients, and is planning to mobilise about a dozen more in the near future.
15. Over the years there has been quite controversial media coverage of some of these services, as people caught by them committing enviro-crime and dog control offences have accused them and the local authority of being over-zealous, and of using the income generated from FPNs as a cash cow. There have also been allegations that the enforcement officers employed by the contractors are paid very poorly and incentivised to issue as many FPNs as possible, resulting in poor quality FPNs and the need for many to be quashed.
16. However, feedback from other local authorities using specialist enforcement contractors is that they respond quickly to serious complaints, and where appropriate take prompt action to address the issues. Careful training of the contractor's staff on the Council's enforcement policy relating to littering and dog control offences is clearly essential, as is the need for the contractor's staff to receive a decent wage that isn't reliant upon bonuses for meeting FPN targets. It's also worth noting that from time to time the Council's in-house enforcement services are subject to such complaints, and occasionally FPNs have been quashed.
17. We have held discussions with 2 operators and the business models are similar. They typically provide the following, which address the potential issues outlined in paragraph 15:-
 - A dedicated team of 4 to 5 uniformed enforcement officers operating 5 or 6 days a week issuing an estimated 4 FPNs each per day. It would be focussed on enviro-crime and dog control enforcement 100% of the time.
 - They would share intelligence with Council services, and deploy to hotspots for offending identified in partnership with the Council.
 - The contractor would recruit and intensively train the enforcement officers working to the Council's relevant enforcement policies. They would try to recruit locally, and often employ people with police or military experience.
 - The Enforcement Officers wear different uniforms to our Wardens with "Enforcement Officer" on the back and the Council's logo on the front, but they would be issued with formal ID cards and enforcement authorisations the same as our Wardens.

- The contractor's staff are paid a set hourly rate which is linked to the geographical area they patrol, and is above both the national minimum wage and the accredited living wage. They are also sometimes paid discretionary competency allowances based on key competencies such as attendance, punctuality, positive public and customer feedback. They are employed on the basis of either a 40 or 48 hour week, whichever they prefer.
 - The contractor is responsible for all management and administration associated with the service, and deals with all representations against FPNs issued.
 - The contractor can also be responsible for much of the legal work associated with prosecuting for non-payment of FPNs. They prepare the prosecution files for the Council's lawyers to use for the Court proceedings.
 - The contractor provides regular routine performance reports for the Council.
 - Various payment models exist ranging from the Council paying an hourly rate or price per FPN issued, to profit sharing options, and an option whereby the service doesn't cost the Council anything and there is still the potential for some profit sharing.
 - The contractors operate rigorous quality control systems to ensure that sustainable representations against FPNs requiring them to be quashed should be the exception not the rule.
 - The contractors operate fully automated administration and FPN issuing systems, and store all the relevant data electronically and in accordance with data protection requirements.
 - The Enforcement Officers all wear and operate body worn cameras providing an audio and visual record of every FPN issued, which helps with transparency, reducing representations/complaints, and improving health and safety of the operatives.
 - The contractors achieve payment rates of about 75%, which is similar to our in-house service. However the contractors issue far more FPNs as that is all they are employed to do.
 - The contractors would ideally prefer to operate their team from our Warden base down in the Carlisle underground car park offices. We see advantages in this for intelligence sharing, as well as learning about their operating procedures as we develop our own Warden team into a more ASB orientated service.
18. One of the 2 contractors we met with offered greater flexibility with regard to the financial operating models, and had good experience of operating pilot schemes for up to 12 months. These pilot schemes enable local authorities to experience the service first hand. Many are then reported to have used this experience to develop a contract specification and terms and conditions to procure longer term contracts from this sector.
19. It is proposed that we should operate a 12 month pilot scheme with the preferred contractor, and start to review it after 6 months with a view to assessing our options for the future. These options could include deciding:-
- Not to continue such arrangements with a specialist enforcement contractor if the experience has been negative;
 - To procure a contract for such services if the experience has been positive;

- To consider operating such services directly via our in-house Warden service.
20. The preferred contractor has advised that they could mobilise in about 6 weeks, and it is proposed that arrangements should be made for this 12 month pilot as quickly as possible, with a potential start date being mid May 2017. This would enable the pilot to have an immediate positive impact during the Summer season.
21. In the weeks immediately before the pilot commences we will issue media releases about it, giving clear examples of the offences that will attract FPNs, including dropping smoking related litter as this is probably the commonest offence nationwide.

Reviewing and Developing the Role of the Council's Warden Service

22. The Government welfare reforms and cuts to Police budgets are resulting in emerging new issues for our Warden service, particularly in relation to the wider street community. Subject to Cabinet approval, implementation of the new Public Space Protection Orders for Hastings is imminent, and the key restrictive features will relate to drugs and alcohol and the related ASB.
23. In order to provide effective enforcement of the new ASB powers our Wardens will need to achieve community safety scheme accreditation from Sussex Police. This will enable them to be authorised to use additional powers which are otherwise only available to the Police. For example requiring the surrender of alcohol, and requiring a person suspected of committing an offence to provide their name and address. Sussex police have advised that obtaining accreditation will take up to 6 months.
24. Also bearing in mind the potentially more confrontational nature of the new ASB work, we will also want our Wardens to operate body worn cameras, as used by the Police, other Warden services and specialist enforcement contractors.
25. This change in emphasis for our Wardens will clearly require new management systems, risk assessments, and standard operating procedures, as well as some retraining in relation to the new enforcement powers, and operational equipment such as body worn cameras.
26. The 12 month plot with the specialist environmental enforcement contractor will help with this transition in several ways:-
- Firstly by creating some time for the Warden service to implement the operational changes required;
 - Secondly by working from the same offices we will be able to share intelligence and learn from the contractors best practice;
 - Finally working in such close proximity will also help us to review the success of the 12 month pilot and develop our options for the future.

Fly Tipping in Hastings

27. The nature of fly tipping in Hastings is unlike that typically experienced elsewhere. Our fly tipping tends to be mostly very small scale and is often associated with the irresponsible clearance of private rented flats. Much of this is dumped in built up

areas overnight and there is often no evidence of who did it or exactly where it came from.

28. It's hard to get good enough evidence to either issue an FPN or to prosecute. Residents will report the fact that something has been dumped, but will seldom of seen who did it, or even if they have witnessed the offence occurring they are generally not willing to provide a witness statement and to appear in Court.
29. This is different to what many people think of as fly tipping. When unlicensed waste contractors and/or builders tip large volumes of waste in remote laybys or on waste land.
30. People sometimes suggest that the Council should deploy mobile CCTV cameras to capture evidence of fly tipping. However, this is heavily restricted through the Regulation of Investigatory Powers Act 2000 (RIPA), and would require the Council to apply to the Magistrates Court for approval of directed covert surveillance. Such applications have to be very specific, and even if approved would be for no longer than 3 months. Management of directed covert surveillance to ensure compliance with RIPA is very onerous and time consuming. This is because a great deal of care needs to be taken to avoid capturing images and other data associated with people going about their lawful business(collateral intrusion).
31. It is unlikely such applications would be approved where the location of the operation would be a very public place such as a busy residential street. Whereas covert surveillance of remote areas of land frequently used for fly tipping in more rural districts is more likely to be authorised, as there is far less chance of collateral intrusion. Despite these difficulties, in 2014 we successfully prosecuted someone for fly tipping partly using evidence obtained from our CCTV system.
32. We are looking at how we can make better use of our static CCTV system to check for evidence of who has committed fly tipping when rubbish is dumped in areas that are covered by the system. However, the areas where much of the small scale fly tipping occurs, such as built up residential streets in Central St Leonards are not covered by our static CCTV system.
33. As a result of the difficulties described above, relatively few perpetrators of fly tipping in Hastings are subject to enforcement action. We only issue about 25 FPNs a year, primarily for small fly tips of domestic waste. We are therefore researching best practice from other local authorities with similar fly tipping issues to ours, and hope to develop proposals to address the problem more effectively in the near future.

Reviewing the Council's Enforcement Policy for Street Scene Offences

34. The Council's current enforcement policy and operational guidance for environmental and street scene offences was approved by Cabinet in October 2013. It had been developed because the Council had recently entered into an agreement whereby the Sussex Police, Neighbourhood Policing Team in Hastings had also been authorised to enforce common enviro-crime and irresponsible dog ownership offences in the borough.
35. For the following reasons it is now necessary to formally review and update the enforcement policy:-

- The Anti-social Behaviour, Crime and Policing Act 2014 introduced a range of new ASB powers for dealing with streetscene issues, some of which have now replaced the older powers. Good examples are the new Public Spaces Protection Orders and Community Protection Notices.
 - Proactive local authorities like Hastings are beginning to develop the use of Community Protection Warnings and Notices in response to emerging issues such as illegal camping/rough sleeping, as well as other low level ASB, and it is now time that we formalised the sort of circumstances when our enforcement staff should use these powers in our enforcement policy and operational guidance.
 - Since we first started actively issuing FPNs for littering and dog fouling in 2008/9, we have not seen any reduction in offending. In the circumstances we need to consider increasing the deterrent effect of the FPN powers by increasing them from the minimum statutory level to the maximum, and removing the early payment reduction facility. This will mean increasing the basic FPNs from £75 to £80, and stopping the reduced rate of £50 if paid within 2 weeks of service. Interestingly the specialist enforcement contractor we want to operate our 12 month pilot has advised that all 33 of their other local authority clients have done this, to maximise the potential for behaviour change arising from this work. They also point out that many of the recipients of FPNs are not resident in the area concerned, and don't appear to have serious difficulty paying.
 - We need to update the policy and operational guidance relating to fly tipping to account for the new fly tipping FPNs that can be from £150 up to £400 per offence. In this respect we are considering introducing the scope for Officers to choose from a number of sanctions ranging from a simple littering FPN at £80 through a banded range of specific fly tipping FPNs from £150 to £400 depending on the size of the fly tip, whether the offender is a resident or business/employee, the nature of the materials (are they hazardous such as asbestos or chemicals?), and whether it's a first offence.
 - To some extent this enforcement policy will inform our Warden's enforcement choices in relation to the new Public Space Protection Orders, where the use of Community Protection Warnings and Notices, and the associated FPNs will be important. The maximum level of these FPNs is £100 and it is suggested that they should be set at this maximum for the greatest deterrent effect.
36. The process for introducing Public Space Protection Orders (PSPOs) to Hastings is set out in another report on this Cabinet agenda. We will need a public consultation on the draft PSPOs before the final version can be produced and implemented. As part of this process we will also need to update the enviro-crime/street scene enforcement policy so that the new updated policy is in place for the PSPOs, which subject to Cabinet approval are likely to be implemented in early Summer this year.
37. In the meantime it is proposed that the only changes made to the enforcement policy and operational guidance are those described above relating to littering, dog fouling and fly tipping, which should take effect immediately.

Financial Implications

38. If the Council enters into a 12 month environmental enforcement pilot scheme with the preferred contractor on the basis that all the financial risk falls to the contractor,

the contractor has estimated that the profit share element of the agreement may still generate up to about £50,000 for the Council.

39. The level of income generated by the scheme will be monitored throughout the pilot, and decisions on how the Council's share should be spent will then be made. For example such income could be reinvested in the cost of operating the Council's environmental services associated with cleansing and street scene enforcement, including the corporate costs these services incur. It could also be used to fund environmental improvements, awareness raising campaigns, educational materials, and more responsive street cleansing services for specific areas.

Other Policy Implications

40. These initiatives should all have a positive impact on the local environment, crime and fear of crime, and local people's views, as they should result in a better local street scene, and therefore a better quality of life for residents.
41. It's possible that the use of a specialist enforcement contractor may lead to some complaints, but the contractor's enforcement processes (such as the use of body worn cameras) will actually bring greater transparency than our own existing processes, and make dealing with representations against the issue of FPNs easier.
42. As described in the section of this report titled: "Reviewing and Developing the Role of the Council's Warden Service", there are organisational implications for the Council's Warden Team, as we develop their role to help address the emerging ASB issues. Management will liaise with the Executive Manager of People, Customer and Business Support in this respect, as well as the staff and their representatives.

Wards Affected

Ashdown, Baird, Braybrooke, Castle, Central St. Leonards, Conquest, Gensing, Hollington, Maze Hill, Old Hastings, Ore, Silverhill, St. Helens, Tressell, West St. Leonards, Wishing Tree

Area(s) Affected

Central Hastings, East Hastings, North St. Leonards, South St. Leonards

Policy Implications

Please identify if this report contains any implications for the following:

Equalities and Community Cohesiveness	No
Crime and Fear of Crime (Section 17)	Yes
Risk Management	No
Environmental Issues	Yes
Economic/Financial Implications	Yes
Human Rights Act	No
Organisational Consequences	Yes

Local People's Views

Yes

Background Information

Enviro-crime enforcement policy and operational guidance - approved by Cabinet 7th October 2013.

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