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CABINET AGENDA

Date: Wednesday 17th April 2019

Time: 7.00pm NB Time

Venue: Council Chamber

This meeting will be webcast live on the internet.

Membership:

Councillor Smith	Chairman - Leader of the Council
Councillor Stanley	Finance, Policy and Resources
Councillor Mrs Egan	Housing and Council Homes
Councillor Howard MBE	Streets, Waste, Floods and Water Management
Councillor Isaacs	Neighbourhoods & Safer Communities
Councillor MacLean	Health & Wellbeing
Councillor Mumford	Regeneration & Business Liaison
Councillor Sheldon	Commercial Contracts and Commercial Opportunity
Councillor Varker	Environment & Leisure

Cabinet Enquiries: **Ann Horgan ext. 2413**
Reference: **9/2018/2019**
Publication Date: **Tuesday 9th April 2019**

**AGENDA
PART I
(Business to be taken in public)**

1. Apologies

2. Members' Interests

3. Minutes

To approve the Minutes of the meeting held on 20th March 2019.

4. Forward Plan

To review the Forward Plan.

5. Health and Community Safety

5(a) Occupational Therapist in Housing Scheme / Proposal for Countywide Handyperson Service.

(Report of the Cabinet Member for Health & Wellbeing)

6. Environment

6 (a) Resources and Waste Strategy for England

(Report of the Cabinet Member for Streets, Floods and Water Management)

6 (b) Household Waste Duty of Care – Use of Fixed Penalty Notices

(Report of the Cabinet Member for Streets, Floods and Water Management)

6(c) Reference from Environment Policy & Scrutiny Committee re petition use of Private Security Companies to Enforce Litter, Dog Fouling etc. Fixed Penalties

(Report of the Cabinet Member for Environment and Leisure Cabinet Member for Streets, Floods and Water Management)

7. Housing and Regeneration

7(a) Canvey Island Sea Front Regeneration – Coastal Communities Funding Award for Thorney Bay

(Report of the Cabinet Members for Regeneration & Business Liaison, Streets, Floods and Water Management)

7(b) Castle Point Regeneration Partnership – Revised Arrangements

(Report of the Leader of the Council, Cabinet Member for Regeneration & Business Liaison)

8. A Commercial and Democratically Accountable Council

9. Matters to be referred from /to Policy & Scrutiny Committees

There are no matters.

10. Matters to be referred from /to the Standing Committees

There are no matters.

PART II

(Business to be taken in private)

(Item to be considered with the press and public excluded from the meeting)

There are no matters

**INFORMAL
CABINET SESSION**

All Councillors are welcome to take part in this informal question time session with Cabinet at the end of the meeting. The session will be time limited and will conclude not later than 9pm.



CABINET

20TH MARCH 2019

PRESENT:

Councillor Stanley	Chairman	Finance, Policy and Resources
Councillor Mrs Egan		Housing and Council Homes
Councillor Howard	MBE	Streets, Waste, Floods and Water Management
Councillor Isaacs.		Neighbourhoods & Safer Communities
Councillor MacLean		Health & Wellbeing
Councillor Mumford		Regeneration and Business Liaison
Councillor Sheldon		Commercial Contracts and Commercial Opportunities
Councillor Varker		Environment & Leisure

APOLOGIES: Councillors Smith

ALSO PRESENT:

Councillors: Acott, Anderson, Blackwell, Mrs Blissett, Campagna, Cole, Greig, Hart, Mrs Haunts, Johnson, May, Palmer, Riley, Mrs Sach and Skipp.

77. MEMBERS' INTERESTS:

None.

78. MINUTES:

The Minutes of the Cabinet meeting held on 20th February 2019 were approved and signed by the Chairman as a correct record.

79. FORWARD PLAN:

To comply with regulations under the Localism Act 2011, the Leader presented a revised Forward Plan to the meeting which outlined key decisions likely to be taken within the next quarter 2018. The Plan was reviewed each month.

The plan was adjusted to take account of items to go forward in April 2019 – Resource and Waste Strategy; Revised Arrangements – Castle Point Regeneration Partnership; Canvey Island Seafront; Hadleigh town Centre – Market.

In June /July Cabinet was to consider Enforcement Strategy (Development Control) and the local Development Scheme – revision.

Resolved – To note and approve the Forward Plan.

80. FEEDBACK ON PUBLIC CONSULTATION REGARDING A NEW PADDOCKS COMMUNITY HALL

Cabinet considered a report dealing with the feedback on the public consultation exercise recently undertaken by a member working group to help inform the design of the new Paddocks Community Hall, and how the project should be progressed in light of this feedback.

Resolved:

1. To note the consultation feedback;
2. To confirm Cabinet's commitment to retaining the splash park and war memorial on the Paddocks complex;
3. To Cabinet's confirm intention to retain and operate the existing Paddocks Hall until such time as the new facility has been built and is available for hire;
4. That a planning appraisal setting out potential opportunities and constraints for the Paddocks site is undertaken to help inform the future layout of the site and the siting of the new community facility;
5. That Specialist advice is sought in order to better understand potential future demand for larger scale entertainment events;
6. That the Strategic Director (Resources) in consultation with the Cabinet Member for Finance, Policy and Resources is given delegated authority to draw down from reserves the funding required to cover the cost of the specialist advisors;
7. That a design brief is produced for a modern, multi-functional, flexible community facility capable of accommodating both small groups, i.e. less than 20 people through to functions catering for up to 500 seated guests;
8. That an architect is appointed to develop conceptual building designs having regard to the design brief; and that
9. That regular progress reports are presented to Cabinet

81. UPDATE ON RECENT PROCUREMENT EXERCISES IN RELATION TO THE CONSTRUCTION OF NEW HOUSING DEVELOPMENTS

Cabinet considered a report updating Cabinet:- on the procurement of a new House in Multiple Occupation (HMO) at Hatley Gardens; on the procurement of four new 2 bedroom properties at Church Close and seeking authority to undertake alternative methods of delivery of new council housing in addition to construction.

Resolved:

1. To approve the increase in budget for construction cost for the development of the HMO at Hatley Gardens, as set out in paragraphs 5.2.2 and 5.2.3 of the report.
2. To Cabinet notes the delay in the construction of four homes at Church Close
3. To request officers to undertake the work set out in section 5.6.(retender of church close; further examination of option 2 use of prefabricated units and as a backstop purchase of housing on the open market)

82. LEISURE AND RECREATION STRATEGY 2015 – 2020 ACTION PLAN UPDATE

Cabinet considered a report updating the Cabinet of progress against objectives and actions as laid out in the Leisure and Recreation Strategy 2015 - 2020.

Resolved:

To note the content of the report and the progress made in respect of the Leisure and Recreation Strategy action plan.

83. THE CROWN PUBLIC HOUSE

Cabinet considered a report seeking approval to proceed to the preparation and submission of a planning application for the demolition and remediation of the Crown Public House, High Street, Hadleigh Town Centre. This was the first stage to enable the demolition of the Crown

Resolved:

1. To authorise the making of a planning application for the demolition and associated works for the Crown Public House, High Street, Hadleigh.
2. That a works brief is prepared and tenders sought for the demolition and associated works for the Crown Public House, and a further report made to Cabinet to authorise those works

84. CORPORATE PERFORMANCE SCORECARD QUARTER 3 2018/19

The Cabinet considered the cumulative performance figures for the Corporate Performance Scorecard for quarter 3, 1st October 2018 to 31st December 2018.

Resolved:

To note the report and continue to monitor performance.

85. MATTERS TO BE REFERRED FROM/TO POLICY SCRUTINY COMMITTEES:

There were no matters.

86. MATTERS TO BE REFERRED FROM /TO THE STATUTORY COMMITTEES:

There were no matters.

Chairman



Castle Point Borough Council

Forward Plan

APRIL 2019

CASTLE POINT BOROUGH COUNCIL

FORWARD PLAN

APRIL 2019

This document gives details of the key decisions that are likely to be taken. A key decision is defined as a decision which is likely:-

- (a) Subject of course to compliance with the financial regulations, to result in the local authority incurring expenditure which is, or the savings which are, significant having regard to the local authority's budget for the service or function to which the decision relates subject to a threshold of £100,000; or
- (b) To be significant in terms of its effects on communities living or working in an area comprising two or more Wards in the area of the local authority.

The Forward Plan is a working document which is updated continually.

Date	<u>Item</u>	Council Priority	Decision by Council/ Cabinet	Lead Member(s)	Lead Officer(s)
April 2019	<u>Household Waste Duty of Care – Use of Fixed Penalty Notices</u>	Environment	Cabinet	Streets Waste Floods and Water Management	Head of Environment
April 2019	<u>Reference from Environment Policy & Scrutiny Committee re petition use of private Security companies to Enforce Litter, Dog Fouling etc Fixed Penalties</u> To consider recommendations	Environment	Cabinet	Environment & Leisure Streets Waste Floods and Water Management	Head of Environment
June 2019	<u>Planning Policy Update – Supplementary Planning document for Essex coast Recreation Disturbance and Mitigation Strategy</u> - For approval	Council Housing and Regeneration	Cabinet	Regeneration and Business Liaison	Head of Place and Policy
June/July2019	<u>Enforcement Strategy Development Control</u>	Council Housing and Regeneration	Cabinet	Regeneration and Business Liaison	Head of Place and Policy
June/July2019	<u>Local Development Scheme Review</u>	Council Housing and Regeneration	Cabinet	Regeneration and Business Liaison	Head of Place and Policy
June/July2019	<u>Canvey Seafront</u>	Council Housing and Regeneration	Cabinet	Regeneration and Business Liaison	Head of Place and Policy

CABINET

17th April 2019

Subject: Occupational Therapist in Housing Scheme / Proposal for Countywide Handyperson Service.

Cabinet Member: Councillor MacLean – Health and Well Being

1. Purpose of Report

This report aims to:

- 1. Inform Cabinet of the recent appointment of a dedicated Occupational Therapist, shared between four South Essex Councils as part of a 12 month pilot scheme to help to facilitate the swift return home of hospital patients and those in residential care in partnership with Essex County Council;**
- 2. Inform Cabinet regarding a proposal for a Countywide Handyperson Service aimed at providing practical support for the pilot Occupational Therapist scheme; and**
- 3. To seek the approval of Cabinet to amend the Council's Disabled Facility Grant policy, to allow additional flexibility in the allocation of discretionary grants in order to ensure that cases can be processed with the maximum efficiency.**

2. Links to Council's Priorities and Objectives

The new policy links directly to the Council's Community Safety Priority.

3. Recommendations

That Cabinet:

- i. Notes the pilot Occupational Therapist scheme that is underway and seeks a further report from the Head of Environment on its conclusion or proposed extension;**
- ii. Notes the Countywide approach to the provision of a handyperson service to support the pilot Occupational Therapist Scheme; and**

- iii. Approves an amendment to the Council's 2018 Disabled Facility Grants policy, to allow for discretionary and other grants relating to the pilot schemes to be approved, without the requirement for means testing, or for a charge to be recorded against a property with the Land Registry.
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4. Background – Occupational Therapist in Housing Pilot Scheme

- 4.1 Delays to a person being discharged home from hospital or residential care (when an adaptation to their home is needed for their safety) are costly to all partner services and are stressful for vulnerable persons subject to the delay.
- 4.2 Castle Point Borough Council recently began a 12 month pilot project, in partnership with Rochford Council, Basildon Council, Brentwood Council and Essex County Council to fund a dedicated Occupational Therapist (OT) to work alongside Environmental Health Officers to facilitate the safe and early discharge of residents from hospital, residential/nursing placements and hospices. It is expected that this will in turn have a positive impact on annual costs caused by delayed discharges.
- 4.3 The role of the dedicated Occupational Therapist includes working with adults and children with life-limiting conditions and life-altering injuries to prevent formal care placements for those where their home environment is not currently suited to their assessed needs.
- 4.4 Accepted adult/children referrals will include:
- Spinal injury
 - Acquired, traumatic and congenital brain injury
 - Amputation
 - Frailty and End of Life
 - Motor Neurone Disease
- Agreed solutions which may be provided for the above include:
- External Access (ramps, thresholds, doorways, pathway)
 - Internal Access (stairs, thresholds, doorways)
 - Heating
- 4.5 These types of referral are received by Essex County Council Social Care via various Health partners, to which there have historically been various delays / bottlenecks in the process, due to the multiple parties that must be consulted at a number of stages. It is acknowledged that in many situations an Occupational Therapist alone could identify the adaptations required for someone to be safely discharged home. This includes major alterations to both the external and internal aspects of the property such as ramping, door widening, stair lifts etc.
- 4.6 The introduction of a dedicated Occupational Therapist will enable these recommendations to be made directly to each Service as part of a more efficient process to enable the adult or child to return home safely and reduce the time spent in hospital, hospice or a residential/nursing home placement.
- 4.7 If cost savings and quality of life marker improvements can be demonstrated throughout the trial then there could be justification for ongoing funding to

support the scheme at the end of the pilot period. During March 2019, an Occupational Therapist dedicated to the pilot scheme was appointed. Her initial appointment will be until April 2020.

5. Handyperson Pilot Scheme

- 5.1 A task and finish group made up of representatives from the Essex Disabled Facilities Grants Group (including representatives from all District/Borough authorities and Essex County Council) has confirmed that there is currently a gap in service provision relating to small works that would help vulnerable people return home from hospital without avoidable delay and promote independence at home.
- 5.2 Handyperson services provide a range of support; these can include any work that might involve use of a ladder, works that would remove tripping hazards or improve lighting, provision and fitting of a Key Safe and other small works that would benefit the home safety, security and efficiency for a resident of Essex that otherwise would be unable to co-ordinate this work themselves or with the assistance of informal support network.
- 5.3 It has been determined that a general handyperson service accessible to all residents would be unsustainable across Essex and that many of the traditional handyperson works would not meet the criteria for support through the Better Care Fund. It has therefore been determined that the scope of the Essex-wide service should be limited to:

“A rapid response service to undertake works necessary to facilitate the return home of someone in hospital or under hospice care.”

- 5.4 Having examining various options it is proposed to employ 2 full time handypersons, with 2 vans for a 12 month pilot scheme. This will ensure County Wide coverage, with all participating Councils receiving a uniform service. It will be relatively easy to monitor outcomes of cases for the purposes of assessing the success rate of the pilot scheme.
- 5.5 The recommended option for the handyperson pilot across Essex is that it is provided by extending the existing Essex Cares Ltd (ECL) contract with Essex County Council (ECC) which currently covers procurement of equipment and minor adaptations services.

6. Proposal for amendment to Castle Point Disabled Facilities Grants Policy

- 6.1 With both the Occupational Therapist and Handyperson pilot schemes, it is accepted that speed is of the essence to enable the swift assessment of a property by the dedicated Occupational Therapist and the rapid response of contractors to complete any works required, to ensure the safe and timely homecoming of the vulnerable person.
- 6.2 It is envisaged that most of the works likely to be requested as part of either scheme would fall into the discretionary grants category, which is covered by our existing Disabled Facilities Grants policy.
- 6.3 However, the policy currently states that means testing shall be completed in each case and that a charge shall be placed against a property to repay the grant once the property is sold.

- 6.4 The means testing process can take 1-2 weeks, as each applicant must fully declare their financial status including savings, pensions, and wages and must provide written proof of each going back 6 months. This would prove to be difficult for those in hospital awaiting discharge.
- 6.5 For discretionary grants the Council currently has a policy of recording a charge against a person's property for repayment of a grant once the property is sold, which allows for the long term recycling of funding. However, many vulnerable persons, particularly the elderly have proved to be very reluctant to place additional debt on their properties, even if this is not to be repaid until they move or pass away. Decisions are often fraught, often taking an additional period of time, which can cause extra worry for the resident who being away from home in hospital or residential care, is already in a vulnerable position.
- 6.6 To ensure that both schemes work to maximum effectiveness, it is proposed that Cabinet allow any relevant cases that are referred to the Council during the trial period of both schemes, to be exempted from means testing and having a charge recorded against the persons property, and to allow an amendment to this effect to be placed into a revised Council DFG policy.
- 6.7 The proposed amendment to the Council's DFG 2018 policy is highlighted below and would be added to page 6:
- "4.4.7) For the purposes of any cases referred to the Council under the Occupational Therapist in Housing scheme and the Essex Countywide Handyperson scheme, the requirement to means test applications and for any grant to be recorded as a charge against the property, to be repaid in full where a dwelling is disposed of, shall be waived for the initial trial period of 12 months from the date of inception of each scheme."*
- 6.8 Whilst it is accepted that there may be some cases where grants are made to persons that may not otherwise qualify for a payment due to means testing, it is proposed that this should be balanced against the overall purpose of both schemes, to speedily facilitate the return home of disabled and vulnerable persons from hospital / hospice or residential care.

7 Financial Implications

- 7.1 Funding for both the OT and Handyperson pilot schemes will be provided by using a slice of the Capital Grant provided to the Council via the Better Care Fund. A large proportion of this fund is currently used to provide mandatory Disabled Facilities Grants to local residents. The terms of the grant allow for schemes such as these pilots, to be implemented locally for the benefit of disabled persons, in addition to the mandatory requirements of the grant.

8 Legal Implications

- 8.1 There are currently no legal implications associated with this report.

9 Human Resources

- 9.1 There are no human resources implications associated with this report.

10 Equality Implications

- 10.1 If implemented the recommendations in this report will have a positive impact on residents being discharged from hospital or other caring institution.

11 Timescale for implementation and Risk Factors

- 11.1 It is recommended that the DFG policy amendment, waiving the means test and property charge if approved, should take place with immediate effect to allow maximum benefit for local residents during the trial period of both schemes.

12 Background Papers

- 12.1 Castle Point Borough Council Disabled Facilities Grants Policy (2018)

Report Author: Simon Llewellyn, Environmental Health Operational Manager

CABINET

17th April 2019

Subject: Resources and Waste Strategy for England

Cabinet Members: Councillor Howard MBE – Streets, Waste, Flood and Water Management

1. Purpose of Report

This report advises Cabinet of the new Resources and Waste Strategy (the strategy) that the Government published on 18th December 2018 and of the four public consultations which have been launched in respect of key measures contained within the strategy.

2. Links to Council's priorities and objectives

The strategy supports the Council's "Environment" objective.

3. Recommendations

It is recommended that Cabinet notes the content of this report.

4. Background

Resources and Waste Strategy for England

The Strategy is the first national strategy on waste since 2007.

It has two overarching objectives:

- 1. To maximise the value of the resource use; and**
- 2. To minimise waste and its impact on the environment.**

It seeks to articulate a clear policy direction in line with the Government's 25 year Environment Plan with the emphasis being on preserving resources, promoting resource efficiency and moving towards a circular economy. I.e. keeping materials in use as long as possible in order to extract maximum benefit from them.

It enshrines the "Polluter pays principle" and supports the waste hierarchy, i.e. reduce, re-use and recycle, with disposal being the last resort.

The Strategy seeks to deliver five strategic ambitions:

1. All plastic packaging placed on the market being recyclable, reusable or compostable by 2025
2. Eliminating food waste to landfill by 2030
3. Eliminate avoidable plastic waste over the lifetime of the 25 year Environment Plan
4. Double resource productivity by 2050
5. Eliminate avoidable waste of all kinds by 2050.

The strategy is split into 8 chapters;

Chapter 1: Sustainable production.

This Chapter seeks to extend producer responsibility for packaging and in particular to:

- Introduce a tax on plastic packaging with less than 30% recycled content.
- Extend the producer responsibility to wider range of materials.

Public consultation is currently underway, with the response deadline being 12th May 2019. It is expected that draft legislation will be published in 2020.

Chapter 2: Helping consumers take more considered action

This Chapter seeks to incentivise consumers to purchase sustainably.

It proposes the introduction of a Deposit Return Scheme for in-scope material, which should be self-funded by the deposit and the industry.

Consultation is currently underway on what materials should be included in the scheme with targeted plastics, glass bottles and steel and aluminium cans being the minimum. Views are being sought on whether it should just be targeted at “on the go” containers or include all containers.

The response deadline is 13th May 2019, with the intention of a deposit return scheme (DRS) being rolled out in 2023. A DRS scheme would impact on the Council’s collection service but it is difficult to assess what the likely impact would be until details of the scheme have been confirmed.

Chapter 3: Recovering resources and managing waste

This Chapter potentially has significant implications for local authorities in terms of their collection systems and their waste management costs.

The long term ambition is to move away from weight based targets with the emphasis being on quantity and quality of materials collected for recycling. To help to resolve confusion around the differing collection schemes operated by local authorities and to improve recycling rates the strategy proposes that a consistent set of recyclable materials should be collected from all households and businesses by Waste Collection Authorities. As a minimum it proposes the core dry recycling materials that every collection authority will be required to collect should include glass bottles and containers, paper and card, plastic bottles, pots, tubs and trays, steel and aluminium cans.

The strategy also proposes to require all collection authorities to provide a weekly food collection service for households and businesses, with food waste being separated from garden waste from 2023.

Significantly for this Council in order to reduce the production of greenhouse gases from garden waste sent to landfill sites the strategy proposes the provision of free garden waste collections. This proposal is contrary to the “polluter pays” principle which the strategy seeks to support.

The consultation to establish the core set of materials that all local authorities will be required to collect is underway with the response deadline being 13th May 2019. Timings for the introduction of a standardised collection regime and the financial burden of the new duties will be subject to discussion at spending review.

Chapter 4: Tackling waste crime

In order to tackle waste crime the strategy proposes to strengthen legislation and intelligence, as well as the creation of a Joint Unit for Waste Crime. It is intended that there will be tougher penalties for waste criminals.

Chapter 5: Enough is enough: cutting down on food waste

This Chapter focuses primarily with working with businesses. It proposes to reduce food waste through a £15m pilot fund, to consult on legal powers to introduce mandatory targets for food waste prevention and to appoint a new Food Surplus and Waste Champion to promote awareness of the issue.

Chapter 6: Global Britain: International Leadership

This Chapter identifies the need to promote the strategy internationally, to tackle international barriers to a circular economy, and to improve the quality of plastics exported for recycling, etc.

Chapter 7: Research and Innovation

This Chapter acknowledges that innovation will help to deliver new, cleaner technologies at lower cost, create jobs and increase the competitiveness of UK companies. The Strategy supports further investment and innovation in resource efficiency and the Waste Resources Action Programme (WRAP).

Chapter 8: Measuring progress: Data, monitoring and evaluation

This Chapter sets out the approach to improving data collection, monitoring and evaluation. The Government wants robust, effective and transparent systems to collect and report data, to enable everyone to reap benefits of a move to a more circular economy. A suite of performance indicators will be developed to monitor the progress against the Strategy’s objectives, with a shift towards a focus on resources and away from the current focus on waste.

Response to consultations

There are currently four on line consultations underway. Namely these are:

1. Consultation on reforming the UK packaging producer responsibility system;
2. Plastic packaging tax;
3. Consistency in household and business recycling collections in England; and
4. Introducing a Deposit Return Scheme in England, Wales and Northern Ireland.

The Essex Waste Partnership Officer Delivery Group has arranged a series of meetings in order to discuss the potential implications of the consultations which are currently underway on Waste Collection Authorities and Waste Disposal Authorities. These discussions will assist partner authorities in drafting

comprehensive responses which can be submitted either by individual authorities or collectively on behalf of the Essex Waste Partnership.

Conclusion

Whilst the Strategy contains many positive proposals relating to maximising the value of resources and minimising waste, the devil will be in the detail. As many of the proposals in the strategy are, or will be, subject to consultation, it is not clear at this stage whether they will ever get implemented, or if they are, when that will be. From a Local Authority perspective it will be essential that the impact of any changes on waste collection and disposal are fully understood and that any new burdens on local authorities are adequately funded. The Essex Waste Partnership and the Partner Authorities have the opportunity to influence the outcome of the various consultations and the future of waste management.

5. Corporate Implications

a. Financial implications

The Government has indicated that any new burdens on local government will be adequately funded. However, until such time that the proposed changes and associated funding mechanism have been confirmed it is impossible to know whether this will be the case, or not.

b. Legal implications

None at this time but inevitably new legislation will need to be introduced to deliver the key objectives of the strategy.

c. Human resources and equality implications

None at this time.

d. Timescale for implementation and risk factors

The Strategy was published in December 2019. The deadline for responses to the four live consultations is 12/13 May 2019.

7. Background Papers:

Resources and Waste Strategy for England – published 18 December 2018
Consultation on reforming the UK packaging producer responsibility system.
Consultation on plastic packaging tax.
Consultation on consistency in household and business recycling collections in England.
Consultation on introducing a Deposit Return Scheme in England, Wales and Northern Ireland

Report Author: Trudie Bragg, Head of Environment.

CABINET

17th April 2019

Subject:	Household Waste Duty of Care – Use of Fixed Penalty Notices
Cabinet Member:	Councillor Howard MBE - Street Scene, Waste, Floods and Water Management

1. Purpose of Report

To determine an appropriate level at which to set the fine for a Fixed Penalty Notice (FPN) which may now be given to a person who has failed to comply with their household duty of care under section 34(2A) of the Environmental Protection Act 1990.

2. Links to Council Priorities

Keeping the Borough free from fly tips links with the Council's "Environment" priority.

3. Recommendations

(1) That Cabinet notes the content of this report and the Council's ability to issue a FPN for breach of the household duty of care; and that

(2) The level of the FPN fine is set at £200 with no discount for early payment.

4. Background

Section 34(2A) of the Environmental Protection Act 1990 places a duty on the occupier of a domestic property to take all such measures available to him as are reasonable in the circumstances to secure that any transfer by him of household waste produced on the property is only to an authorised person or to a person for authorised transport purposes. An authorised person would be a person or company licensed by the Environment Agency to collect, transport and dispose of waste at a licensed waste site.

The Council's Street Scene Officers investigate reports of fly tipping and try to find evidence of who has fly tipped the waste. Unfortunately in the majority of cases no evidence is found as to the person responsible but occasionally evidence is found as to the origin of the waste. Section 34 of the Environmental Protection Act 1990 enables the Council to prosecute the person or company from where the waste originated from for failure to comply with the duty of care requirements.

A new power has recently been introduced which means that a Fixed Penalty Notice (FPN) can now be issued for a breach of the household waste duty of care; this provides an alternative to prosecution. It allows an individual to discharge liability for the offence by payment of a financial penalty. There is no obligation on the Council to offer an alleged offender the option to discharge liability through payment of a FPN fine. However, it can be more proportionate than prosecution in less serious cases. The Department for Environment, Food and Rural Affairs (DEFRA) has issued guidance to local authorities on the use of household waste FPNs.

A FPN can be issued when an individual appears to have failed to comply with their duty of care under section 34(2A) of the Environmental Protection Act 1990 in England. For example:

- where fly-tipped waste can be traced back to an individual who is found to have failed to take reasonable steps to ensure that they transferred the waste to an authorised person;
- where an unauthorised carrier is found to be carrying household waste that was directly transferred to them by the occupier of a domestic property; or
- where an individual is found to have transferred their household waste to an unauthorised person at a site that does not have a permit or exemption.

An authorised person may still fly-tip waste so tracing fly-tipped waste to a household does not necessarily demonstrate a breach of the duty of care. An individual has to be given an opportunity to demonstrate that they took reasonable steps to determine the person that took their waste was authorised to do so. If fly-tipped waste is traced to an individual and they are unable to identify who took their waste, or the carrier they identify is unauthorised, then it is reasonable to believe their duty of care was not met.

The guidance states that enforcement should focus on those who, as a result of not meeting their duty of care, enable their waste to be fly-tipped or otherwise inappropriately disposed of. Individuals should not be penalised for minor breaches which do not lead to waste being inappropriately disposed of. This includes where an individual uses an authorised carrier that disposes of their waste appropriately but doesn't check that they are authorised.

The Government wishes to encourage a balanced approach to enforcement. The principles of the Regulators Code apply to the enforcement of the household waste duty of care. Under the Legislative and Regulatory Reform Act 2006, the Council has a duty to carry out regulatory activities in a way which is transparent, accountable, proportionate and consistent, and for them to be targeted only at cases in which action is needed. In no circumstances should enforcement be used as a means to generate income.

The service of a FPN is not applicable where an individual intends for waste to be collected by the local authority collection service, for instance where this is put out in household waste or recycling bins.

Where a tradesperson is working on a property, they are responsible for the waste they produce. As the occupier is not producing the waste, they are not transferring it to the tradesperson and so the duty of care does not apply.

Likewise, where a landlord is arranging the clearance of premises after a tenancy has ended, the resulting waste is not considered to be household waste, and therefore the business duty of care rather than the household duty of care will apply.

FPNs should not be issued where prosecution through the courts is more appropriate, for example the deliberate transfer of waste to an unauthorised person in the knowledge that it would be fly-tipped, or when someone is a persistent offender with a record of not paying fixed penalties for environmental offences.

The Government has given local authorities the power to set the level of the FPN fine between £150 and £400 with the default penalty being £200. There is also scope to reduce the fine to a minimum of £120 for early payment. However, it has not been this Council's policy in respect of other Fixed Penalty Notices relating to Environmental Crime to offer a discount for paying early.

Whilst it has been this Council's policy in respect of other FPNs relating to Environmental Crime to set the fine at the maximum level possible, in this case regard should be had to the maximum permissible penalty for breach of the Business Duty of Care which is £300.

Businesses should be far more aware of their responsibility in relation to the disposal of their waste than householders are likely to be. It is therefore felt inappropriate to set the level of fine for breach of the household duty of care at a level greater than that of the business duty of care fine. It is proposed therefore to set the level of fine for breach of the household waste duty of care at £200.

5. Legal and Financial Implications

The service of a FPN as an alternative to prosecution is a more efficient and proportionate way of dealing with less serious offences. Payment of the fixed penalty fine is required within fourteen days to discharge the offence. Failure to pay the fine could result in the offender being prosecuted. If convicted they will have a criminal record and are likely to receive a fine in excess of the value of the FPN fine.

The ability to serve a FPN serves as a useful deterrent.

Income from FPNs can only be used for carrying out the Council's functions under Part II of the Environmental Protection Act 1990 "Waste on Land".

6. Human resources and equality

None.

7. Timescale for implementation and risk factors

It is proposed to implement the approved fine level with immediate effect.

Report Authors: Stuart Jarvis, Contracts Manager/Trudie Bragg, Head of Environment

CABINET

17th April 2019

Subject: Private Enforcement Companies – Fixed Penalty Notices, Littering, Dog Fouling etc.

Cabinet Member: Councillor Howard MBE– Streets, Waste, Floods and Water Management

Councillor Varker – Environment and Leisure

1. Purpose of Report

To consider the findings and recommendations of the Environment, Policy and Scrutiny Committee which has considered a request (via petition) for the Council to engage a private self-financing company to enforce laws on littering, dog fouling and fly tipping.

2. Links to Council's priorities and objectives

This proposal links with the Council's Environment priority.

3. Recommendations

It is recommended that Cabinet

- (1) Notes the findings and recommendations of the Environment, Policy and Scrutiny Committee; and**
- (2) Determines whether it wishes to endorse the appointment of additional in- house staff to enforce a broad range of enviro crime legislation as set out in this report , and if so, requests that the Head of Paid Service gives this matter due consideration.**

4. Background

At the Cabinet meeting on 20th June 2018 consideration was given to a report on improved powers for dealing with littering offences. At that meeting, the Leader of the Council as Chairman of the Cabinet reported receipt of a petition suggesting that the Council engages a private self-financing company to enforce laws on

littering, dog fouling and fly tipping. The Cabinet resolved that the Environment, Policy and Scrutiny Committee (“the Committee”) should consider the petition and report back to the Cabinet.

The Committee duly met on 20th November 2018 and on 13th February 2019 to discuss this matter.

The Committee received the petition positively and felt that further action is required to address the problem of littering, fly tipping and dog waste.

However, having looked in depth at how private enforcement companies operate and the experience of other local authorities in their use, it concluded that the use of additional in-house staff was preferable to the employment of a Private Enforcement Company given the nature of the Borough and the type of issues that are encountered. It felt that the additional in house enforcement resource should complement the current provision and should concentrate solely on education and the enforcement of enviro – crime offences.

In order to satisfy health and safety requirements the Committee was of the opinion that the additional resource should include the provision of one full time post working 37 hours spread across a seven day week, plus a part time post working 22.5 hours per week supporting the full time post outside of normal working hours. It was felt that the working times would need to be flexible to ensure the service can interact with the general public at the times when education and enforcement are going to be most effective.

The Committee favoured more education and promotion going hand in hand with additional enforcement. In particular, it felt that:

- The provision of a visible deterrent, particularly where operatives wear uniforms, would assist in educating would-be offenders and lead to behavioural change; and that
- The younger generation need to be educated about disposing of waste properly to reduce the amount of littering.

The Committee acknowledged that the issue of an increased number of Fixed Penalty Notices (FPNs), irrespective of whether they were served by in-house staff or by a private enforcement company, could potentially have resource implications for the legal team in terms of instigation of legal proceedings where fines are not paid within the required 14 days.

At its meeting on 21st November 2018 Cabinet considered a report on the response to the informal public consultation exercise on the possible banning of dogs from Canvey seafront and how best to proceed in light of the public response. It was resolved;

That investigation be undertaken and a report be made to Cabinet on a dog control scheme to operate between April and September requiring dogs to be kept on a lead on beaches on Canvey.

A formal consultation will need to be undertaken before such a scheme can be implemented. Successful implementation of any such scheme will be dependent on enforcement of the new restriction particularly at the outset. The Committee’s

preference, having considered the enforcement options would be to use in-house enforcement staff rather than to employ a private enforcement company to enforce the new restriction if and when, it comes into effect.

Conclusion

The Committee concluded that additional enforcement would be beneficial to deter enviro crime and improve the look of the local environment. It also concluded that an increase in the Council's own staffing provision was more appropriate than the use of a Private Enforcement Company given the size of Castle Point and the nature and extent of the enviro crimes we encounter. The additional enforcement resource could also be used to enforce the new seasonal "dogs on leads" restriction at the seafront, if and when, it is implemented.

7. Corporate Implications

a. Financial implications

Given the nature of the Borough, it is highly likely that additional enforcement via a private enforcement company or via in house service provision will not be self-financing and will come at an extra cost to the Council. No budget provision has been made for an additional enforcement resource irrespective of whether it is provided by a private security company or by the Council's in house enforcement team.

The in house cost of employing one full time and one part time enforcement officer (plus associated costs) would be in the region of £41,000 per annum with set up costs in the region of £15,000. This cost would be offset to an extent by the number of FPNs served.

b. Legal implications

Payment of a FPN fine within the requisite period discharges the criminal offence. Where fines are unpaid it is essential that unless the notice is cancelled because it has been inappropriately served, that prosecution is pursued. If convicted the culprit will have a criminal record and will most likely receive a fine greater than the value of the original FPN.

c. Human resources and equality implications

Any increase in the number of fines which are unpaid and need to be taken forward for prosecution, whether they are served by staff employed by a private enforcement company or by the Council will increase the workload of the Council's Legal Department. Potentially the Legal department may need to buy in additional support to keep on top of its workload.

d. Timescale for implementation and risk factors

To be determined.

8. Background Papers:

Report to Environment, Policy and Scrutiny Committee 20 November 2018: Use of Private Security Companies for service of Fixed Penalty Notices for littering, dog fouling, etc.

Report to Environment, Policy and Scrutiny Committee 13 February 2019: Use of Private Security Companies for service of Fixed Penalty Notices for littering, dog fouling, etc.

Report to Cabinet – 20 June 2018: Littering offences, improved powers

Report to Cabinet – 21 November 2018: Feedback on public consultation regarding possible banning of dogs from Canvey seafront

Report Authors: Trudie Bragg, Head of Environment

CABINET

17th April 2019

Subject: Canvey Island Seafront Regeneration - Coastal Communities Funding Award for Thorney Bay

**Cabinet Member: Councillor Mumford – Regeneration & Business Liaison
Councillor Howard MBE - Street Scene, Waste, Floods and Water Management**

1. Purpose of Report

This report is to update the Cabinet on the recent award of funding from the Coastal Communities Fund by the Ministry of Housing, Communities & Local Government.

2. Links to Council's Priorities and Objectives

The regeneration of Canvey Seafront supports the following Council Priorities from the Corporate Plan:

- Health and Community Safety priority through the improvement of our leisure and recreational offer.**
- Environment by enabling the further development of parks, beaches and foreshore, open spaces, playgrounds and community facilities.**

3. Recommendations

- 1. That Cabinet notes the contents of this report.**
 - 2. That Cabinet authorises the Chief Executive to enter into a funding agreement with the Ministry of Housing, Communities and Local Government.**
 - 3. That regular reports are made to Cabinet and the Canvey Island Coastal Communities Team (CCT) on progress of the project.**
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4. Background

- 4.1 Since the establishment of the Canvey Island Coastal Communities Team (CCT) in 2017, the seafront subgroup has prioritised its activities on the delivery of a masterplan for Canvey Seafront.
- 4.2 A draft master plan was created in 2018 which facilitated discussion of a future vision for the seafront with the local community. As a result of the draft masterplan and subsequent discussions, the next steps were split into several stages with stage one being the scoping of a regeneration scheme at Thorney Bay. Meanwhile, further master planning of the central seafront area has continued.
- 4.3 In November 2018, the team was invited by the Ministry of Housing, Communities and Local Government to submit an application for funding from Round 5 of the Coastal Communities Fund for a regeneration scheme at Thorney Bay. The proposed scheme included the following elements:
 - An enlargement of the public car park at Thorney Bay to help increase the visitor capacity of the area;
 - Construction of a new pavilion that will include public toilets, a retail kiosk, storage space to support the local volunteers, and a viewing terrace. The additional toilets will help improve the visitor experience, the kiosk will increase jobs and the service offering and the viewing terrace will create a visitor attraction in its own right;
 - Improvements to the access pathways between the car park, the new pavilion and the seafront
 - Improvements to the footpath along the northern side of the seawall from Thorney Bay to Labworth Central. This will include improved surfacing as well as the addition of lighting. This will lead to an improved visitor experience, encourage movement and extend connectivity between central and west activity nodes. It will also help to make the pathway more accessible in inclement weather and later into the evenings, allowing for extension of the peak season into 'shoulder' months;
 - Additional amenity improvements such as the provision of an outdoor water tap and rinsing shower and wayfinding/public information signage.
- 4.4 Ingleton Wood Architects was procured via the Braintree Procurement Hub to assist with the development of the scheme designs and subsequent project management (which was conditional upon the success of the funding application).
- 4.5 Preliminary designs for the scheme were agreed by the CCT and the full funding application was submitted by Castle Point Borough Council (CPBC) in January 2019; seeking £1.52m for a £1.72m scheme.
- 4.6 The scheme is required to be completed by March 2021.

5. Proposals

- 5.1 The Regeneration Team is currently waiting to receive the funding agreement from the Ministry of Housing, Communities & Local Government. Once the funding agreement has been received, legal advice will be sought prior to entering into the agreement.
- 5.2 A project working group of administration staff will be established to provide oversight for the project. This will include representatives from regeneration, planning, finance, environmental health and legal.
- 5.3 Regular progress updates will be provided to the Cabinet and the CCT to ensure the scheme remains community focused and maximises the benefits to our community, and ensures the continued viability of Canvey Island as a leisure destination for both residents and visitors.
- 5.4 The first priority for the project will be to undertake a review of the scheme designs prior to proceeding with the planning approval process.
- 5.5 A review of the programme schedule will also be undertaken with a view to minimising any disruption to seafront users. This will include scheduling works outside of the peak visitor summer period.

6. Corporate Implications

(a) Financial Implications

The Council is to receive £1.52m from the Ministry of Housing, Communities and Local Government towards the scheme. Notwithstanding any changes to the scope arising from the design review, the Council will be required to contribute to the overall costs of the scheme with contributions including staff time for project oversight. The scheme is expected to create additional revenue for the Council arising from increased car parking provision and rental income from the retail kiosk in the new pavilion.

(b) Legal Implications

The Council will be expected to enter into an agreement with the Ministry of Housing, Communities & Local Government relating to the funding agreement and provision of the funding.

As the scheme includes the creation of a retail kiosk and storage space for community groups in the pavilion, the Council expects to enter into lease agreements with tenants for the use of these spaces.

(c) Human Resources and Equality Implications

Staff time has been included for project oversight as in kind contribution to the project.

(d) Asset Management Implications

The scheme involves works on public land owned by CPBC. Construction of the pavilion will result in a new facility for the Council to manage. Other works to the pathways will improve existing assets. The addition of lighting along the seawall pathway will require maintenance.

The proximity of the proposed pavilion to the seawall has implications for the Environment Agency (EA). The EA has been engaged with the scheme design process to date. This will continue.

7. Timescale for implementation and Risk Factors

The project is due for completion by March 2021. The main risks relate to construction risks and financial risks. A full risk register is being developed and maintained as part of the project delivery

8. Background Papers

Cabinet Report January 2018

Report Author: Ian Butt Head of Place and Policy

CABINET

17th April 2019

Subject: Castle Point Regeneration Partnership – Revised Arrangements

Councillor Smith – Leader of the Council

Cabinet Member: Councillor Mumford – Regeneration & Business liaison

1. Purpose of Report

This report is to approve the proposals for the renewal of the Castle Point Regeneration Partnership

2. Links to Council's Priorities and Objectives

The Castle Point Regeneration Partnership supports all aspects of the Corporate Plan:

- Health and Community Safety by linking regeneration with health provision and well-being to ensure appropriate services are in place.**
- Environment by enabling the further development of parks, nature reserves, open spaces, and community facilities.**
- Housing and Regeneration by supporting housing delivery to ensure that the right mix of housing is secured to meet needs, and the regeneration of the town centres and Canvey Seafront.**
- Commercial and Democratically Accountable Council by maximising opportunities with partners to secure funding for the Borough and to support Council activities.**

3. Recommendations

- 1. That the Cabinet approves the renewal of the Castle Point Regeneration Partnership.**
 - 2. That Cabinet authorises the Chief Executive to prepare a programme for consideration by the Partnership as a basis for investment and collaboration in the Borough.**
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4. Background

- 4.1 In 2008 the Council and its partners in the Castle Point Regeneration Partnership, approved the Castle Point Regeneration Framework for the period to 2021. The Partnership's focus was to steer and co-ordinate regeneration across the Borough, bringing together expert knowledge and decision making and the key partners to deliver new investment.
- 4.2 At that time the partners included the Council, Essex County Council, the Thames Gateway South Essex Partnership, SEEVIC, the Homes and Communities Agency, the RSPB and the Environment Agency.
- 4.3 The Partnership has worked jointly to secure resources through a combination of direct investment, grant funding and Section 106 agreements. It has also worked on the delivery of new development, to deliver a programme in town centres, employment areas, transportation and tourism.
- 4.4 The Regeneration Partnership meets monthly. However, recent attendance has been poor, with not all of the partners committing time. Recent meetings (to end of 2018) have focussed on specific topics for discussion and an update on project progress. Partners have, however, expressed concern that the matters discussed do not require their input and are matters that should be dealt through day to day operational joint working.
- 4.5 Therefore, the current partnership is not attracting the commitment that the Council and partners wish to see. The Agendas are comprehensive and the matters discussed not of strategic importance to all of the Partners. Outside of the Partnership, day to day operational and technical meetings are held on specific matters with relevant partners.
- 4.6 The list of projects have been on the meeting agendas for a long time and are mainly residual, from a far wider programme set out in the Regeneration Framework. Some have been proven difficult to develop, and require a review as to an alternative approach. With the prospect of a new local plan and a strategic plan for South Essex, with new resources in the Council and priorities for partners, now is the time to review the Partnership and regeneration/strategic growth in the Borough.
- 4.6 Partners have agreed that a new approach is needed. This approach does not seek to change the general operation of the partnership, but to provide a re-focus. The partners have also suggested that there should be a business representative on the Board.

5. Proposals

- 5.1 At the Partnership meeting on 1 March 2019, it was agreed by the attendees that there is sufficient investment and activity proposed from partners and others in Castle Point for the Partnership to be maintained. However there was a need to refocus the Partnership on the collective investment and programmes, as well as provide an opportunity and forum for Partners to bring forward new initiatives.

- 5.2 It was also agreed that the Partnership will meet quarterly with all partners attending, but that a monthly meeting is also kept so that time is available to discuss urgent matters that require member input and cross partner working or for briefings. This will reduce the time burden on all partners whilst creating space for technical discussions.
- 5.3 The make-up of the Partnership would remain the same, but updated to reflect the changes in partners since the partnership was formed. Therefore, the Thames Gateway South Essex Partnership will be replaced by the business community; the Homes and Communities Agency is now Homes England with a different remit and resources; and the health representatives will reflect the new arrangements for the CCG and their relationship with NHS England.
- 5.4 The Partnership will have 4 main areas of activity:
1. Strategic Growth Projects and delivering the supporting infrastructure. The delivery timetable for this will be set out in a partnership programme, aligned to a housing trajectory and infrastructure delivery plan. This will be influenced by the outcome of the local plan.

The aim will be to unblock schemes and projects; collectively be accountable and manage risk; and agree actions to ensure that infrastructure is delivered in a timely manner to meet demand.
 2. New initiatives, whether Government, regional or local that could impact on or benefit Castle Point. This would be in the form of presentations for discussion from Partners or co-opted for specific meetings – i.e. transportation investment, health and well-being and resilience. This would include investment opportunities, new funds, grants etc.
 3. ASELA and Joint Strategic Plan issues that impact on strategic growth and delivery, both in the form of a report from ASELA but also feeding back a collective response and consideration of how partners can assist in delivery of the 2050 plan.
 4. Exceptions highlight report on on-going projects aligned to a work programme and RAG rated.
- 5.5 It is vital that the new Partnership does not simply replicate the discussions and decisions taking place through other partnerships – such as the LSP and Local Highways Panel. The partnership will operate alongside and complement these partnerships.
- 5.6 In order to provide clarity for the activities and opportunities for the Partnership, it is proposed that a programme is prepared which will identify projects, investment requirements and time frames for delivery. The programme will also include a risk assessment of each project and the required mitigations. Partners will be asked to agree this programme and monitoring on a red risk exceptions basis will form part of future agendas. The programme will need to include investment planned by partners within the Borough – i.e. in health or flood defences.

6. Corporate Implications

(a) Financial Implications

There are no financial implications for the Council in the operation of the Partnership. The resources are established within existing budgets.

(b) Legal Implications

None

(c) Human Resources and Equality Implications

The Partnership will be managed by the Council's Regeneration Team. There are no additional resource burdens. By utilising the resources of partners more effectively the Council can seek to increase activity and investment within the Borough.

(d) IT and Asset Management Implications

None

7. Timescale for implementation and Risk Factors

The quarterly partnership meetings will start in June 2019. A full programme of activities will include assessments of the key risks.

8. Background Papers

None

Report Author: Ian Butt - Head of Place and Policy