

**DEFRA CONSULTATION – CLEAN NEIGHBOURHOODS  
(Report by Head of Operations)**

**1. INTRODUCTION**

- 1.1 This report informs cabinet of The Clean Neighbourhoods consultation which has been published by DEFRA following a two year period of consultations and policy development on measures to improve the environment and liveability.
- 1.2 The deadline for responses to the consultation is 24<sup>th</sup> September 2004.

**2. BACKGROUND**

- 2.1 The Government plans to introduce the measures outlined in its latest consultation at the next available opportunity. Most of the measures have already been widely consulted on and the Government is now inviting some views on specific questions.
- 2.2 The proposed measures are aimed at providing local authorities with more enforcement powers to deter offenders and demonstrate that a clean, safe and green local environment is as much a priority for the council and local agencies as it is for residents and businesses.
- 2.3 The measures proposed in the consultation paper cover a wide range of environmental and quality of life issues. The consultation is divided into eight sections. The following is a summary of the main proposals within each section.

**Section 1 - Crime and Disorder**

- An amendment to section 6 of the Crime and Disorder Act 1998, to ensure that Crime and Disorder Reduction Partnerships include the quality of the local environment when developing strategies.

**Section 2 - Litter Graffiti and Fly-posting**

- The power for local authorities to designate any land as a Litter Control Area, without the need for approval by the Secretary of State;
- Extension of Cleansing Notices beyond London;
- Inclusion of graffiti and fly-posting in Litter Control Areas and extension of graffiti removal notices to include fly-posting;
- Strengthening of fly-posting legislation to ensure all beneficiaries can be prosecuted;
- Extension of the offence of dropping litter to all types of land, including aquatic environments;
- Extension of the Code of Practice on Litter and Refuse to include standards for fly-posting, graffiti, fly-tipping, nuisance vehicles and chewing gum;
- Extension to authorities outside London of powers to prevent the distribution of free literature;

- The definition of chewing gum and smoking related materials as litter, to clarify that authorities can prosecute and issue fixed penalty notices for the dropping of these materials;
- The power to require clean-up provisions when granting a special events licence;
- The power for authorities to recover from owners the cost of recovering, storing and disposing of abandoned shopping and luggage trolleys, even where the owner does not accept their return.

### **Section 3 - Waste and Contaminated Land**

This section covers contravention of waste regulations and fly-tipping offences.

- Powers for local authority or Environment Agency officers to immediately seize and impound a vehicle involved in fly-tipping.
- New powers for local authorities to issue (hypothecated) fixed penalty notices for the following offences:
  - to businesses failing to produce waste transfer notices (£300 FPN)
  - to waste carriers failing to produce registration details (£300 FPN)
  - to householders and businesses that leave their waste out for collection outside the times specified by the local authority (£100 FPN for each incident)
- Raising the maximum fine for fly-tipping offences from £20,000 to £50,000;
- An amendment to section 59 of the EPA 1990 to extend responsibility for clearing illegally dumped waste to land owners as well as occupiers;
- A proposal to replace the current waste management licencing system with a new waste permitting regime;
- A new requirement for developers and contractors to produce a Site Waste Management Plan for all projects above the value of £200,000. This would be trialled for one year before becoming statutory, after which a FPN of £300 could be issued.

### **Section 4 - Nuisance Vehicles**

This section covers all vehicles that are deemed to be causing a nuisance, not just those that are abandoned.

- A new power to allow local authorities to immediately remove from the highway, from land to which the public has access and from private land (if it is there without permission of the owner), any nuisance vehicle.
- A nuisance vehicle is deemed to be one which:
  - Has no authorised keeper
  - Is abandoned
  - Is not displaying a current tax disc
  - Is causing a nuisance or is detrimental to the amenity of an area
- Fixed penalty notices (hypothecated) or fines (maximum £2,500);
- The power for local authorities to destroy or otherwise dispose of any vehicles not reclaimed.

### **Section 5 - Dogs**

- A streamlined approval system for confirming specific dog byelaws, with model byelaws and procedures
- Local authorities to be the sole body responsible for receiving stray dogs.

## Section 6 - fixed Penalty Notices

- A power for local authorities to set the level of fixed penalty notices, within national minimum and maximum levels for offences relating to:
  - Litter
  - Dog fouling
  - Night time noise
  - Graffiti
  - Fly-posting
  - Free literature distribution
  - Waste collection placement
  - Site Waste Management Plans
  - Nuisance Vehicles

## Section 7 - Nuisance

- Extension of statutory nuisances to include artificial light and nuisance from insects;
- New measures to reduce noise nuisance including:
  - Extending the requirement (available in London) for those with burglar alarms to register key-holders with the police;
  - The power to issue FPNs for noise nuisance at night to operators of licenced premises as well as private individuals.

## Section 8 - General Public Space

- The establishment of the Commission for Architecture and the Built Environment (CABE) on a statutory basis;  
New powers to enable local authorities to gate nuisance alleyways

### 3. FUNDING & RESOURCES

- 3.1 The proposals in the consultation document provide a wide range of additional enforcement powers to local authorities to assist in maintaining and caring for the local environment. Once provided, there will be an expectation that these new powers will be used.
- 3.2 As with previous consultations on the subject of environmental enforcement issues, DEFRA have undertaken partial regulatory impact assessments for the new powers and have concluded that in all cases, their introduction and use will be 'cost neutral'.
- 3.3 As a result of their assessments, no additional funding will be provided to support an enhanced enforcement role and there is a danger that we will not be able to make full use of the proposed new powers highlighted in the document because of the lack of resources, although public expectation that the powers will be used will be raised by the publicity given to their introduction.
- 3.4 In it's initial response to the proposals, the LGA has commented as follows.

***'The LGA broadly welcomes the proposals in the consultation, particularly those on fly-tipping, waste and nuisance vehicles. The measures proposed will provide local authorities with much needed***

*extra “tools” to maintain and care for the environment. We would stress however, the need for extra non ring-fenced money for the environment. However much we welcome these proposed changes, the lack of any new money to support an enhanced enforcement role is disappointing. There is a danger that some local authorities will not be able to make full use of the proposed new powers highlighted in the document because of the lack of resources. Councils are now expected to deliver wholesale changes to waste collection and waste disposal activities, as well as significant improvements in street scene management, but the 2004 Spending Review has failed to close the vast funding gap in this area.’*

#### 4. PROPOSED RESPONSE

- 4.1 In addition to providing individual responses to specific questions posed in the consultation, it is intended to reiterate the comments made in our response to previous consultations on this topic, emphasising the fact that whilst we welcome and support any changes that assist us in caring for the local environment, the lack of additional funding provision to support the use of these new powers, places a further burden on the district.

#### 5. RECOMMENDATION

- 5.1 That the Cabinet be requested to:
- (a) endorse the proposed consultation response; and
  - (b) support the response by the Local Government Association to the consultation document.

#### **Background Papers**

DEFRA consultation - Clean Neighbourhoods – July 2004

DEFRA consultation - Statutory directions to the Environment Agency and waste collection authorities on the unlawful disposal of waste. February 2004.

DEFRA consultation – Fly Tipping Strategy. March 2004

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