



Council name	COTSWOLD DISTRICT COUNCIL
Name and date of Committee	CABINET – 1 NOVEMBER 2021
Report Number	AGENDA ITEM 07
Subject	CONSIDERATION OF NOTICE OF MOTION 6/2020/21 FLYTIPPING
Wards affected	ALL
Accountable member	Cllr Andrew Doherty - Cabinet Member for Environment, Waste and Recycling Email: andrew.doherty@cotswold.gov.uk
Accountable officer	Jon Dearing – Group Manager for Resident Services Email: jon.dearing@publicagroup.uk Mandy Fathers – Business Manager for Operational Support and Enabling Email: mandy.fathers@publicagroup.uk
Summary/Purpose	For Cabinet to consider the Notice of Motion submitted to Council in January 2021 in respect of surveillance of flytipping sites.
Annexes	Annex A – Locations of Flytips
Recommendation/s	It is recommended that Cabinet do not support the provision of overt or covert CCTV to support flytipping prosecutions but continue with the present approach to investigating flytipping.
Corporate priorities	Delivering services to the highest standards
Key Decision	NO
Exempt	NO
Consultees/ Consultation	



I. BACKGROUND

- I.1. On 20 January 2021 a Notice of Motion was put to Council by Councillor Tony Berry and seconded by Councillor Julia Judd. The Motion is reproduced below:-

'The new mapping system introduced to identify instances of fly-tipping is highly successful and much appreciated. On checking recently that various events had been reported I was dismayed to see that there were 6 current instances in my Ward and so I spoke with ERS about what we might do to reduce this amount, particularly in those spots which regularly received unwanted deposits. To my amazement I was told we don't have any cameras which we can put in these locations to catch/deter those dumping their (or someone else's) rubbish.

Catching and finding these people that desecrate our countryside must be the best deterrent and usually gains good publicity. Although considerable efforts are being made to try to do so, catching people in the act must surely be an option our officers have to help them. From some research I discovered that motion activated cameras of good quality can be purchased for under £500. Whilst these might not be the right sort of camera, we can surely find out from Councils which are best suited and have good success rates. Even if they cost £1,000 each, it must be a worthwhile investment.

Equally there must be other 'good practices' in the industry that we could investigate (e.g. paying for skips in strategic locations).

We would therefore recommend to this Council that it puts aside up to £50,000 to:

- 1) Investigate the purchase and use of cameras to support the efforts to catch and fine fly-tippers.*
- 2) Investigate other possible activities that would help reduce or remove this scourge from our district, and report back to this Council if further funds are required.'*

- I.2. The Motion stood referred by Council to Cabinet to allow for further investigation. This report represents the reporting back to Cabinet on that further investigation.

2. MAIN POINTS

- 2.1. The powers for enforcement of fly-tipping in open spaces or land owned, managed or maintained by the District lie with Cotswold District Council and are discharged by the Environmental Health Team. Where there is large scale dumping of hazardous waste, the Environment Agency may take the lead enforcement role. Waste dumped on private land is the responsibility of the landowner to remove and dispose of at a cost to them.
- 2.2. The use of Closed Circuit Television (CCTV) to catch and deter fly-tippers can be one part of an overall strategy to reduce the prevalence of this environmental crime. However, it has its costs and limitations and its use is highly regulated by legislation. It is

therefore important to review its use within the context of an overall strategy that combines resourcing (human and financial), prevention and enforcement.

Current Approach

- 2.3.** Over the last three budgets the Council has invested significant resource into the investigation, enforcement and where applicable prosecution of environmental crimes. Through investing £35,000 each year in additional staffing resource and £200,000 in the Clean and Green Initiative the Council is now able to investigate the fly tips in detail and where evidence is available of the person responsible for the waste (this could either be a householder, business or person transporting the waste) take action.
- 2.4.** The resource has also enabled a major education and awareness raising campaign to be launched promoting the district as Clean and Green.

Use of CCTV

- 2.5.** The use of CCTV, particularly covert surveillance, is regulated by laws which are intended to protect individual's rights to privacy. The Regulation of Investigatory Powers Act 2000 (as amended) (RIPA) requires the use of covert surveillance by a local authority to be authorised by a Magistrate. Authorisation requires periodic review and covert CCTV surveillance cannot be left in place indefinitely.
- 2.6.** The Act was brought in to regulate surveillance activity with a light touch review but was subsequently tightened to require Magistrate sign off after a series of high profile cases were raised by national government with the Communities Secretary Eric Pickles particular vocal about excessive use of covert surveillance by Councils.
- 2.7.** Notwithstanding this overt cameras can be a deterrent and may discourage fly-tipping from hotspots. Installation of overt cameras does not require authorisation by a Magistrate but does require clear policies for use.
- 2.8.** In all areas where CCTV is in use should be clearly signed. Such signs warn people that they are about to enter an area covered by a CCTV system or to remind them that they are still in an area covered by CCTV.
- 2.9.** Where CCTV signage is used and there might be penalties incurred from the images recorded, then the signs must reflect the risks. For example, where CCTV is used in relation to environmental offences, the signage must warn that legal action is a risk if offences are recorded.
- 2.10.** Mobile CCTV surveillance incurs not just the cost of equipment purchase, operation and maintenance, and signage mentioned above, but most significantly, the substantial cost of the staff time needed to gather and review information. If there is a positive catch of

someone on camera, that is where the work intensifies in identifying vehicles, potential offenders, taking statements and preparing the evidence for a final decision on enforcement action and potential prosecution. Unless the Council is prepared to fully resource the process from camera deployment to prosecution this is unlikely to be successful.

- 2.11. Mobile CCTV probably works best when it is incorporated into a wider public space CCTV environment so that cameras can be monitored through that arrangement. The CCTV arrangements for Cirencester are operated through the Town Council .
- 2.12. If the Council wishes to pursue CCTV as an option it will need to develop a policy setting out how CCTV is used by the Council for Enforcement purposes. This would need to be made publicly available and is an important part of transparency. Without this framework, accusations of unfair treatment may be levelled at the authority. More importantly, it will ensure that decision makers (senior officers and elected members) consider in advance the situations under which different types of enforcement action will be taken. This policy should form part of the Council's adopted Enforcement Policy and be consistent with it.
- 2.13. The Council will need to consider the measures it chooses dependent on whether its objective is to take enforcement action or simply deter would-be offenders. Purchasing surveillance equipment should only be considered if:
- There are identified key hot spots where fly tipping takes place at least once a month. Less than that you are unlikely to catch it on camera
 - There is a high level of commitment to using surveillance equipment
 - There is a commitment to increase human resources in the areas of intelligence gathering, deploying and servicing the cameras on site, and investigating recorded incidents
 - There is an ongoing budget for equipment purchase and maintenance.
- 2.14. The biggest downside to overt surveillance is that it merely pushes flytipping to other locations where the mobile cameras are not located with an outcome of chasing activity and tying up important investigative resource. Without a significant array of cameras it would prove impossible to prevent such activity.
- 2.15. The Council has invested heavily in this area over the last two years to deliver its 'Clean and Green' agenda through the investigation and prosecution of flytips based on evidence gathered at the scene. It is not felt appropriate at this stage to invest further taxpayers money setting up a CCTV regime that will be unlikely to receive Magistrate support for covert activity or merely push flytipping to other locations where overt signage is used.
- 2.16. In respect of other activities that the Council could undertake to reduce flytipping it is clear from the actions we have taken that education and personal responsibility plays a large part in this. Our recent work to publicise and educate on Clean and Green is leading



the way and this together with active enforcement and prosecutions provides a round solution to the problem.

3. FINANCIAL IMPLICATIONS

- 3.1. Whilst the financial implications of the provision of cameras and associated equipment are quite low as set out below, there would be more significant ongoing costs from the associated staffing resources required to undertake the RIPA assessments; provide and maintain signage; and maintain and review camera footage.
- 3.2. A single camera, hardware and battery for the equipment to operate are costly and prices can range from £2,500 – £5,000. In order to achieve successful enforcement a minimum of two cameras would be required at each site. Cheaper alternatives are available but they may not be of a quality standard and functionality to achieve a successful outcome.
- 3.3. Investigatory and legal costs should not be underestimated although these may be recovered if a prosecution was successful.
- 3.4. More particularly there is a real risk that maintaining a camera regime that does not deliver evidence to support prosecution will detract from the exceptional work that the team are doing to support the Clean and Green Cotswold agenda.

4. LEGAL IMPLICATIONS

- 4.1. The law relating to the use of surveillance equipment is complex and strict and is different depending on whether overt or covert cameras are being used.
- 4.2. The Regulation of Investigatory Powers Act 2000 (RIPA) governs the legislation in how covert surveillance operations are carried out. RIPA does not grant powers to carry out surveillance, it simply provides a framework that allows the Council to authorise and supervise surveillance in a manner that ensures compliance with the Human Rights Act 1998 principles as follows:
 - The proposed action must be lawful
 - The proposed action must be proportionate
 - The proposed action must be necessary
 - The proposed action must be non-discriminatory
- 4.3. RIPA was overseen by the Office of Surveillance Commissioners (OSC). However, from 1 Sept 2017 oversight is now provided by the Investigatory Powers Commissioner's Office (IPCO). They are the independent inspection office whose remit includes providing comprehensive oversight of the use of the powers to which the RIPA code applies, and adherence to the practices and processes described in it. The OSC have unfettered access to all locations, documentation and information systems as is necessary to carry out their full functions and duties and they will periodically inspect the records and procedures of



the Council to ensure the appropriate authorisations have been given, reviewed, cancelled, and recorded properly.

5. RISK ASSESSMENT

- 5.1. There are several risks associated with the use of CCTV. These are mainly in respect of the legislation.
- 5.2. Officers will need to have the appropriate training regarding the installation and use of equipment, as well as having an in-depth knowledge and understanding of criminal law and procedures.

6. CLIMATE CHANGE IMPLICATIONS

- 6.1. Tackling fly tipping will make positive contributions towards improving the environment and sustainability. The fly tips create adverse impacts on the local environment and use significant resources in removing them and carrying out investigations