

Safer Cleaner Greener Strategy - Enforcement Activities

Winter period 2011/12 - 1st October 2011 to 31 March 2012 (6 months) (data as of 23/03/12).

Activity recorded by Environment & Neighbourhood Officers (ENO)	Winter 2011/12	Summer 2011	Winter 2010/11	Summer 2010
	01/10/11 to 31/03/12	01/04/11 to 30/9/11	01/10/10 to 31/03/11	01/04/10 to 30/09/10
Fly-tipping incidents – Reactive work in response to a fly-tip				
All fly-tipping incidents reported to the Council (codes 01FP & 01SC)	498	630	729	812
Incidents investigated (01FP with code EF01)	349	382	375	408
Warning/Enforcement letter sent (01FP with code EF03)	73	62	35	74
Statutory notice (01FP with code EF02)	4	6	3	3
Prosecution (01FP with code EF05)	3	4	4	3
Pro-active waste enforcement work not related to a specific fly tip (code ENFO)				
Investigation (EF01)	116	181	189	58
Warning/Enforcement letter (EF03)	94	77	65	14
Statutory notice (EF02)	53	6	15	3
Stop and Search (EF08)	31	6	31	3
Prosecution not related to a specific fly-tip (EF05)	0	1	0	0
General enforcement work dealt with by ENO (not including fly-tipping detailed above)				
Total enquiries/complaints dealt with by ENO team	706	945	637	1022
1. Noise (total)	555	794	476	733
1.1 Out of hours noise service complaints included in above total	215	320	230	335
2. Bonfires (domestic and commercial)	64	103	46	98
3. Street Trading	24	39	45	42
4. Licensing consultation	18	15	16	17
Fixed Penalty Notices (FPN) (Dog Fouling, Litter, Waste receptacle offences)				
FPN income (£)	360	1575	170	0

Commentary on Winter period 2011/12

Fly-tipping incidents

All incidents of fly-tipping reported to the Council are recorded (498). Incidents that may have some evidence to trace the source of the waste or fly-tipper are passed to the Environment and Neighbourhoods Team (ENO) to investigate. The incidents passed to the ENO team are then prioritised and investigated if possible (349), prior to clearance.

Most incidents were on the highway (258) including verges that form part of the highway. The second largest land type was on Council land (160), predominantly Housing land, often due to householders poor waste management rather than fly-tipping by somebody unrelated to the area. These two land types accounted for 83% of the reported incidents.

Fixed penalty notices (FPN)

Pre-arranged operations to target littering offenders were carried out at North Weald Parade and to the rear of the Village Hall, High Road North Weald, High Street Ongar, Sun Street Waltham Abbey and The Broadway Debden.

5 fixed penalty notices were offered and paid for littering offences resulting in an income of £250. Another 5 fixed penalty notices for littering are due to be offered after a recent operation in the Broadway, Loughton.

1 fixed penalty notice was offered and paid in relation to a breach of a notice served under s.47 Environmental Protection 1990 requiring the correct waste receptacles to be used, resulting in an income of £60.

1 fixed penalty notice was offered and paid in relation to a dog fouling offence, resulting in an income of £50.

Taxi Licensing Enforcement

On the Friday 2 December 2011 Officers visited Loughton Station to check on EFDC licensed vehicles between 5pm and 7pm and on Friday 9th December between 10pm and midnight in High Road, Loughton. Some minor issue were identified that were dealt with informally.

On the 9th March 2012 Environment & Neighbourhood Officers visited the High Rd, Loughton and Club 195, High St, Epping in the early hours of the morning from 11.30pm to 02.45am. 21 EFDC licensed taxis were inspected and a number of private hire vehicles from other authorities checked to ensure they were pre-booked. Some minor issue were identified regarding stickers on licensed vehicles and potentially one driver operating without authority.

Unauthorised encampment enforcement work

In this period (November/December 2011), the Environment & Neighbourhood Officers dealt with three unauthorised encampments (UE) on EFDC land in Waltham Abbey, carried out by one group with approximately 5 caravans and associated vehicles.

The UE first arrived on land owned by Epping Forest District Council in Old Shire Lane, Waltham Abbey. The caravans arrived on the evening of 21 November. Environment & Neighbourhood Officers visited on 22 November and asked the occupiers to vacate the site forthwith after considering the code for Travellers in Essex (the code). The council immediately instigated possession proceedings and applied to the court for a hearing on the first available date, 8 December 2011.

The Council asked the police to consider the use of their discretionary powers to evict the occupiers under s.61 of the Criminal Justice and Public Order Act 1994. The police reviewed the situation and decided that s.61 action was not warranted at that time, but the situation would be kept under review.

Although there were many calls from concerned residents, the police reported that there had been no increase in crime related to the site or evidence of other behaviour that would warrant s.61 action being taken. The Council also had no increase in fly-tipping or any other issues specifically associated with the site, other than the trespass and preventing the site being used.

On the 8th December the Council successfully obtained a possession order requiring the occupiers to vacate the site forthwith. The Council then employed a private bailiff company to enforce the order as the Court bailiff's were not likely to be available until early January 2012.

The unauthorised occupiers then moved off the site onto Cormmill car park, Quaker Lane, Waltham Abbey and then onto the Council Car park to the rear on Darby Drive. The Council's Environment & Neighbourhood Officers instigated possession proceedings immediately after considering the code and balancing the rights of the occupiers and residents. On both occasions the police used s.61 powers to evict the occupiers. The occupiers then moved to the car park of Lidl's in Sewardstone Road and were then evicted again by the police. They then left the area.

The Environment & Neighbourhood Officers responded to many calls from concerned residents (some with very strong views on the correct course of action), helped collate evidence for the police to pursue s.61 action and spent considerable time attending the sites and court.

Prosecution details

Three prosecutions for fly-tipping incidents were concluded in this period

1. Homecroft Gardens, Loughton

A small fly-tip (4 bags of waste) was dealt with as a littering offence. A fixed penalty notice (FPN) for littering was offered. The FPN was not paid and the case taken to court, resulting a fine of £120 and costs of £150.

2. The Broadway, Loughton

At a hearing on 20th December 2011, Epping Forest District Council prosecuted Dean Allen of Chigwell Road Woodford for for fly-tipping (depositing controlled waste without a permit authorising the deposit), on land at the rear of the shops in The Broadway Loughton on or about 17th December 2010.

At about the same time as the Council's prosecution, Mr Allen was also being prosecuted for similar offences by London Borough of Redbridge and London Borough of Waltham Forest. He pleaded guilty to all offences. As a result, all the matters were committed to the Snaresbrook Crown Court for sentence. On 29th February 2012, Mr Allen was sentenced to carry out 40 hours unpaid work (to be added to the existing 45 hours outstanding for other unconnected previous offences). The van which he used to carry out the fly-tipping activities was also made subject to a forfeiture order.

3. St Marys Way, Chigwell

At a hearing on 16th March 2012, Epping Forest District Council prosecuted Kevin Sharpington of North Weald for fly-tipping (depositing controlled waste without a permit authorising the deposit), on private land at St. Marys Way Chigwell on or about 28th October 2010. Mr. Sharpington pleaded guilty.

The Magistrates at Chelmsford Magistrates Court sentenced Mr. Sharpington to pay a fine of £100 and a victim surcharge of £15 both of which were deemed paid as he had been in custody since 4.00am

that day. He was also required to pay a contribution towards the Council's prosecution costs of £100 and compensation towards the clear up costs of £120.

The Council's prosecution arose from reports received of a quantity of waste building materials having been deposited on land at St. Marys Way Chigwell. Some of the materials were identified as originating from an address in Abridge. The occupier of that address was interviewed by Council Environment & Neighbourhood Officers. The officers were told that the occupier had lent his van to a friend (Mr Sharpington) on the understanding that he took the waste materials in it to the civic amenity site for disposal. This had clearly not happened. Mr Sharpington then contacted the Council and admitted that he was responsible for the fly tipping.

Mr. Sharpington failed to attend an earlier hearing and a warrant for his arrest was issued by the court. He was arrested at his mother's house in North Weald in the early hours of the morning on 16th March 2012 and taken to Chelmsford Magistrates Court.

Other prosecutions:

4. Prosecution for breach of a noise abatement notice and unlicensed events at Mulberry House, High Ongar

At a hearing on 13th March 2012, Epping Forest District Council prosecuted Mulberry Retreat and Leisure Limited of Mulberry House Chelmsford Road High Ongar for a breach of a noise abatement notice on 4th August 2011. The Council also prosecuted the company for carrying out licensable activity on both 4th and 25th August without a license. The Company pleaded guilty to all three offences.

The Magistrates fined the company: £2,500 for breach of the noise abatement notice, £1,500 for the unlicensed activity held on 4th August 2011 and £2,000 for the unlicensed activity held on 25th August 2011. The company was also ordered to pay £683.39 towards the Council's costs.

The director of the Company, Mr Ray George was unable to attend at the hearing and the company was represented by its solicitor. He told the Magistrates that he understood that the location of the marquee would be changed when it is re-erected later this year and he had given the company advice about applying for the necessary licences.

The original noise abatement Notice was served by Epping Forest District Council on 12th July 2011. The requirements of the notice are that the volume of music and amplified sound is maintained at a level that will not cause a statutory nuisance to the occupiers of noise sensitive premises.

On 4th August 2011 Environmental and Neighbourhood Officers responded to a complaint received via the Council's out of hour's noise service. An officer witnessed music coming from the property sufficient to be in breach of the noise abatement notice. The music and amplified sound was coming from a marquee within the grounds of Mulberry House and was from an activity that requires a licence. The marquee was not within the area covered by the Premises Licence held by Mulberry Retreat and Leisure Limited and was therefore unlicensed. Council officers were also asked to attend in respect of a noise complaint received on 25th August. They did not verify that a breach of the noise abatement notice was taking place, but were able to confirm that the music and amplified sound was coming from the marquee and was again an unlicensed activity.

5. Katrina Davis of Crossways Loughton prosecuted for breaches of a noise abatement notice

At a hearing on 31 January 2012 Epping Forest District Council prosecuted Katrina Davis of Crossways Loughton for breaches of a noise abatement notice on 1st & 22nd November 2011. Ms Davis pleaded guilty to both offences. The Magistrates fined Ms Davis £100 in respect of the first offence and £150 in respect of the second. She was also ordered to pay a contribution towards the Council's prosecution and investigation costs of £200.

The original noise abatement Notice was served by Epping Forest District Council on 12th October 2011. The requirements of the notice are that the volume of music and amplified sound is maintained at a level that will not cause a statutory nuisance to the occupiers of noise sensitive premises.

In spite of written warnings to Ms Davis, Environmental and Neighbourhood Officers continued to receive complaints and on 1st & 22nd November 2011 the duty noise officer responded to complaints made via the Council's out of hour's noise service and witnessed music coming from the property sufficient to be in breach of the noise abatement notice.

6. Prosecution for illegal street trading

Following a number of previous warnings between 2006 and 2010, Mr Ian Hoye of Jessell Drive Loughton ignored those warnings and continued to park cars on the public highway with adverts for sale in their windows. This was contrary to the Epping Forest District Council designation in 2003 of all streets within its District as "consent streets" which require the prior consent of the Council to selling or exposing or offering for sale any article in a street. The definition of a street includes any road, footway, beach or other area to which the public have access without payment.

At Harlow Magistrates Court on 6th December 2011, Mr Hoye pleaded guilty to advertising a Range Rover for sale at Barrington Green Loughton. Mr Hoye asked that six other offences be taken into account.

The Magistrates fined him £200 and ordered him to pay a contribution towards the Council's costs of £100.

7. Mr Lee Corner of Parndon House Valley Hill Loughton prosecuted for breach of a noise abatement notice on 7 July 2011.

Epping Forest District Council prosecuted Mr Lee Corner of Parndon House Valley Hill Loughton for breach of a noise abatement notice on 7 July 2011. At a hearing on 1st November 2011 in Harlow Magistrates Court Mr Corner pleaded guilty. The Magistrates fined him £100 and ordered that he pays £175 towards the Council's prosecution costs.

Noise abatement notices were served by Epping Forest District Council on the on 25th October 2010 to control the volume of music and amplified sound. In spite of subsequent written warnings following the service of the notice and a successful prosecution against him on 5th April 2011 for a breach on 4th February 2011 Environmental and Neighbourhood officers received complaints and witnessed amplified noise (the playing of an electric guitar) coming from the property sufficient to be in breach of the noise abatement notice.

8. Mr Barry Thompson of Felstead Road, Loughton prosecuted for a breach of a noise abatement notice on 23 March 2011

At a hearing on 4th October 2011 Epping Forest District Council prosecuted. Mr Thompson failed to attend the hearing. The Council proved the offences to the Magistrates in his absence. The Magistrates fined Mr Thompson £200 and ordered that he pay £150 towards the Council's costs. The Magistrates also ordered the forfeiture of amplified music equipment seized from the property by the Council on 27th March 2011 with the benefit of a Magistrates warrant.

The original noise abatement Notice was served by Epping Forest District Council in June 2007. The requirements of the notice are that the volume of music and amplified sound is maintained at a level that will not cause a statutory nuisance to the occupiers of noise sensitive premises.

In spite of subsequent written warnings to Mr Thompson since 2007, seizure of equipment from his premises and a successful prosecution on 4th February 2010, Environmental and Neighbourhood Officers continued to receive complaints and on 23rd March 2011 witnessed music coming from the property sufficient to be in breach of the noise abatement notice.

9. Prosecution for littering in Loughton

On 19th April 2011 officers from the Council's Environment and Street Scene Directorate carried out a patrol in Loughton to catch litter offenders. Officers witnessed a man now known to be James Glen - Murdoch of Leytonstone drop a cigarette butt outside Loughton Station.

Mr Glen - Murdoch failed to pay a Fixed Penalty Notice subsequently issued and Epping Forest District Council commenced prosecution proceedings against him for littering. He failed to attend at Harlow Magistrates Court on 4th October 2011 and was found guilty in his absence. The Magistrates imposed a fine of £120 and ordered that he pay a contribution towards the Council's prosecution costs of £150.

10. Council fly-tipping prosecution thwarted by offender returning to prison for 10 year sentence

Environment & Neighbourhood Officers witnessed Scott Bishop fly-tipping bags of rubbish in Gutteridge Lane, Stapleford Abbots. They followed his vehicle and managed to speak to Mr Bishop when he stopped his vehicle. Mr Bishop provided false identification but was later traced by officers and identified via a video identification parade. The Council commenced prosecution proceedings after interviewing Mr Bishop.

In the interim period Scott Bishop was returned to prison at HM Prison Wayland. He is serving a 10 year sentence for robbery. He came out on licence but following a breach of the licence conditions he was returned to prison and the earliest date for release will be 2 July 2013.

The Court require that Mr Bishops attends the hearing to make his plea as fly-tipping is a serious indictable offence. The Court's Legal Advisor considered that if he pleads guilty it is unlikely he would get a custodial sentence but if he did it would no doubt run concurrently, but it was more likely to be a fine - which he would not be able to pay as he is in prison and the same applies if a community order was to be considered. If he pleaded not guilty the matter would then proceed in the Crown Court and all that this would entail.

HM Prison Wayland informed the Court that they have intelligence of a possible prison escape linked to a visit to court. HM Prison Wayland have concerns that Scott Bishops refusal to take part in a video link hearing previously arranged, is in some way connected to this and taking everything into account they were not happy about producing him at Court in April.

The Court questioned the Council, if in all the circumstances it is now really in the public interest to pursue the prosecution in the light of the likely court outcome, balanced again the possibility of an escape?

Reluctantly the Council agreed that on balance the case could be dropped. This case highlights some of the difficulties that can arise when prosecuting offenders, despite the considerable amount of committed work and time take by the Environment & Neighbourhood officers involved, resulting in no record of a prosecution despite the officers best efforts.