



SOUTH
KESTEVEN
DISTRICT
COUNCIL



Environment Overview and Scrutiny Committee

12 December 2023

Report of Councillor Rhys Baker and
Councillor Patsy Ellis, Cabinet
Members for Waste and Climate
Change

A1 Litter Issues

Report Author

Karen Whitfield, Assistant Director (Leisure, Culture and Place)

 karen.whitfield@southkesteven.gov.uk

Purpose of Report

To provide Members with an update in relation to litter issues on the A1 and to agree future actions.

Recommendation

In consideration of this report, the Environment Overview and Scrutiny Committee are requested to:

- 1. Recommend the most appropriate and proportionate course of action in relation to the issue of litter on the A1.**

Decision Information

Does the report contain any exempt or confidential information not for publication? No

What are the relevant corporate priorities? Clean and sustainable environment

Which wards are impacted? All wards

1. Implications

Taking into consideration implications relating to finance and procurement, legal and governance, risk and mitigation, health and safety, diversity and inclusion, safeguarding, staffing, community safety, mental health and wellbeing and the impact on the Council's declaration of a climate change emergency, the following implications have been identified:

Finance and Procurement

- 1.1 This report provides information on some of the available options to clear litter from the A1 verges. There is currently no budget set aside to support this activity, should Members be minded to prioritise this work an appropriate allocation will need to be proposed to be included in the Council's budget framework.
- 1.2 If an external contractor is to be secured to undertake the work, a compliant procurement exercise will need to be undertaken to secure a sufficiently qualified and experienced contractor in line with the Council's Contract Procurement Rules.

Completed by: Richard Wyles, Deputy Chief Executive and s151 Officer

Legal and Governance

- 1.3 It is South Kesteven District Council's responsibility to maintain the A1 to the standards required under the Environmental Protection Act 1990. Under Section 87(1) of the Act, it is a criminal offence in law to drop litter.
- 1.4 As littering is a criminal offence South Kesteven District Council can issue a fixed penalty notice. However, this can only be issued if the witness to the crime is an authorised officer, or the crime is caught on CCTV with the individual clearly being identifiable.

Completed by: Graham Watts, Assistant Director (Governance and Public Protection) and Monitoring Officer

Risk and Mitigation

- 1.5 If works are undertaken to clear litter on the A1 it will be necessary to ensure that there is robust risk management in place to mitigate the significant risks associated with the activity.
- 1.6 If the risk is transferred, i.e. the litter picking is undertaken by an external contractor, they would be responsible for their own health and safety and would need to have their own insurance to undertake the activity.

Completed by: Tracey Elliott, Governance and Risk Officer

Health and Safety

- 1.7 It is a legal requirement for the Council to assess health and safety risks arising out of any work or activity undertaken. The Council has a duty of care to keep employees, residents, visitors and contractors safe from harm.
- 1.8 Litter picking on a high-speed road such as the A1 is a highly dangerous activity which carries a significant amount of risk. Whilst steps can be taken to mitigate the risks including developing suitable and sufficient procedures, identifying proportionate and reasonably practicable control measures and providing training, it is impossible to remove all of the risks involved.
- 1.9 The most significant risks are in relation to working alongside traffic travelling at high speeds and the uneven terrain. The most severe consequence could be serious injury or death of either the people involved or other road users.
- 1.10 Should the decision be made to undertake litter clearance works on the A1 specialist advice would be required to ensure that the health and safety arrangements are as robust as possible. If this is to include overnight works, additional consideration will need to be given to providing adequate lighting, and the risks associated with obstructions and uneven ground.
- 1.11 Any operatives undertaking this work would require specialist Chapter 8 training which would be sourced from an external provider. In addition, as circumstances can quickly change, operatives would need to be trained in undertaking dynamic risk assessments to ensure they can adapt or restrict work activities considering any changing circumstances or hazards.
- 1.12 It is not only the health and safety of the Council's operatives or contractors which needs to be considered but other road users also. Earlier this year Serco were fined £240,000 as a result of a lorry crashing into a litter picking van which was obstructing a lane on a dual carriageway in Norfolk. As a result, a passenger in the lorry lost his life.

Completed by: Phil Swinton, Emergency Planning and Health and Safety Lead

Human Resources

- 1.12 The Council has a duty of care to ensure that there are appropriate working conditions for members of staff and that they have a safe and supportive working environment. If staff are expected to work overtime, undertake additional duties or work outside of normal hours, then it would be best practice to consult with those members of staff impacted, clearly setting out the rationale for the request.

Completed by: Fran Beckitt, Human Resources Manager

2. Background to the Report

- 2.1 The Council's Corporate Plan (2020 to 2023) contains a corporate priority of delivering a Clean and Sustainable Environment, a key focus being to ensure the district is a clean and pleasant place to live, work and visit.
- 2.2 The Council are responsible for the litter picking on trunk roads which includes the A1. National Highways have the overarching responsibility for the use of the A1 and its maintenance, whilst Lincolnshire County Council are responsible for cutting the grass verges.
- 2.3 There is approximately a 30-mile stretch of the A1 within the district of South Kesteven, which equates to a total of 60 miles of grass verges taking account of the north and southbound carriageways. Should the central reservations be included, this would amount to 120 miles.
- 2.4 The A1 is classed as a "high speed road" as it is subject to a permanent speed limit of 50 miles per hour or more. There are certain requirements when undertaking cleansing operations on this type of highway to ensure operatives are not exposed to serious hazards which have the potential to cause serious injury or death to them or other road users. The most significant risk to operatives and other personnel is being struck by a third-party vehicle.
- 2.5 Guidance on safe cleansing of the highway and managing the associated risks has been provided by the Waste Industry Safety and Health (WISH) Forum (See **Background Papers**). In developing the guidance, the Health and Safety Executive were consulted and subsequently endorsed the proportionate, reasonable and balanced advice provided, which confirms the minimum amount of space which must be maintained from the edge of the working space and moving traffic, this space being referred to as the sideways safety zone. On dual carriageways with a speed limit more than 50 miles per hour, the sideways safety zone is 1.2 metres. Therefore the work to clear litter on the A1 verges should not be carried out without a lane closure or other traffic management arrangements being in place.

- 2.6 Other relevant guidance in relation to traffic management issues can be found in The Traffic Sign Manual: The Traffic Safety Measures and Sign for Road Works and Temporary Situations which is commonly referred to as 'Chapter 8', and the Safety at Street Works and Road Works publication produced by the Department of Transport, commonly referred to as the 'Red Book'. The guidance provided in these publications does not explicitly apply to litter picking activity yet does set out what would be the most appropriate standard and method of operation when undertaking this work.
- 2.7 The following paragraphs provide information on the options to clear the A1 verges of litter which have been explored.

Volunteer Based Litter Picking

- 2.8 The Council could recruit volunteers to support litter picking duties on the A1 verges and has recently adopted a Volunteer Policy which governs the recruitment, management and training of volunteers. As identified within the Volunteer Policy (see **Background Papers** of this report), the Council has the same duty to ensure the health, safety and wellbeing of volunteers as it does employed staff.
- 2.9 It is not appropriate to use volunteers to undertake litter picking duties on the A1. This has previously been discounted due to the risks around exposure to traffic, potential hazards and the requirement to ensure volunteers have received the appropriate training, supervision and protective clothing to safely carry out the task.

Contracted Service

- 2.10 Early discussions have taken place with a traffic management company who have the relevant experience and expertise to carry out litter clearance works to the A1 verges. This has identified the cost of undertaking this work through a contractor is likely to be in excess of £60,000 each time the work is undertaken.

Collaboration with National Highways

- 2.11 Although the responsibility for clearing litter from the verges on the A1 falls to the Council, only National Highways can enforce a lane or road closure. Historically the Council have tried to form a closer working relationship with National Highways and requested we are informed when works are planned on the A1 that facilitate a road closure so that litter clearance can take place. This has had varied levels of success in the past.
- 2.12 If National Highways inform the Council sufficiently in advance of any planned lane or road closures, this could provide the opportunity to cleanse the verges when other maintenance works are taking place. As well as having logistical benefits this would also reduce the risks to operatives and road users.

- 2.13 However, even with a road closure in place, any litter picking activity would still have to be risk assessed, and operatives would need to undertake specific Chapter 8 training. Risk assessments and operational procedures would need to be developed and agreed by the main contractor employed by National Highways.
- 2.14 The ability to undertake litter picking would be dependent on having enough operatives available and willing to undertake the work, especially if this includes working outside of standard hours, for example when overnight lane closures are in place.
- 2.15 If sufficient resources can be found, this option would provide the Council with the assurance of using trained and experienced Council personnel. However, it may require backfilling of routine duties, otherwise service delivery may be negatively impacted. Agency staff could be secured to undertake the routine duties, for which this would be an additional cost to the Council in terms of recruiting, training and supervising new workers. In addition to cost considerations, the employment of temporary staff could reduce efficiency and impact service delivery.
- 2.16 The Council have previous experience of undertaking overnight litter clearance works on the A1 when lane closures have been in place. One of the major issues encountered is that Council operatives must adhere to the main contractor's requirements which includes working at their pace, and not being allowed to advance in front of the main contractors or interfere with their work in anyway. This can result in significant periods of downtime.
- 2.17 The weekly costs associated with the provision of a six-man team (comprising of five Operatives and one Chargehand) and the rental of a suitable vehicle has been assessed to be circa £2,650 per week. This figure does not include any pay enhancement for the operatives working unsociable hours or the backfilling of routine duties, nor does it include the cost of Chapter 8 training which would be required. Should the daytime duties be filled by agency workers, these costs are estimated to be an additional £3,550 per week.
- 2.18 In addition, should the works be undertaken overnight, the costs associated with hiring additional lighting would also need to be factored in.
- 2.19 The area where litter can be cleared would be dependent on the length and location of the road closure in place and the National Highways maintenance programme. Therefore, it is impossible to estimate how many weeks the additional operatives would be required for. However, depending on weather conditions and the amount of litter present, it is estimated approximately four miles of verge could be cleared in a seven-hour period.

Rolling Traffic Management

- 2.20 The Council could employ a traffic management company to provide a rolling roadblock whilst operatives cleared the verges of litter. In addition to the costs identified in paragraph 2.17, the cost of this would be approximately £4,000 per day. At a rate of being able to clear four miles per day, it is estimated it would take a total of 15 days to clear the north and southbound verges.

Newark and Sherwood District Council

- 2.21 Discussions have taken place with representatives from Newark and Sherwood District Council who have also been carrying out overnight litter clearance duties on the A1 during periods when lanes are closed. They have provided feedback this has not been without difficulty, as it has been necessary to carry out specialised training with their operatives and they have needed to produce safe systems of work and risk assessments for each individual contractor employed by National Highways.
- 2.22 They too have reported delays in being able to undertake work due to issues with the main contractors, and on occasion, crews have been kept waiting all night for approval to commence litter picking.

Litter Clearance of A1 Laybys

- 2.23 A specialist Street Scene crew has been established with a view to improving the litter issues in the laybys on the A1, which are now regularly visited to ensure bins are emptied regularly and litter is picked up. Historically, domestic litter bins have been situated in the laybys. These are now being replaced on a rolling basis by the more robust litter bins used in open spaces, as the existing bins are often blown or knocked over, thereby adding to the litter issues.
- 2.24 As part of the work to integrate the Council's Street Scene and Grounds Maintenance teams, a specification is being developed to provide details and frequencies of the tasks to be carried out. This provides an opportunity to build on the work currently being undertaken to litter pick in the lay-bys and the replacement of litter bins to ensure arrangements are appropriate.

3. Key Considerations

- 3.1 Individuals can take action through the magistrate's court should they believe a responsible body is failing in its duty to meet the standards set out in the Code of Practice on Litter and Refuse. Should a successful challenge be made, the court can issue a Litter Abatement Order, which would involve a financial penalty and a timescale being set for the removal of the litter.
- 3.2 A review of the Council's complaints system over the past two years has identified the Council has received no formal complaints in relation to litter on the A1.

- 3.3 There is a danger a one-off clearance of litter would have very little impact, as litter could quickly build up again. Should a decision be taken to clear the A1 verges of litter, this would need to be undertaken at regular intervals for it to be effective.

4. Other Options Considered

- 4.1 The options which have been explored are set out within the body of this report.

5. Reasons for the Recommendations

- 5.1 The Environment Overview and Scrutiny Committee are requested to consider the issue of litter on the A1 and provide guidance to Officers on the appropriate and proportionate action to take.

7. Background Papers

- 7.1 *Volunteering with South Kesteven District Council - Volunteer Policy (2023)*, available online via:
<https://moderngov.southkesteven.gov.uk/documents/s38857/Appendix%201%20-%20Draft%20Volunteering%20Policy.pdf>
- 7.2 *Safe cleansing on the highway managing the risks associated with manual and mechanical cleansing* - Highway Waste Industry Safety and Health Forum – Formal Guidance Documentation, Published 2015, and available online at:
<https://www.wishforum.org.uk/wp-content/uploads/2019/06/WASTE-24-.pdf>