

Council – 28 February 2018

Public questions:

1. From Mr Southgate to Councillor Peall, Cabinet Member for the Environment

From 01/04/2017 to 20/11/2017, Shepway District Council, this council, received 744 reports of damaged bins all of which were listed as DAMAGED ON COLLECTION DAY. In November 2016, this council changed it's rules and made the cost for repair and replacement of damaged bins the responsibility of the residents, irrespective of who caused the damage. Can the council clarify this position and explain why it feels Shepway householders should foot the bill for refuse bins damaged by the refuse provider, Veolia?

ANSWER:

I thank Mr Southgate for his question as it allows me the opportunity to address some of the concerns and misconceptions about how the council's fees and charges policy works with regard to the replacement of refuse bins.

The first point to make is that with an ageing bin stock, much of which is over seven or more years old and with over 50,000 properties serviced each week, the volumes of bins and containers recorded as 'damaged' are not exceptional and in most cases caused simply by age, weathering, wear and tear.

A second and critical point to make is the vast majority of the 744 bins and containers reported as lost or damaged in this period were in fact replaced free of charge to residents.

To explain further – the long standing council policy on fees and charges is the principle that the 'users pays' and this has generally applied to the purchase of new refuse bins and containers.

Following the wider rollout of recycling bins at the start of the current contract in 2012 an exception to the fees and charges policy was agreed that the council would directly fund the replacement of bins that were reported lost or damaged as the result of the collection operation. You will appreciate that in practice it is often difficult to verify the exact cause of loss or damage and so other than in exceptional cases this has been taken at face value. However, this resulted in costs regularly in excess of £100K per annum, which was difficult to justify financially.

In 2016 when reviewing the budget, cabinet took the tough decision to change the policy and charge for the replacement of residual bins in all circumstances. The purpose of this was to cap the cost of replacement bins and bring it within budget; which it has. As well as continuing to

replace recycling bins and containers free of charge when damaged or lost at collection. This was to promote and encourage the continued participation in the council's successful recycling scheme and all the environmental benefits that come with it.

From April 2017 to date, the number of bins purchased as a direct result of this change is 130 residual refuse bins.

For comparison in that same period, the council has still replaced free of charge over 2250 bins and containers of various sizes. Spend for 17/18 is projected to hit the budget of £80,000.

The question also refers to the role of the contractor, Veolia. As discussed many of the bins requiring replacement are due to their age. However, there is also in place a process where any bins where are alleged or can be shown have been directly damaged due to the negligence of the contractor are referred to them. In 2017, Veolia actioned the direct replacement of 127 bins and containers.

The council in charging for replacement bins in selected circumstances is not out of step with other authorities, some of which already charge for all replacements regardless of cause or are actively looking at introducing charges.

Like all fees and charges, the bin replacement protocol is regularly reviewed and as portfolio holder I am happy to hear the views of Members on this issue.

2. **From Mr Rylands to Councillor Monk, Leader of the Council**

The legislation regarding recording, filming and taking photographs at open public meetings in the Council chamber states NO PRIOR NOTIFICATION is necessary. SDC's Constitution part 5 - page 5/21 and 6 - page 6/14 state that it is. This appears to contradict both national legislation and the DCLG Guidance, so my question is:

Is prior permission to film, record or take photo's necessary or not?

ANSWER:

I 'm afraid the Council does not agree with your interpretation of the legislation. Furthermore, the constitution as currently drafted is correct. Prior notification is necessary.

I suggest you read The DCLG's "Open and accountable local government" note dated August 2014 - in particular Part 1 page 5, 6 and 7. The policy of requiring prior notification is so that attendees can be advised that the meeting is being recorded. This gives members of the public the

opportunity to object to being filmed or recorded. This is a reasonable request and is lawful

SUPPLEMENTARY QUESTION:

Within the legislation laid out by parliament, it is clear and concise that no prior notification is required. The DCLG 's note us surely guidance, and not statutory. Is prior permission to film, record or take photo's necessary or not?

ANSWER:

Your question has already been answered.

3. From Mr Corrs to Councillor Monk, Leader of the Council

The website haveibeenpwned dot com gives email accounts which have been compromised in a data breach.

It is know that various Officers' official Shepway district council email addresses were comprised and released publicly.

What action was taken by SDC and was any data lost as a consequence of these email and passwords been placed into the public domain?

ANSWER:

The council is not aware of any data breaches related to the information contained in your question and has nothing further to add at this point.

SUPPLEMENTARY QUESTION:

SDC have external contractors who have also appeared on the site. Have SDC been informed if any SDC data has been released?

ANSWER:

The response to this question will be released at a later date.

4. From Mr Deane to Councillor Goddard, Chairman of the Planning Committee

Can you please outline the grounds which convince Shepway District Council and it's planning department of the legal certainty that the changes to the Folkestone Seafront Development outlined in Planning Application **Y17/1099/SH** constitute a section 73 application and not the need for a new planning application?

ANSWER:

An application made under section 73 of the Town and Country Planning Act 1990, known as a Material Minor Amendment can be made to vary or remove conditions associated with a planning permission. Planning permission cannot be granted under section 73 to extend the time limit within which a development must be started or an application for approval of reserved matters must be made.

Where an application under section 73 is granted, **the effect is the issue of a new planning permission**, sitting alongside the original permission, which remains intact and unamended. **A section 73 application is considered to be a new application for planning permission under the 2011 Environmental Impact Assessment Regulations** and is subject to the same full consultation as an application made under section 70 of the Town and Country Planning Act 1990 (as amended).

There is no statutory definition of a 'minor material amendment' but it is likely to include any amendment where its scale and/or nature results in a development which is not substantially different from the one which has been approved. In this instance the application is seeking to remove conditions 41 and 42 (provision of sea and beach sports facilities) and vary conditions 4, 6, 7, 15, 16, 18, 21, 23, 25 and 27 of that approved for application Y12/0897/SH, which granted permission for up to 1,000 dwellings and 10,000 square metres of commercial floorspace including A1, A3, A4, A5, B1, D1 and D2 uses. The current application seeks the same number of dwellings and the same uses as per the approved application.

As such, the overarching nature of the application has not significantly changed, what is under consideration are the changes made to the proposal via the variation and removal of conditions, in particularly changes to the Parameter plans and Design Guidelines and the suitability of all changes when considered against development plan policy.

SUPPLEMENTARY QUESTION:

Where is the Council planning to put the infrastructure for the new houses?

ANSWER:

The response to this question will be provided at a later date.