

# TEESDALE DISTRICT COUNCIL

*achieving excellence together*

“TASK AND FINISH” REPORT OF THE  
OVERVIEW AND SCRUTINY  
ENVIRONMENT PANEL

FLY- POSTING

FEBRUARY 2008



## **Foreword: Overview and Scrutiny**

Scrutiny is one of the most challenging and exciting aspects of the new democratic agenda and it offers a new dimension to decision-making in local government. Under the provisions within the Local Government Act, 2000, all local authorities were required to set up Overview and Scrutiny Committees with the role of:

- reviewing policy and assisting in policy development
- scrutinising decisions and decision-making for any council function *except* regulatory functions such as planning or licensing
- investigating other matters of local concern
- Ensuring that the council fulfils its duties in respect of best value performance
- Ensuring procedures are in place for councillors to feed in community views to policy development and decision making.

Scrutiny, therefore, has a vital role in helping to achieve some of the key aims of the enabling legislation: greater efficiency, transparency, accountability, consistency, public involvement and responsiveness to the public. The Comprehensive Performance Assessment (CPA) process has further emphasised the importance of Overview and Scrutiny. Research for the Office of the Deputy Prime Minister (ODPM) (now the Communities and Local Government), by the Evaluating Local Government Team indicates that there is a correlation between excellent authorities and a strong scrutiny function. It is therefore appropriate that Teesdale District Council exercises the powers of scrutiny effectively and to the benefit of the whole community.

**Councillor Newton Wood**

**Chairman, Overview and Scrutiny Committee**

## **1.0 SUMMARY**

- 1.1 The Planning Department had written to the Reverend Alec Harding from St Mary's Barnard Castle Parish Hall Association regarding unauthorised fly-posting (A4 signs on lamp posts advertising a non charitable event and which did not identify the person displaying the advertisement only the 'premises', this is therefore classed as unauthorised fly posting).
- 1.2 In early September 2007, Rev Harding wrote to the Executive Lead Member for Environment expressing his support in respect of clamping down on fly-posting. but expressing his view, on behalf of the Parish Hall, that the placing of a handful of small signs attached to lamp posts in the town directing people to events in the parish hall was wholly acceptable and permissible under the law.
- 1.3 The Reverend's request to the Committee was to differentiate between fly-posting and notices about local events and activities and directional signs and those with a purely commercial purpose.
- 1.4 Teesdale District Council acknowledges the fly-posting problem has escalated because the previous Enforcement Officer did not take steps to moderate the problem due to workload and capacity.
- 1.5 It is considered that this is a significant issue due to the increased amount of fly-posting in Barnard Castle and the harm it causes not just in the town but throughout the District.

## **2.0 RECOMMENDATIONS:**

- 2.1 It is recommended that the Council publicise that its approach to fly-posting and street advertising follows the statutory provisions and that advertisers ought to note the following principles:
  - Posters/notices for commercial events should be advertised in the press, leaflets posted through doors, placed in shop windows or on official notice boards.

- The need for community display notice boards, which should be locked to stop unlawful posting, is acknowledged.
- No advertising material can be allowed to cause an obstruction and as such, is not allowed to be placed on public footpaths.
- Shop owners, at their own discretion, can display notices/posters inside their property, if they wish to do so.
- Illumination of the advertising notice is not permitted without Advertisement Consent under the Advertisement Regulations
- No advertisement notice may exceed 0.6 square metres in area.
- No character or symbol shall be more than .075 metre in size.
- No authorised advertisement notice may be displayed earlier than 28 days before the event and all notices must be removed within 14 days after the event

### **3.0 LINK TO CORPORATE OBJECTIVES/KEY PRIORITIES**

**3.1 Environment** – valuing, protecting and enhancing Teesdale’s valuable and distinctive natural and built environment, recognising that it underpins Teesdale’s present and future way of life.

**3.2 Priority:** Service Delivery

**3.3 Outcome:** Addressing the problem of fly-posting whilst enabling the legitimate display of local information

### **4.0 THE AIM**

4.1 At the meeting of the Overview and Scrutiny Committee held on the 14<sup>th</sup> September 2007, the issue of fly-posting was widely discussed. Councillor Newton Wood, Chairman reported that Overview and Scrutiny could not interfere with regulatory matters but could undertake a “Task and Finish” review which would serve to bring together members of the community, in particular the Reverend Alec Harding, members of the Overview and Scrutiny Environment Panel and officers within the Regeneration Department of the Council, in order to consider how best to interpret and enforce the appropriate regulations.

## **5.0 TASK AND FINISH TEAM (Overview and Scrutiny Environmental Panel)**

Councillor Tony Cooke (Chair)

Councillor Mike English (Vice Chair)

Councillor John Hinchcliffe

Councillor Keith Watson

David Kinch (Co-opted Member, Overview and Scrutiny Committee)

Anne Lambert (Scrutiny Support Officer)

## **6.0 THE METHODOLOGY**

6.1 Meetings of the Task and Finish Group were held on 19<sup>th</sup> October, 6<sup>th</sup> November and 29<sup>th</sup> November 2007 and the recommendations contained in this report have been agreed following discussions with the Development Control Manager, the Enforcement Officer and the Locum Solicitor.

## **7.0 THE ISSUES**

7.1 The following points were raised during the meeting with Panel Members, Reverend Harding, Keith Pearson the Methodist Church Minister, the Development Control Manager and the Enforcement Officer held on Friday, 19<sup>th</sup> October 2007:

- Barnard Castle is a historic market town and the displaying of posters on lamp posts is not in keeping with the town's appearance.
- Displaying posters to advertise commercial events are against the law and allowing one person or organisation to continue to carry out this practice could be used to challenge the council.
- People who hire the church or parish hall for non charitable events (commercial) do not have permission to display posters, without consent, as it is the activity that is advertised, not the venue.
- The Planning Department can be contacted to seek legal advice if the event is half charitable and half commercial, provided that department are informed about the event prior to it taking place.
- It is permissible for commercial events to be advertised in the press, leaflets can be posted through doors, placed in shop windows or placed on notice boards.
- No action will be taken if the church or parish hall wish to display posters within their own curtilage, providing the poster/notice meets with the required legislation.

- The suggestion of moving the current notice board in the church grounds to a more advantageous position for public observation, would require Listed Building Consent.
- The Development Control section can offer advice to people wishing to post event notices, providing the organisers ring well in advance of events taking place.
- Temporary consent to display posters can be obtained from the Development Control section for a fee (the planning process takes up to 8 weeks from receipt of application).
- The local authority has permitted rights to post official notices under the regulations for their own statutory functions.
- Posters displayed in a shop window are acceptable under the regulations (this is deemed as keeping with the fabric of a building and a reasonable way to advertise).
- Posters advertising a wholly charitable event are acceptable providing the notice complies with regulations on poster size, print font size, numbers and period of display.
- The County Council as Highway Authority currently has a zero tolerance policy towards advertising on highways or footpaths. The District Council's Development Control Section need to liaise with the County Council on such matters. For example, a vehicle parked on a highway verge displaying notices of events/sales is encumbered with several statutory considerations.

## **8.0 MEETING WITH THE LOCUM SOLICITOR**

8.1 The second meeting took place with Teesdale District Council's locum solicitor on 6<sup>th</sup> November 2007. The following points were raised during the discussion:

- The limitation on display height in Class 3D notices is 4.6 metres above ground level.
- If a notice board is being erected on which advertisements are to be displayed, there are two issues. The display of the advertisement and the means by which the advertisements are displayed (e.g. notice board or hoarding). The advertisement consent application fee is currently £265.
- Applying for advertisement consent for frequent display use would dispel the need to apply for advertising consent on every occasion. This one off payment would be in the region of £250.
- If the advertising sign is on a 50% charity/commercial gain basis, then advice from the District Council Development Control Section is required as commercial use will normally require advertisement consent.
- Banners placed on the inside of cars for just one day would not be seen as fly posting but could be classed as an advertisement that requires consent, if it occurs frequently.

- No advertising or “A” frame boards are allowed to be positioned on the town’s footpaths as the footpaths form part of the highway and this is seen as an obstruction, irrespective of size or width of the advertising method.
- For temporary signage, advertisements are permitted for the following: announcing any local event of a religious, educational, cultural, political, social or recreational character or relating to any temporary matter in connection with an event or local activity of such a character - not being an event or activity promoted or carried on for commercial purposes, provided the applications fall within the above criteria (Class 3D of Part 1 of Schedule 3 of the Advertising Regulations 2007) and organisers are permitted to display an advertisement provided it does not exceed the following:
  - No advertisement may exceed 0.6 square metre in area
  - No advertisement may be displayed earlier than 28 days before the event
  - The advertisement should be removed within 14 days after the event
  - Illumination of the advertising notice is not permitted
  - No character or symbol shall be more than 0.75m in size
  - No part of the advertisement shall be more than 4.6m above ground level, unless in a designated special area of control where the limit is 3.6 m (However, Barnard Castle is not a special area of control).

**Fly- posting requires Advertisement Consent under the Advertisement Regulations.**

**9.0 CONCLUSIONS**

It is acknowledged that fly-posting has been ongoing for some time in Barnard Castle and the current Enforcement Officer has only been in post for the past 18 months and is therefore taking on a huge workload. Planning enforcement is a lengthy exercise that absorbs significant amounts of officer time. It is important to ensure that such time is directed towards the greatest areas of council priority. It is also important to recognise that the council’s approach to enforcing the Advertisement Regulations can affect the operation and viability of parish halls and other similar buildings that serve the community. Even so, such advertising should not be allowed to adversely affect the historic environment of Barnard Castle and the District. The advertisement of purely commercial activity by fly-posting falls within the Regulations and advertising of that nature ought to be resisted. The “Task and Finish Team” have come to the recommendations set out in Section 2 of this report.

**10.0 IMPLICATIONS**

**10.1 Risk:**

<b>Risk</b>	<b>Category</b>	<b>Implications</b>
That the council jeopardises the viability of important community facilities.	Community leadership	That parish halls and similar facilities are caused to close.

