

SCRUTINY COMMISSION - 27 OCTOBER 2011

REPORT OF CHIEF OFFICER BUSINESS, CONTRACT AND STREET SCENE SERVICES **RE: VEHICLES FOR SALE ON THE HIGHWAY**

1. PURPOSE OF REPORT

To advise Members of the different powers and responsibilities held by the Borough and County Council in relation to vehicles for sale at the roadside.

2. RECOMMENDATION

Members note the content of the report, and the actions County, Borough and Parish Councils can take with regard to this matter.

3. BACKGROUND TO THE REPORT

- 3.1 Scrutiny Committee have requested a report on vehicles for sale on the highway following complaints by Councillors about cars for sale on the public highway. This report sets out the most appropriate method for dealing with different types of offence:-

Unlawful advertising:

- 3.2 The Town and Country Planning (Control of Advertisement) Regulations 2007 gives powers to deal with unlawful advertisements on the highway, such as fly posters and purpose built trailer advertisements. The Regulations do give exemptions, however, to advertisements that are displayed on or in vehicles which are not used principally for the display of advertisements. The Planning enforcement team deals with complaints of unlawful advertising.

Selling Vehicles on the highway:

- 3.3 The Clean Neighbourhoods and Environment Act 2005, brought in new powers to deal with selling vehicles on the road. So that individual private sellers are not targeted, one person has to have two or more vehicles offered for sale within 500 metres. If 6 sellers each have a car for sale adjacent to each other then we cannot take any action under this legislation. The Neighbourhood Wardens deal with offences of this nature however as vehicles tend to be SORN or unregistered it is very difficult to prove that one seller is responsible for the sale of more than one vehicle. An example of where the Council can use these powers would be a car sales business parking vehicles on grass verges near their premises.
- 3.4 Where it cannot be proven that vehicles sold in close proximity are being sold by one seller, the County Council have powers under Section 147a of the Highways Act 1980 which provides that:

“no person shall, for the purpose of selling anything, or offering or exposing anything for sale, use any stall or similar structure or any container or vehicle, kept or placed on —

- (a) the verge of a trunk road or a principal road;*
(b) a lay-by on any such road; or
(c) unenclosed land within 15 metres of any part of any such road,

where its presence or its use for that purpose causes or is likely to cause danger on the road or interrupts or is likely to interrupt any user of the road.”

Under Section 130 of the Highways Act 1980, there is a duty on the Highways Authority to ensure that highway land is not obstructed. There is also a duty to protect the rights of the public to the use and enjoyment of any highway. Both Borough and Parish Council's can make representation to the Highways Authority in respect of these duties. An example of where this action would be appropriate would be at Field Head, Groby, where vehicles are in multiple ownership. At a meeting on 7/10/11 with Leicestershire County Council (LCC) Highways Department, LCC agreed to consider this action, where representation is made to them identifying a nuisance.

Abandoned vehicles:

- 3.5 The Council has powers under the Refuse Disposal (Amenity) Act 1978 to remove abandoned vehicles. Neighbourhood Wardens are able to remove vehicles abandoned on the highway. They can also remove untaxed vehicles once the tax disk is 2 months out of date. Examples of where the Neighbourhood Wardens remove abandoned vehicles are burnt out cars, vehicles which are not registered, vehicles which are not moved etc.

4. FINANCIAL IMPLICATIONS (TO)

None relating to this report.

5. LEGAL IMPLICATIONS (AB)

Contained in the body of the report

6. CORPORATE PLAN IMPLICATIONS

These actions contribute to the Corporate Plan Aim of Cleaner and Greener Neighbourhoods by keeping neighbourhoods clean and tidy and minimising environmental nuisances in the borough

7. CONSULTATION

Not applicable.

8. RISK IMPLICATIONS

It is the Council's policy to proactively identify and manage significant risks which may prevent delivery of business objectives.

It is not possible to eliminate or manage all risks all of the time and risks will remain which have not been identified. However, it is the officer's opinion based on the information available, that the significant risks associated with this decision / project have been identified, assessed and that controls are in place to manage them effectively.

No significant risks associated with this report / decisions were identified from this assessment:

9. **KNOWING YOUR COMMUNITY – EQUALITY AND RURAL IMPLICATIONS**

The Council will need to communicate these requirements to residents so that they are aware of the legislative position.

10. **CORPORATE IMPLICATIONS**

By submitting this report, the report author has taken the following into account:

- Community Safety implications
- Environmental implications
- ICT implications
- Asset Management implications
- Human Resources implications
- Planning Implications
- Voluntary Sector

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