

Graffiti Removal

Final Decision-Maker	Community, Housing and Environment Committee
Lead Head of Service/Lead Director	William Cornall, Director of Regeneration and Place
Lead Officer and Report Author	Jennifer Shepherd, Head of Environment and Public Realm
Classification	Public
Wards affected	All

Executive Summary

This report is in response to a request by Cllr Purle on 13th November 2019 requesting that the Communities, Housing and Environment Committee consider how graffiti is dealt with in the Borough, particularly on private land and where there has been historical issue. It outlines options to tackling the issues of graffiti on private land particularly in the St Peter Street & Buckland Hill area which has been highlighted as a hotspot. The purpose of the report is to identify and agree the proposed use of Maidstone Borough Council's enforcement powers to deal with graffiti on publicly visible property, which meets the legislative tests.

This report makes the following recommendations to Community, Housing and Environment Committee

1. To agree implementation of a working process to tackle graffiti as set out at paragraph 1.9 and Appendix 1.
2. To review the agreed processes within 6 months of implementation to ensure the required results are achieved and if not to present an addition report outlining alternative enforcement actions.

Timetable

Meeting	Date
Communities, Housing and Environment Committee	Tuesday 18 June 2019

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1. INTRODUCTION AND BACKGROUND

- 1.1 In 13th November 2018, Councillor Purle submitted a request for an agenda item for Communities, Housing and Environment Committee regarding graffiti and overgrown trees particularly in the St Peter's Street area. The matter was discussed at the Committee meeting held 13th November 2019 with Members acknowledging that graffiti can have a significant impact on the appearance of an area. The Committee therefore agreed that further work was required and that an officer report should be brought to the Committee to outline the options for dealing with the problem across the whole Borough.
- 1.2 At the time of the original request, officers contacted Network Rail and Jewson's on whose land most of the graffiti was located. The Council successfully worked with Jewson's to get the graffiti removed and for parts of their building to be repainted. The photos below indicate the graffiti in St Peter Street (Photo 1) and Network Rail property along the Maidstone East high-level bridge (photo2).



Photo 1: Graffiti on Jewson Builders Merchant



Photo 2: Graffiti along High-Level Bridge

- 1.3 Several requests were also made to Network Rail to remove a large amount of graffiti along the wall that runs alongside the Maidstone East train line high level bridge (photo 3). These reports were sent to local and Area Managers and even though assurances were provided by Network Rail that the graffiti would be removed, or replies would be provided, this did not happen. Due to the nature of their land and the associated risks of working by the railway, the Council is not authorised to carry out any work on Network Rail's land without permission. It has been exceptionally difficult to get permission to carry out this work on their behalf.

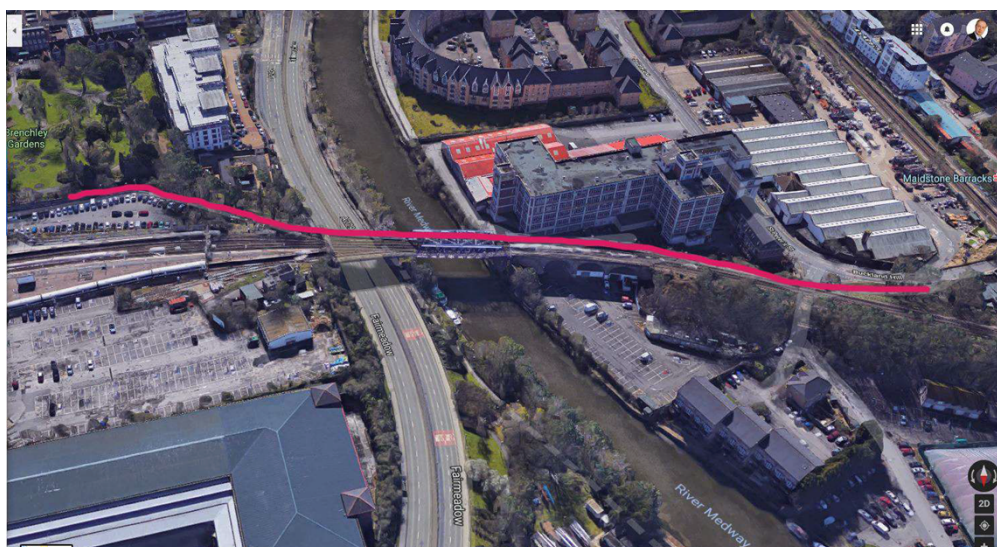


Photo 3: High Level Bridge

- 1.4 The Council routinely removes graffiti in the public realm, charging only for graffiti on larger commercial premises. A disclaimer is required for the removal of any graffiti from private land due to the small risk of damage

due to use of a high-pressure jet washer. This practice has ensured that most of the Borough remains largely graffiti free with the street cleansing department resources absorbing these duties as part of their day work.

- 1.5 Over the past 12 months there have been 77 reports of graffiti to the Council. The majority of these, 42 reports, were for the Town Centre, with Ringlestone and Shepway also identified as 'hotspots' for graffiti with 18 and 7 reports respectively. The remainder were isolated reports around the Borough although predominately on Network Rail land.
- 1.6 Historically the Council has received very few reports of graffiti from the public, with only 36 reports in 2018, 33 in 2017 and 26 in 2016.
- 1.7 All graffiti reported is inspected, and the majority of land owners are offered a free service for its removal. In locations where specialised equipment is required this free service is not offered. In these cases, the graffiti is usually at height and therefore would require a lift or scaffolding to remove. Many owners are unwilling to pay for this service and hence the graffiti is not removed. Where the graffiti is sexually offensive or racist then the council takes immediate action to remove regardless of the location. The Council will provide this free removal service when the resources used is at no addition cost to the Council.
- 1.8 One approach to the removal of graffiti is to issue Community Protection Warnings (CPW) followed up by a Notice (CPN).
- 1.9 This could be used where the graffiti is having a detrimental effect of a persistent or continuing nature on the quality of life of those in the locality and the conduct or the premises controller is unreasonable if not removed for a lengthy period. This could be carried out by the Waste Crime Team. This however penalising or engaging the land owner who is also a victim of this crime and therefore this approach has not previously been taken.
- 1.10 Appendix 1 outlines the potential enforcement route which may be used to tackle graffiti on private land where either the Council cannot remove it directly or when the landowner does not authorise the Council to carry out the work. This route could ultimately lead to the prosecution of the landowner if they fail to comply with a Notice or the use of alternative powers available.

2. AVAILABLE OPTIONS

- 2.1 The Community, Housing and Environment Committee could agree to the proposed working process to deal with graffiti throughout the borough. This is set out in the Graffiti Enforcement Process (Appendix 1).
- 2.2 The Committee could recommend that rather than enforcement action, the team continue to engage with all private land owners seeking their support to remove the graffiti.
- 2.3 Alternatively, the Committee could decide that the Council will remove all graffiti free of charge regardless of cost to the Council. However, this would

not be possible in certain locations where it requires operatives to enter Network Rail land.

3. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 3.1 Given the work over the past 12 months to engage with key landowners it is recommended that the Committee now sanction the use of enforcement powers to tackle graffiti on land where the landowner fails to act. This option would enable the Council to continue to work with responsible landowners to remove the graffiti for free or a small charge if specialist equipment is required to recoup any addition costs.
 - 3.2 However, this option enables the Council to take action against those individuals or bodies who fail to maintain their land and remove graffiti within an acceptable timescale, where that would be reasonable.
 - 3.3 The Council could seek to prosecute the landowner for failure to comply with the Community Protection Notice and seek legal costs. It is unlikely that the options set out in 2.2 and 2.3 would result in any significant improvement within 'hotspot' areas.
 - 3.4 Regardless of which option is agreed upon, a review should be undertaken to ensure the preferred option is working and if not, alternative enforcement option should be considered by the use of more complicated processes by using Town and County Plan Act 1990 and/or Anti-Social Behaviour act 2013.
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4. RISK

- 4.1 The risks associated with 2.1 are low. The implementation to enforce against the land owners should provide an incentive but there could be a view that we are punishing the victims of crime. There is also the risk of appeal against a Notice on various grounds which could have cost or resource implications which may not be fully recovered if successfully defended or there could be an order for costs against the Council if not successfully defended, in some circumstances. The Graffiti Enforcement Process (Appendix 1) provides a staged approach with a clear understanding of responsibilities and assistance that the Council can provide.
- 4.2 There is a risk with 2.2 that there will be no improvement to the current graffiti levels in visible locations as there is no forceable incentive for private land owners (where known). As this report has been requested to deal with outstanding graffiti on publicly visible property its likely that the public will be disengaged with the Council on this matter and damage the reputation regardless of land ownerships or responsibilities.
- 4.3 There is a risk to the Council if option 2.3 is decided upon as there is unknown amount of resources required to remove graffiti for all location around the borough. Without undertaking a full audit of all graffiti within the borough there is an unknown amount of addition funding required.

5. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

- 5.1 Once approved, the Street Scene and Waste Crime Teams will work together to implement the Graffiti Enforcement Process.
- 5.2 Regardless of which option is agreed upon a review should be undertaken to ensure the preferred option is working and if not, alternative enforcement option should be considered by the use of more complicated processes by using Town and County Plan Act 1990 and/or Anti-Social Behaviour act 2013
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6. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Impact on Corporate Priorities	The recommendations support the Council's priority of <i>Clean, Green and Safe</i> by tackling graffiti which is not only unsightly but also can attract other anti-social behaviour and negatively affect lives.	Head of Environment and Public Realm
Risk Management	The risks associated with the proposal are highlighted in section 4.1.	Head of Environment and Public Realm
Financial	The options set out at 2.1 and 2.2 do not require additional funding and can be undertaken within current resources. 2.3 recommendation would require additional funding, but the amount has not been quantified at this stage. It is also likely that capital funding would be required as part of this option.	Section 151 Officer & Finance Team
Staffing	We will deliver the recommendations with our current staffing.	Head of Environment and Public Realm
Legal	The Legal Team have been consulted and will work with the Waste Crime Team to deliver and review the process.	Legal Team

Privacy and Data Protection		
Equalities		
Public Health		
Crime and Disorder	All racist or sexually explicit graffiti to be reported to Community Protection Team and will be removed immediately by the Waste Crime Team.	Head of Environment and Public Realm
Procurement		[Head of Service & Section 151 Officer]

7. REPORT APPENDICES

- Appendix 1: Graffiti Enforcement Process
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8. BACKGROUND PAPERS

None