

Submission by the Green Lantau Association to the Legislative Panel on Environmental Affairs on the subject of combatting Fly-tipping

Fly tipping is the disposal of debris on land not owned by the ‘dumpee.’

In HK the motives may include:-

- the avoidance of land fill charges
- avoidance of transport costs
- deliberate filling requested by the landowner – usually to facilitate a change of use from rural
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There are 3 legs to this stool all of which have to be addressed if a comprehensive solution is to be found:-

- (i) prevention
- (ii) punishment
- (iii) reinstatement

Prevention

We see 3 options :-

- (a) control the disposal of surplus material
- (b) secure all sites against fly-tipping
- (c) have a community spotting and reporting arrangement

(a) Control disposal

The conventional approach for larger government (and some utility company) work sites is to operate a ‘trip ticket’ system whereby all loads leaving the site are supposed to be controlled by tickets. This is wide open to abuse by:-

- inadequate site supervision on issuing tickets resulting in some loads being undocumented
- trip tickets not being issued due to collusion between land owners/drivers/site staff

Private sites are not so bound and small sites are unlikely to ever be considered for such a system – despite the propensity for such in rural areas to be the offenders. This approach is at best a palliative but is by no means a cure.

(b) Secure all sites

It is practically impossible to achieve this. Even sites with concrete barriers have been breached.

(c) Community spotting and reporting arrangement

Similar to the smoky vehicle and ship campaigns, volunteer spotters could be recruited to report. For this to work there would need to be a reporting mechanism, a quick response team, identity protection for the reporter, and proper follow-up.

Punishment

In the cases of fly-tipping on government land, existing provisions provide a moderately severe range of fines. However without exception, cases laboriously (and seldom) brought to prosecution see the courts impose fines at the lowest end of the range. This is simply no deterrent at all – in all case the fines are far lower than the money saved by not disposing properly, and it is a risk easily worth taking.

Until the courts take the view that fly-tipping is indeed a serious matter (more important for example than littering), and start levying the full range of fines provided, there is no hope for an effective deterrent.

Reinstatement

This is a sorely neglected but essential aspect of the equation. . Without reinstatement the environment remains damaged (i.e the fly-tipping has won by default), and the community continues to suffer. Where the damaged site lies in a conservation zone (CA, GB, CPA etc) it means that the planning (the community) intent has been frustrated permanently.

It need not be so, the offending party can be required to reinstate the site, and dispose of the debris properly. The sheer costs of this action alone would be an excellent deterrent, and render superfluous the parsimony of the court-imposed fines. In addition the community would continue to enjoy the site in its intended and restored condition.

Summary

It is the submission of the Green Lantau Association that the all three aspects of the fly-tipping equation (prevention, punishment and reinstatement) have to be addressed if a comprehensive solution is to be found. The measures proposed by the administration offer little more than a coordinated status quo, a cocktail of inadequate and erratically policed procedures, which simply have no hope of properly addressing the issue.

Additional notes

- (i) We are mindful that our position above is in respect of land under DPA planning. Much rural land is not so protected, including some 78% of the Frontier Closed Area, and the whole of South Lantau (which OZP predates the 1991 TPO amendments). Effective zoning controls have to be extended to all rural land, as lease conditions provide no avenue for enforcement against fly-tipping.
- (ii) We note that materials placed on private land become the property of the landowner making removal extremely difficult. We consider that a solution to this problem would be to deem all surplus material to be owned by the project proponent until such stage as it is properly disposed of. Under such provision any materials placed on land not owned by the project proponent would be ‘theft’ and could be removed – whether from government or from private land.
- (iii) We understand that photographic evidence is not acceptable when reporting on fly-tipping, and consider this prohibition should be removed so as to allow effective community reporting.

Clive Noffke
Green Lantau Association
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