



Clerk to Subcommittee on Combating Fly-tipping
Legislative Council Secretariat
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Central
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CB(1) 1503/08-09(07)

28 April 2009

By email only

Dear Sir/Madam,

Re: Progress of measures to combat land filling and fly-tipping activities – 7 May 2009

We would like to make some comments and recommendations with regard to the Environmental Protection Department's (EPD) paper CB(1) 1319/08-09(01).

1. The Fly-tipping Issue

The fly-tipping problem in Hong Kong is a cross-department/bureau issue. It involves planning, land management and waste disposal. In addition, the outsourcing characteristic of the local construction business, and the weak awareness regarding land use restrictions among the rural community, also contribute to the fly-tipping problem in Hong Kong. This problem is getting worse as the court fines are ridiculously low, and therefore have no deterrent effect regarding subsequent cases. We are concerned about this issue and provide feedback on the captioned paper, regarding our observations, understandings and recommendations related to the fly-tipping problem in Hong Kong.

2 Feedback on EPD's paper

2.1 Written permission for disposal of C&D materials on private lands

We welcome this measure proposed by EPD. It is, indeed true that some landowners are not aware that their land is being filled with C&D materials. However, some landowners know but pretend not to be aware!

Our concern relates to the definition of C&D materials. According to the Waste Disposal Ordinance (WDO), C&D materials are not defined as "waste". Therefore, we wonder whether it is appropriate to use the WDO to address the disposal of C&D materials on private land. Also, we would like to know whether all land filling on private land requires such written permission.

2.2 Trip ticket system for private works

We support this measure proposed by EPD. The trip-ticket system should also be applied to major developers, construction companies and public utilities. Priority should be given to

roadworks related to public utilities. Roadwork projects are high risk, in terms of providing a material source for fly-tipping, due to the absence of resident engineers and the multi-access that occurs across the construction site. Therefore, implementation of the trip-ticket system or other relevant waste management control practices is difficult. Our observations indicate that concrete slabs, bitumen slabs and underground cable coating are often found at dump sites such as the Kam Tin Buffalo Field and Tai Mong Tsai, Sai Kung, suggesting that C&D materials from roadwork projects often end up on farmland. **It is recommended that a senior member of staff on roadwork sites should be assigned responsibility (charge) for the implementation of the trip-ticket system and relevant waste management practices.**

Attention should be paid to small scale domestic work projects, for instance renovation works. Bricks and tiles generated from these small work projects have been found in some of the previous unauthorized dump sites, for instance Nam Sang Wai, Ho Sheung Heung and Pak Nai. **The authority concerned should consider tightening the waste management practice of small scale private works.**

2.3 The Police should be invited to take part in the investigations related to fly-tipping cases

In most fly-tipping and other environmental vandalism cases, only the contractor and landowner are prosecuted. The project proponents are often not identified due to the inadequate capacity of enforcement departments. Experience from the Tung Chung River case shows that investigations undertaken by the Police can help to successfully identify the project proponents. **Therefore, it is recommended that the Police should be involved in those fly-tipping and environmental vandalism cases where the suspect cannot be identified.**

2.4 CCTV at fly-tipping black spots

Further land filling still takes place even after enforcement actions have been undertaken in some cases, for example the Nam Sang Wai case in 2008 and 2009. In order to stop further degradation and if possible collect evidence for prosecution, it is recommended that the use of CCTV at dumping sites and black spots be considered. This approach has been successfully applied in some areas of the U.K.

The conclusion of the UK experience is that using CCTV and other enforcement opportunities to generate high profile publicity, and to increase perceived levels of risk related to fly-tipping, can be very effective at deterring would-be fly-tippers. Covert CCTV located at fly-tipping hot spots will keep fly-tippers guessing, and encourage them to err on the side of



caution. (Reference: Fly-tipping: causes, incentives and solutions – a good practice guide for local authorities. Jill Dando Institute of Crime Science, University College London. July 2006. <http://www.defra.gov.uk/environment/localenv/flytipping/pdf/flytipping-goodpractice.pdf>)

3. Dump truck business

The dump truck business is an independent sector of the construction business. Generally, the main contractors outsource the waste disposal work to an agent of a group of truck drivers. Most truck drivers perform their work professionally. However, some truck drivers and agents work together with local landowners and dump the waste on nearby farmlands without approval from the main contractor or project proponent, for instance the Ho Sheung Heung case. The main purpose is to reduce time and costs for instance fuel costs and tunnel toll fees.

In addition, the environmental performance of truck drivers, i.e. whether the waste is disposed at the designated area properly, is not of concern. In some cases, the project department and the main contractor do not have a full list of dump trucks involved in a project, and thus no monitoring can be undertaken. **It is suggested that an inventory of all dump trucks should be collated prior to the commencement of a project to undertake environmental performance monitoring.** Also, this list could be used as a reference for the proposed blacklisting scheme (see below).

We are aware that some major contractors have begun to collect the registration numbers of dump trucks and the name of agents that have been involved in fly-tipping, and no further work will be outsourced to them. **It is suggested that this blacklisting scheme can be adopted by all major contractors.** Furthermore, the Development Bureau should keep such records, to avoid outsourcing government projects to these blacklisted truck drivers or their agents.

4. Destruction first approach

The destruction first approach requires that land is degraded through environmental vandalism such as land filling, excavation and tree felling, prior to approval for change of land use. It is generally thought that degrading a site can facilitate the approval process. As far as we know, most applications under s16, Town Planning Ordinance which use the destruction first approach are nearly all rejected by the Town Planning Board. Therefore, the destruction first approach does not facilitate the approval process. It is recommended that (i) the Government should publicize this point and educate the public that all rural developments should follow proper procedures, and (ii) the Government should black list applications with environmental

trashing records within a period of time.

5. Increase environmental awareness

It is well known that permission from the village heads has to be sought before site formation on farmland takes place. However, these village heads may not fully understand the restrictions on the land use issue, for instance the laying of soil not exceeding 1.2 m for cultivation on “Agriculture” zones and restrictions regarding the dumping of C&D materials on farmlands. **Therefore, it is recommended that regular public lectures regarding land use issues and restrictions should be organized for the public, in particular the rural community.** Similarly, the Heung Yee Kuk should play a more elevated role in dispatching messages related to land use issues and various restrictions to the villagers, in order to enhance their understanding in this matter.

6. Inadequate Penalties

Statistics from the Planning Department indicate that the average fine is just \$29,000 per case. Such a low fine is probably covered as a minor cost in the business venture. **It is recommended that the fine should be increased to a level that poses a deterrent effect related to similar cases.** Also, the public should discuss whether imprisonment should be included in the penalty under the Town Planning Ordinance during the next amendment. This may reflect better the serious level of consideration afforded to this illegal “destruction first” approach of land degradation which is widespread in Hong Kong.

Thank you for your attention.

Yours faithfully,



Mr. L. C. Wong
Conservation Officer