APPENDIX A

Graffiti and Street Art Management Policy 2022

South Holland District Council

Corporate Plan - A Place of Prosperity, Wellbeing and Opportunity for All

We will…

Lead, enable and embed the provision of a range of improved local community, cultural and art facilities that support the enhanced wellbeing of South Holland's communities.

Work together with partners, businesses and local communities to re-establish the Pride in South Holland programme to improve the quality of public spaces to be cleaner, greener and safer.

Support Spalding and Holbeach to be attractive places that people want to visit, live and work while supporting all other towns and villages in the district to meet the needs of their communities.

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January 2022

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This report is provided for information and it does not purport to be complete. While care has been taken to ensure the content in the report is accurate, we cannot guarantee it is without flaw of any kind. There may be errors and omissions or it may not be wholly appropriate for your particular purposes. In addition, the publication is a snapshot in time based on historic information which is liable to change. South Holland District Council accepts no responsibility and disclaims all liability for any error, loss or other consequence which may arise from you relying on any information contained in this report.

Introduction

South Holland District Council is committed to providing safe and welcoming public spaces and supporting its artists and broader creative community.

South Holland District Council's approach towards graffiti management is to remove illegal graffiti and street art quickly and support legal street art.

South Holland District Council recognises the adverse impact graffiti can have on the public and visitor perception. The Council is committed to tackling unwanted, illegal and antisocial graffiti, whilst taking a balanced view on street art.

This policy supports the priorities of the Council as set out in the Corporate Plan 2019-2023

Corporate Plan - A Place of Prosperity, Wellbeing and Opportunity for All 2019-2023

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Work together with partners, businesses, and local communities to re-establish the Pride in South Holland programme to improve the quality of public spaces to be cleaner, greener and safer.

Support Spalding and Holbeach to be attractive places that people want to visit, live and work while supporting all other towns and villages in the district to meet the needs of their communities.

The policy sets out clear principles for addressing graffiti and street art. Where either of these is unwanted and appears without consent, this will be viewed as an interference with the property owner's rights and as such the person has committed a criminal offence under the Criminal Damage Act 1971.

The Council also has a power under section 43 of the Anti-social Behaviour Act 2003 as amended by the Clean Neighbourhoods & Environment Act 2005 to deal with graffiti offences and to enforce removal of graffiti from private property where required.

Graffiti and street art can have a detrimental impact on the local environment and people's quality of life when it is offensive. According to DEFRA guidance, offensive graffiti applies where it is racially offensive, hostile to a religious or belief group, sexually offensive, homophobic, depicts a sexual or violent act or is defamatory.

The aim of Graffiti and Street Art Management Policy 2022 is to deliver best practice graffiti management across our district, taking into consideration South Holland's unique environment of being a Council firmly rooted in our rural community.

This policy is the first Graffiti and Street Art Management Policy on behalf of the local communities we are here to serve.

Definitions

The Department of Food and Rural Affairs (DEFRA) defines graffiti as “any informal or illegal marks, drawings or paintings that have been deliberately made by a person or persons on any physical element comprising the outdoor environment, with a view to communicating some message or symbol etc. to others”.

This policy defines Street art and Graffiti as:

Street art: “*Any work of art on building facades or infrastructure with permission that complements the public space in which it is situated”. “Such a work will not detract, defame or depreciate the area. It could be a painting, land art, sculpture, etc.*”

Graffiti: *“Defacement of a building facades or infrastructure without permission by use of paint or another form of marker. This is always a form of criminal damage.”*

Responsibilities

South Holland District Council does not consent to any painting, writing, soiling, marking or other defacement on its property including footways without its prior express permission being obtained.

Where graffiti is found on council owned properties or street furniture the graffiti will be removed.

In addition the Anti-Social Behaviour Act 2003 confers power on the Council to secure the removal of graffiti from private property. Enforcement action can be taken, even where the owner does not object to it remaining on their property.

In these circumstances the Council reserves the right to take formal action against the owner to secure removal and if the owner does nothing, then the Council may enter the land, clear or otherwise remedy the graffiti and recover the costs from the owner.

Subject to funding and the size/scale and positioning of the graffiti the Council may provide a free first time graffiti removal service to owners/occupiers of properties. This removal work would take place in agreement with and approval of the owner and in some more difficult cases the owner of the property may be required to contribute to the cost of removal and or the cost of anti-graffiti coatings. The Council would only provide this service where appropriate insurance arrangements were established.

Where graffiti is on a building of historic interest careful consideration will be taken in relation to the removal of such graffiti including where appropriate the use of specialist contractors. Such graffiti will be regarded as a heritage crime, in accordance with historic England’s recommendations, and will be reported to the Police.

Where graffiti is visible from the public areas, is considered accessible and deemed to be offensive removal will take place within **24 hours** where possible. Where the graffiti is on private property the Council will require the owner to remove, or organise the removal, of the graffiti in **48 hours** where possible.

Graffiti Management

South Holland District Council employ various interventions to manage graffiti in the district. The approach towards management is outlined below. Individual actions are subject to Council budget provisions.

Prevention

South Holland District Council will continue to work with residents and groups in creating alternative diversions to graffiti problems (e.g repeated tagging), examples of diversions include initiatives such as community clean ups and graffiti prevention schemes.

Prevention of illegal graffiti and street art is the most effective graffiti management approach.

South Holland District Council supports prevention in the following ways:

- Creating a ‘pride of place’ with our local communities.
- Raising awareness including the provision of community based educational engagement.
- Creating temporary walls for street artists to show their talents to our local communities.
- Providing the opportunity for street art at a number of locations within the district.
- Utilising anti-graffiti chemicals where repeat instances of graffiti are known.
- Enforcement action.
- Removing graffiti within the timescales set out by this policy.

Removal

South Holland District Council provides a graffiti removal service to residents and businesses to help manage illegal graffiti on their property and maintain the amenity of the district. Consent is required from property owners or occupiers to remove graffiti from private property. The following are taken into consideration when removing graffiti:

- Location of the graffiti e.g. schools, shopping areas and sport areas.
- Nature and offensiveness of the graffiti.
- Material the graffiti is situated on.
- Ownership of the asset.

Enforcement

The policy sets out clear principles for addressing graffiti and street art.

Where either of these is unwanted and appears without consent, this will be viewed as an interference with the property owner’s rights and as such the person has committed a criminal offence under the Criminal Damage Act 1971.

The Council also has a power under section 43 of the Anti-social Behaviour Act 2003 as amended by the Clean Neighbourhoods & Environment Act 2005 to deal with graffiti offences and to enforce removal of graffiti from private property where required.

Collaboration

Within the district there are many private and public organisations that own and maintain buildings, infrastructure and assets. A collaborative approach between organisations is required to achieve the most effective graffiti management outcomes across South Holland.

South Holland District Council is committed to collaborating with organisations to provide a consistent approach towards graffiti management across all buildings and infrastructure located within the district.

The sharing of data between all organisations strengthens consistency of graffiti management across the district.

Legal Street Art

South Holland District Council recognises the importance of legal street art in contributing to a vibrant local community. Street art can enhance the appearance and amenity of public spaces in the district that people can visit and enjoy.

In recognition of this the Council accepts that properly authorised and appropriate street art may be recognised and supported subject to meeting acceptance criteria within this policy and not being a detriment to the local environmental quality for our local residents.

If a property owner wishes to apply an artwork to their property they must inform the Council at the earliest opportunity. Where graffiti has already been applied to a property but the owner of the property considers the graffiti to be street art the property owner must notify the Council that they would like to keep the work. In both circumstances a decision not to remove the work will be based upon a test of whether the street art or graffiti are considered to be detrimental to the local environment and enjoyment of the location by users and therefore the final decision will rest with the Council at all times.

The list below highlights **key considerations**:

- Can the Street Art/Graffiti be seen from areas the public are entitled to frequent?
- Is the “Street Art” offensive in its nature, gang related, racially, politically or religiously aggravating, insulting and against public interest?
- Are the images considered to be contextually detrimental including but not limited to: Encouraging to illegal graffiti proliferation, inappropriate for the location e.g. near schools, out of keeping with surrounding area?
- Saturation (Consideration of the number of images already present in the area)?
- Complaints?
- Other policies likely to be infringed?
- Explicit Images?
- Intimidating?
- Libellous or potentially libellous statements?
- In a conservation area?
- On a listed building?
- Tag’s?

This list is not exhaustive and adequate exploration of the detriment question is critical to provide the Council with a clear considered rationale for any decision especially where conflicting opinions between owner/occupier, the Council and the local community exist.

This is a matter of judgment for the decision taker (see following section), acting reasonably and having due regard to national guidance and to this policy.

There is no obligation on the Council to consult in connection with the exercise of its Graffiti removal powers and in most cases it will not be in the public interest for it to do so.

The Council reserves the right to remove any street art at any time.

Approval

There may be occasions when it is difficult to make a clear decision whether a piece is street art and for this reason the following approval process support this policy.

- If South Holland District Council owns the land on which the street art is to be completed, application should be made to Assistant Director – Leisure & Culture who will nominate a contact officer for the project. The application should state the proposed location of the work, the nature and duration of the project and the persons or body responsible for carrying it out. The contact officer will also offer advice on the policy as required. You can contact Leisure & Culture by email [email address]

- The contact officer will notify the following:

    - The Neighbourhoods team who will in turn notify the local parish, town council or Spalding Town Forum and the relevant South Holland District Council Ward Members.
    - The Senior Planning Officer
    - The Head of Community Safety

- In the case of land owned privately or by other agencies, South Holland District Council cannot insist upon compliance with this policy statement, although such compliance will be encouraged. In this case the owner of the land would be invited to co-operate with the contact officer throughout the process.

- The local community, Ward Members and the relevant Parish, Town Council or Spalding Town Forum must be consulted prior to any work being done under this policy. Consultation need not be laborious. It is designed to ensure that the community has an opportunity to “own” the project as far as possible.

- At a minimum, residents in the immediate vicinity or within sight of the proposed project should be contacted, and as far as possible their opinions should be taken on board. It will be the responsibility of the applicant to carry out the consultation, although assistance may be given by the contact officer in conjunction with Neighbourhoods team and the relevant Parish, Town Council or Spalding Town Forum. Evidence of the consultation and its result must be provided at the request of the contact officer.

- Local people should be engaged as fully as possible in the street art project. This could, for instance, involve them working in a group with a specific artist in order to design and complete the project. It will be the responsibility of the applicant to involve local people in the project, although the contact officer may offer advice and assistance when appropriate.

- The work of art should be designed by a recognised artist(s) to be attractive and a positive addition to the locality. Its design should minimise the risk of attracting offensive material and must not glorify or promote tagging. The work may be signed by the artists.

- Before the work can be carried out, the design should be approved by the contact officer in conjunction with other stakeholders. These stakeholders will be the Assistant Director – General Fund Assets representing the owner of the land, the relevant Parish, Town Council or Spalding Town Forum or those delegated to act on their behalf. This is not intended to be a laborious process and nor should it stifle creativity. The purpose is to ensure that the policy works well.

- The Applicant may prepare the surface in advance and may treat the completed art work with an anti-graffiti coating.

- The work is unlikely to be permanent. In time it may be painted over or renewed according to the needs of the next generation of young people or local residents and businesses.

- Requests for decommissioning should be handled in the same way as applications for producing works of art. Initial referrals should be made to the Assistant Director – Leisure & Culture who will follow this policy document.

Key Steps

The following key steps provide an overview of this policy in relation to Street Art:

Step 1 - Application for Street Art proposal to South Holland District Council

Step 2 – Consultation with local community, Ward Members and the Parish/Town Council or Spalding Town Forum

Step 3 – Approval or Rejection

Step 4 – Street Art to be carried out with approval