

**Open Report on behalf of Andy Gutherson, Executive Director - Place**

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| Report to:          | <b>Councillor D McNally, Executive Councillor for Waste and Trading Standards</b>                           |
| Date:               | <b>23 - 27 January 2023</b>   |
| Subject:            | <b>Re-Procurement of the Household Waste Recycling Centres (HWRCs) Management &amp; Operation Contracts</b> |
| Decision Reference: | <b>I026109</b>  |
| Key decision?       | <b>Yes</b>  |

**Summary:**

The Council's contracts for the Management and Operation of the Household Waste Recycling Centres (HWRCs) expire on 31<sup>st</sup> March 2023. This report sets out a proposed course of action regarding the award of contracts based on tenders which have been returned to enable the sites to operate from 1 April 2023 and delegation of the necessary decisions.

**Recommendation(s):**

That the Executive Councillor for Waste and Trading Standards:

1. For each of the Household Waste Recycling Centre sites listed in Table 1 to this Report approves the award of a contract for the management and operation of the said sites to the operator identified in the column of Table 1 headed 'Preferred Bidder' for a period of 2 years with options to extend by periods of a year up to a maximum contract duration of 4 years.
2. Delegates to the Executive Director – Place authority to approve the final form and entering into of the new HWRC Management and Operation Contracts.

**Alternatives Considered:**

**1. Not Awarding Contracts for the HWRC Management and Operation**

Lincolnshire County Council has a statutory duty to dispose of waste materials deposited by Lincolnshire residents at its Household Waste Recycling Centres (HWRCs). Therefore, this option would require the Council to manage the sites itself or be in breach of its statutory duty and face increased cost burdens.

The Council is managing and operating the new HWRC at Tattershall but it is too

soon to evaluate the advantages of this model compared with outsourcing. The recommendation is therefore to award contracts for the management of the HWRCs other than Tattershall while the relative merits of the two approaches are evaluated. The proposed duration of the contracts has been determined with this in mind.

**Reasons for Recommendation:**

The benefits if any of in-house management and operation of HWRCs have not been determined and in-house provision of all HWRC would not be appropriate until a proper evaluation of the different models has been carried out.

Failure to award the contracts would therefore mean that the HWRC service cannot continue after 1 April 2023 and we will not meet our statutory responsibility with the risk of legal challenge and reputational damage. There will also be an increased financial cost and damage to the environment. Failure to award the contract would also require an amendment to the existing policy on the HWRC Provision.

**1. Background**

**Statutory Duty**

Lincolnshire County Council (LCC) is the Waste Disposal Authority (WDA) with a statutory duty under Section 51 of the Environmental Protection Act 1990, to dispose of waste collected by the Waste Collection Authorities (district councils). Therefore, Waste Services fulfils two principal statutory duties:

1. To receive deliveries of waste and recycling collected by the Waste Collection Authorities (district councils) under their statutory duty to collect household waste and arrange for the disposal or processing of these;
2. To provide places where residents from within its administrative area (Lincolnshire) can dispose of their household waste and arrange for the disposal or processing of such waste. "Places" is interpreted as two or more locations defined as Household Waste Recycling Centres (HWRCs).

WDAs also have a requirement to apply the Waste (England and Wales) Regulations 2011 which states that such bodies must take all such measures available to it, as are reasonable in the circumstances to apply the following waste hierarchy as a priority order:

- i. Prevention
- ii. Re-use (sale of products)
- iii. Recycling (conversion of waste into new products or materials)
- iv. Recovery (for example energy recovery)
- v. Disposal (including landfilling)

LCC therefore has long standing policy on HWRC provision, which states that 95% of all homes will be within a 12 mile radius of a HWRC. LCC owns 11 HWRCs and failure to meet this criterion will require an amendment to this policy.

10 HWRCs are currently operated by external contractors and one at Tattershall is operated by in house LCC staff. The existing contracts at the 10 externally operated sites expire on 31 March 2023 and new arrangements need to be put in place to enable the HWRCs to remain open to the public. The purpose of this report is to allow the contracts to be awarded in January 2023 to enable the contractors to mobilise in time for 1 April 2023.

### **Cost Effectiveness**

In 2021/22 LCC disposed of approximately 360,000 tonnes of material which consisted of 150,000 tonnes of recycled material and 210,000 tonnes of residual material. 320,000 tonnes of this were collected at kerbside but 40,000 tonnes of material were collected at the 11 HWRCs.

Of the 43,000 tonnes of material which is currently presented at HWRCs, 15,000 tonnes is incinerated at the EfW and 28,000 tonnes is recycled at different locations. The average gate fee for this recycled material is £29 per tonne. If that material was not recycled it would have to be disposed of by incineration or landfill at up to £130 per tonne.

Therefore, if all HWRCs were closed, 28,000 tonnes of material would be hauled long distance for disposal at £130 per tonne with a projected annual disposal cost of £2.8m. This does not include the increased haulage cost which would also be considerable.

These cost projections demonstrate that HWRCs are a cost-effective method of waste disposal as well as being beneficial for the environment, as such facilities allow the waste hierarchy obligations to be met.

## Operating Model

For the reasons given it is recommended to continue with the same historical operating model as the current arrangement, whereby the HWRCs are staffed and managed by external contractors. It is also recommended that a short-term contract would allow a comparison to be made with a different model which was being used at Tattershall HWRC which opened in 2022 and is operated by LCC staff. In the next two years comparisons can be made between the different operating models and then a business case could be made for bringing all HWRCs in house or externalising all HWRCs.

## Procurement Exercise

A procurement exercise was carried out based on an Open procedure for 10 separate Lots. The tenders were returned in November 2022 with five compliant bidders expressing an interest in operating the sites.

The initial contract period is 2 years with up to 2 year possible extension (2+1+1) to a maximum of 4 years.

The new contracts vary slightly from the existing contracts as it is proposed that income generated from scrap and salvage will have a more favourable split for LCC. The current contracts have a 60/40 share in favour of the Supplier, but the proposed contracts have an equal 50/50 share between LCC and the Supplier. Consequently, it is projected that a £30,000 - £40,000 improvement on the prices could be realised from the extra scrap income. This is not reflected in the table below.

The tenders have been evaluated and on the basis of application of the evaluation criteria established for the procurement the successful tenderers (“preferred bidders”) for each of the sites are as follows:

| HWRC         | Preferred Bidder                 |
|--------------|----------------------------------|
| Boston       | Sid Dennis & Sons Ltd            |
| Bourne       | Environmental Waste Controls PLC |
| Gainsborough | Environmental Waste Controls PLC |
| Grantham     | Environmental Waste Controls PLC |
| Lincoln      | Environmental Waste Controls PLC |
| Louth        | Sid Dennis & Sons Ltd            |
| Market Rasen | Environmental Waste Controls PLC |

|          |                                  |
|----------|----------------------------------|
| Skegness | Sid Dennis & Sons Ltd            |
| Sleaford | Environmental Waste Controls PLC |
| Spalding | Environmental Waste Controls PLC |

As these preferred bidders have been identified on the basis of an evaluation conducted in accordance with the Public Contracts Regulations 2015, the Council must award to these preferred bidders or not at all. All of the preferred bidders have been assessed for their capacity and capability to provide the contracts and there is no reason why the contracts should not be awarded

### **Budget Considerations**

The recent budget estimate for 2023/24 was £1,727,670 and the total of the tender rates for all contracts are £1,755,247. The existing annual service cost is £1,299,100 (based on tender rates from 6 years ago when the contracts commenced on 1 April 2017. The projected annual increase in cost is therefore £456k which is to be expected, as the current rates were provided 6 years ago and recent increases in inflation are significant across all services. This £456k cost pressure can be accommodated from the Waste Service budget.

## **2. Legal Issues:**

Equality Act 2010

Under section 149 of the Equality Act 2010, the Council must, in the exercise of its functions, have due regard to the need to:

- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act.
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The relevant protected characteristics are age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; and sexual orientation.

Having due regard to the need to advance equality of opportunity involves having due regard to the need to:

- Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic.
- Take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it.
- Encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.

Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to tackle prejudice, and promote understanding.

Compliance with the duties in section 149 may involve treating some persons more favourably than others.

The duty cannot be delegated and must be discharged by the decision-maker. To discharge the statutory duty the decision-maker must analyse all the relevant material with the specific statutory obligations in mind. If a risk of adverse impact is identified consideration must be given to measures to avoid that impact as part of the decision-making process.

A separate Equality Impact Assessment has not been undertaken. However, the procurement supports the Council to enable residents to have local access to facilities. The site staff will be supportive towards individuals who have protected characteristics and are instructed to prioritise assistance towards people with a disability and the elderly with the disposal of their household waste.

Joint Strategic Needs Assessment (JSNA) and the Joint Health and Wellbeing Strategy (JHWS)

The Council must have regard to the Joint Strategic Needs Assessment (JSNA) and the Joint Health and Wellbeing Strategy (JHWS) in coming to a decision.

The operation of HWRCs allows more material to be recycled, failure to provide the service will require up to 28,000 tonnes of material to be incinerated or sent to landfill which will be more damaging to the environment compared to recycling.

## Crime and Disorder

Under section 17 of the Crime and Disorder Act 1998, the Council must exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment), the misuse of drugs, alcohol and other substances in its area and re-offending in its area.

The decision is not considered to have any implications for the section 17 matters.

### **3. Conclusion**

The award of the HWRC Management and Operation Contracts will enable the service to continue. This will benefit residents who wish to deposit bulky items and recycle material locally without having to pay for such services. It will also enable the authority to help meet its recycling targets and reduce the haulage of materials out of county. This will benefit the environment and it will also avoid higher disposal costs.

### **4. Legal Comments:**

The Council has the power to award the contracts proposed which have been let through a compliant procurement procedure. The successful tenderers identified in the Report have been determined through an evaluation process and awards could not be made to other tenderers without risk of breach of the procurement rules.

The decision is consistent with the Policy Framework and within the remit of the Executive Councillor

### **5. Resource Comments:**

As noted in the body of the report, the proposed contracts represent an increase in cost of £0.456m p.a. (35%) over current arrangements. This is to be expected given the current rates result from a procurement 6 years ago and significant inflation has been experienced over the intervening period particularly in labour rates, with the National Living Wage having increased by 39% from April 2017 to April 2023.

In the short-term this increased cost can be funded from within the Waste Services revenue budget due to the receipt of additional income from the higher prices being achieved for electricity generation at the Energy from Waste Plant and therefore does not result in an immediate increase in budget requirement. However, the volatility in energy prices and the prospect of a government-imposed Electricity Generator Levy pose a risk to this position which will be closely monitored to inform the medium-term view.

## 6. Consultation

### a) Has Local Member Been Consulted?

N/A

### b) Has Executive Councillor Been Consulted?

Yes

### c) Scrutiny Comments

The decision will be considered by the Environment and Economy Scrutiny Committee at its meeting on 17 January 2023 and the comments of the Committee will be reported to the Executive Councillor for Waste and Trading Standards

### d) Risks and Impact Analysis

See the body of the Report

## 7. Background Papers

The following Background Papers within section 100D of the Local Government Act 1972 were used in the preparation of this Report.

| Document title  | Where the document can be viewed  |
|---|---|
| Revision of Policy for the Provision of Household Waste Recycling Centres – Executive - 10 January 2012 | <a href="#">Issue details - Household Waste Recycling Centre Operational Contract Procurement (moderngov.co.uk)</a> |

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