

**Committee Name and Date of Committee Meeting**

Cabinet – 12 February 2024

**Report Title**

Household Waste Recycling Centre update

**Is this a Key Decision and has it been included on the Forward Plan?**

No, but it has been included on the Forward Plan

**Strategic Director Approving Submission of the Report**

Paul Woodcock, Strategic Director of Regeneration and Environment

**Report Author(s)**

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**Ward(s) Affected**

Borough-Wide

**Report Summary**

In January 2023 Cabinet considered the options for the future delivery of the Household Waste Recycling Service, in anticipation of the expiry of the current contract in October 2023. The option approved by Cabinet was seeking a novel approach to work with a new contractor, with improved services and equipment, whilst embarking on a programme of work to bring elements of the service back into direct delivery by the Council.

Following a procurement process HW Martin Waste were awarded the contract to provide the Household Waste Recycling Centre (HWRC) service for the next three years, whilst also supporting the Council to develop and implement its in-house delivery model. The services mobilised in October 2023. This report provides an update on the procurement and implementation of the new services and future plans to ensure successful in-sourcing of the service.

**Recommendations**

1. That Cabinet note the contents of this report.

## **List of Appendices Included**

- Appendix 1 Images of new assets
- Appendix 2 Equality Impact Assessment
- Appendix 3 Carbon Impact Assessment

## **Background Papers**

Cabinet Report, January 2023 -

<https://moderngov.rotherham.gov.uk/documents/s139225/Cabinet%20Report%20HWRC%20Delivery.pdf>

Environment Act 2021 - [Environment Act 2021 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/2021/1/section/1)

## **Consideration by any other Council Committee, Scrutiny or Advisory Panel**

None

## **Council Approval Required**

No

## **Exempt from the Press and Public**

No

## Household Waste Recycling Centres Update

### 1. Background Information

- 1.1 The Council has a statutory obligation to provide HWRCs to residents within the Borough. The HWRCs have previously been delivered through a contract managed in partnership with Barnsley and Doncaster Councils, which was due to expire in October 2023. As with any conclusion of a contract, the Council sought to review and appraise all options to ensure both service and strategic priorities are delivered, which resulted in a series of options being presented to Cabinet in January 2023.
- 1.2 In recognition of the importance of these services to residents, the Council's commitment to Social Value and the Council plan priority to deliver a Cleaner and Greener Local Environment, Cabinet agreed to a number of things. Firstly, Cabinet set the intention to bring these services back 'in-house', meaning that they would be directly delivered by the Council with staff employed on Council terms and conditions and site operations under the Council's direct control. Second, and in recognition of the challenges to be overcome in order to set up the necessary internal services and processes, Cabinet also agreed to procure a delivery partner for a period of up to three years who would not only deliver the services but would also support the Council to develop the future in-house service and procure a significant range of new capital assets. Finally, it was agreed that whilst the front-facing aspects of the service will be brought in house initially, haulage and disposal will continue to be delivered via a contract for a further two years, with an optional extension.
- 1.3 A cross departmental team involving Human Resources, Finance, Legal, Procurement, Assets, Waste, BDR Partnership, Digital Services and Health and Safety was formed to progress the procurement and manage associated risks, including extensive soft market testing. The project team included relevant external professional support as well as working with other councils who had in-sourced similar services. In addition to the priorities relating to in-sourcing, social value and improving the assets, the Council also sought to deliver an improved reuse offer, increased recycling and the provision of mobile HWRCs.

### 2. Key Issues

- 2.1 Key risks were present within the project due to several factors including the combined approach to delivery and future in-sourcing, the requirement for capital purchases, which will subsequently be owned by the Council, and timescales associated with overall delivery. Some of the specific risks and management approaches are detailed further below.
- 2.2 The overall timelines were a significant challenge, with 10 months following the Cabinet decision in January 2023 before the new service would need to mobilise. In addition to the short timelines, the entirely new approach to a number of areas meant significant development was required with no 'off the shelf' option available. In order to manage these risks several workstreams

were progressed in parallel to the Cabinet report to ensure services were able to respond quickly to the decision made. Early engagement with a range of Council services, close management of risk as well as recognising and quickly implementing the need for external specialist resources meant that the project was delivered to time with no un-planned interruptions to services.

- 2.3 The intention to deliver a contract with a number of different primary functions was a new challenge for the officers involved and included:
- Direct delivery by the contractor of all operations for three years.
  - Support to the Council to develop internal systems and processes for direct delivery after year three.
  - On-going provision of Haulage and disposal for five years.
  - The purchase of Capital items using Council capital funding.
  - The maintenance, management and ultimate transfer of new Capital items to the Council.

- 2.4 In order to ensure all aspects were structured effectively in the tender documents, evaluation and subsequent delivery of the initial contract, the Council worked closely with external specialists with relevant experience in waste management consultancy as well as specialist legal and financial advice. This has helped the Council to secure a contract delivered on time, to budget and meeting all of the objectives set out above. The provision of the HWRC service officially transferred to HW Martins on 28 October 2023, with each site having a one-day closure to allow for essential works. The sites are located as below.

- Greasbrough - Car Hill, S61 4QL
- Bramley - Lidget Lane, S65 4LY
- Rawmarsh - Warren Vale, S62 7SS
- North Anston - Magilla, Common Road, S25 4AH

- 2.5 Specifically in relation to the purchase of new items, the Council wanted to see improved equipment in use across all sites to improve the customer experience as well as the operational efficiency. Since the contract mobilised at the end of October 2023, £1.4m of new assets have been purchased and installed as detailed below (and pictured in appendix 1), with the Council confirming receipt on the 15<sup>th</sup> December 2023 (except for the site cabins, which are due to arrive in early 2024). The items are:

- Site cabins (4 in total) – these have office and welfare areas including showers.
- 62 containers (skips) of varying sizes.
- 16 access ramps – these ensure the residents can safely access the containers to deposit their waste.
- Mobile compaction equipment (4 in total). This allows for maximum efficiency when transporting waste from sites to the bulking or treatment facility.
- Fuel store for diesel used for compactors (4 in total).

- Chemical storage containers (4 in total) to ensure any chemicals can be appropriately stored.
- 8 bottle cages to ensure any gasses can be appropriately stored
- Digital signs (4 in total) to impart relevant information about sites, waste and environment.
- Waste oil tank (4 in total) – for residents to dispose of waste oil.
- 14 cubic yard paper banks (5 in total).

2.6 The Contractor will be responsible for maintaining the assets during the first three years of the contract and a condition survey will be undertaken prior to the handover of the operational management of the sites to the Council.

2.7 In addition to the strategic risks detailed above, there were several areas of operational risk which included:

- Environmental Permit transfer – the incumbent contractor had to surrender the permits on the last day of operation and the incoming contractor had to have their permits in place for day one of the contract. The Environment Agency (EA) have a process to work to which has been impacted on by EA resources. The incoming contractor requested assistance from the HWRC procurement team during the mobilisation phase to ensure the EA had the permit transfer completed so the sites could be opened under the new contractor on 29 October 2023 hence providing a seamless service to the residents of the borough. The EA worked well with the Council and the contractor and the sites opened with permits in place without delay.
- Training and certification of competent staff – The environmental permitting system requires that staff running a waste facility are technically competent. The site management and supervisory staff (whether transferring from FCC to the new contractor or newly recruited) had to undergo training and testing to prove their continuing competence during the mobilisation phase. All relevant staff were certified as competent prior to the start of the new contract. The contractor is offering staff apprenticeships to augment the number of competent staff on site to more than the statutory requirement. This will help to ensure a smooth transition to an in-house service.
- Infrastructure challenges on the sites - all sites need to be secure and drainage needs to be such as to prevent any environmental issues. The drainage system was checked prior to the start of the contract and found to be sound. A survey is to take place to ensure that any works needed to secure the sites can be programmed in and the costs allocated to either the Council or the contractor depending on the terms and conditions of the contract.
- FCC Environment staff on the sites were subject to Transfer of Undertakings Protection of Employment (TUPE) transfer arrangements. The TUPE process was well managed by the contractor and no issues have been identified. All staff have remained in the same posts as previously. A programme of recruitment has commenced for vacancies that existed prior to the transfer.

- The majority of plant and equipment has been procured and is on site. The remaining items are digital signage and new cabins. These are expected to be installed early in 2024 and will require further, managed, site closures to allow old cabins to be disconnected from the services and replaced by new ones. Sites will be closed on a rolling basis for approximately 2 days per site.
- HW Martins have retrained all staff in their Integrated Management Systems, Health and Safety systems and safe working practices.

2.8 As noted above, the Council is seeking to improve reuse and recycling and recognises the value of this both environmentally and socially. The new Contractor has purchased a site in Wath, Rotherham to allow for bulking of waste from the HWRC sites they manage across their contracts in South Yorkshire, prior to onward transport to a treatment facility. This site will also be developed to house a reuse shop where members of the public can purchase items collected at HWRC sites whilst also looking to help improve and develop skills around reuse and repair. The service are also exploring 'pop-up' reuse shops in other areas across the Borough.

2.9 An additional innovation in the new contract is the introduction of a mobile HWRC service. This service will be programmed in as part of a new approach to waste engagement, awareness and prevention which is to be agreed on an annual basis with relevant parties. The waste service will support this provision with refuse vehicles for routinely collected kerbside waste.

2.10 There is a contractual requirement to form a HWRC Partnering Board and Service Transition Working group to ensure the smooth transition to the in-house service provision and this is currently being established following the focus on mobilisation.

2.11 The provision of the HWRC service is scheduled to be taken in-house on the 29<sup>th</sup> of October 2026. This provides the Council with a 36-month period to ensure support for the service transition from other areas of the Council including Health and Safety, Human Resources, Customer Information and Digital Services, Communications as well as engaging with external partners such as the Environment Agency.

#### **4. Consultation on proposal**

4.1 A consultation was undertaken across Barnsley, Doncaster and Rotherham to gauge resident satisfaction with the previous HWRC provision, materials that could be introduced and any areas for improvement. The consultation results showed that although residents were largely happy with the current HWRC service, they would most like to see improvements to the materials accepted at site. Accepting paint and increasing the reuse and repair offering were the two areas residents would like to see in improving the HWRC offer.

4.2 These requirements were included in the contract and water-based paints are now accepted on site. A reuse shop is to be developed at the

contractor's new operating facility which is based in Rotherham as well as the potential to have pop-up reuse shops in agreed areas in the Borough.

## **5. Timetable and Accountability for Implementing this Decision**

- 5.1 The service commenced on time on 29 October 2023.
- 5.2 The mobilisation period was shorter than the optimal period due to a change in procurement strategy. This has resulted in not all infrastructure being available on day one of the contract as there are lead times for all pieces of equipment. The cabins, which are the final pieces of infrastructure will be in place in the final quarter of financial year 2023- 2024.
- 5.3 Concurrently with the initial contract period of three years, the Council will mobilise itself to deliver the front-end of the service in-house. This is scheduled to become effective on 29 October 2026. Subsequently, haulage and disposal options for future delivery will need to be in place by 29 October 2028 however the contract does contain optional extensions for haulage and disposal.

## **6. Financial and Procurement Advice and Implications**

- 6.1 As part of the budget setting process for 2023/24 capital and revenue investment was approved to facilitate the new HWRC arrangement. The approved capital budget is £2.4m, which includes the investment needed for the future in-sourcing requirements. Expenditure to date against this budget is £1.3m.
- 6.2 In addition, the Council approved a revenue investment of £188k for 2023/24 and 2024/25. This was in recognition of the additional costs associated with the new Rotherham contract arrangement and the preparatory costs associated with the transition to an in-sourced contractual arrangement from October 2026.
- 6.3 The contract value is in excess of the threshold contained within the Public Contracts Regulations 2015 (as amended) ("the Regulations") and as such the procurement activity was undertaken in compliance with the Regulations and the Council's own Financial and Procurement Procedure Rules.

## **7. Legal Advice and Implications**

- 7.1 The procurement of the new contract and award of the contract to H W Martin Waste Limited as new contractor prior to the service commencement date of 29 October 2023 was compliant with the Public Contracts Regulations 2015 (SI 2015/102) and the Council's own Financial and Procurement Procedure Rules. The new contract remains to be completed by the Council and the new contractor (so the new contractor is providing the HWRC service on the terms of its tender submission (as amended by clarification)). The leases between the Council and the new contractor for each of the HWRC sites remain to be drafted and completed. These remaining steps to complete the contract and lease documentation are

primarily a consequence of the foreshortened procurement phase, and especially the compressed mobilisation period, as a result of the Council's decision to adopt its own path to procure an HWRC service with an insourced element (the front-facing HWRC site management service) and a separate haulage and disposal element. There is no separate new contractor security package so there is no performance bond or parent company guarantee applicable to the new contract. The new contract requires the commissioning of inwards condition surveys, in addition to outwards versions under the previous expired contract, for each of the HWRC sites to inform a photographic schedule of condition to be appended to the leases of the HWRC sites when they are completed with the new contractor (so there is a gap between service commencement date and the date of the agreed schedule of condition).

- 7.2 The new contract has addressed the contractual structure recommended under Option 3 of the January 2023 Cabinet report. It has what the project procurement team considers is an appropriate transfer of commercial risks to the new contractor. There are clear performance standards and corresponding sanctions within the contract to apply to the new contractor. It is critical that the remaining time, before the front-facing service is to be insourced to the Council in October 2026, is used to prepare Council staff and relevant policies/processes in order to give the Council the best prospects of a successful insourcing and future front-facing HWRC service delivery. More regular reports based on the regular HWRC Partnering Board and Service Transition Working Group outputs should be considered by the wider Council team and decisions made to allow proper mobilisation to ensure successful operation of the HWRC sites and associated services.

## **8. Human Resources Advice and Implications**

- 8.1 The Transfer of Undertakings (Protection of Employment Regulations) 2006 (commonly known as TUPE) will apply to the insourcing/in house delivery of services. Employees would therefore transfer to the employment of the Council under TUPE, on their existing terms and conditions of employment.
- 8.2 Under TUPE, all liabilities of the 'transferor' (HW Martin) relating to employees transfer over to the 'transferee' (the Council). The Council would therefore inherit liability for any statutory rights, claims and liabilities of transferring employees. Any risks identified should be managed as part of the due diligence process.
- 8.3 Consultation and engagement will be undertaken with Trade Unions on any transfer of employees, including any proposed changes to working practices (TUPE measures), in line with normal human resources policies and procedures.

## **9. Implications for Children and Young People and Vulnerable Adults**

- 9.1 There are no specific implications arising from this report.

## **10. Equalities and Human Rights Advice and Implications**

- 10.1 The Equality Impact Screening is attached as Appendix 2.
- 10.2 The service was previously contracted out procuring the new contract is a continuation of that provision. Rotherham Metropolitan Borough Council are legally obligated to provide the service and residents would only be affected if the service was not provided. Policies are in place to ensure that there is equitable service to all residents in the Borough. In considering bringing the service in-house, a full review of site accessibility will be considered as part of the infrastructure works required.

## **11. Implications for CO2 Emissions and Climate Change**

- 11.1 The Carbon Impact Assessment is attached as Appendix 3. As this is a procurement of an existing service there are no increases in terms of carbon emissions however, the contract and procurement seeks to reduce emissions by the service provider over the lifetime of the contract.

## **12. Implications for Partners**

- 12.1 There are no specific implications identified for partners.

## **13. Risks and Mitigation**

- 13.1 There are a range of risks associated with the in-sourcing of the service such as
- Transferring permits
  - Transfer of staff
  - Transfer of assets

These will be managed through a stand-alone risk register for the project. This will be developed by the HWRC Partnering Board and Service Transition Working group.

- 13.2 Availability of adequate resources to bring the service in house and maintain a high level of service is a key risk due to:-
- the number of changes to legislation in waste and recycling
  - the interaction with residents
  - Health and Safety requirements
  - The technical nature of the service.

In order to manage these risks, it is critical that the relevant governance structures are established without delay post-mobilisation.

## **14. Accountable Officers**

Sam Barstow, Assistant Director for Community Safety and Street Scene  
Barry Connolly, Head of Environmental Services

Approvals obtained on behalf of Statutory Officers: -

	<b>Named Officer</b>	<b>Date</b>
Chief Executive	Sharon Kemp	29/01/24
Strategic Director of Finance & Customer Services (S.151 Officer)	Judith Badger	23/01/24
Assistant Director, Legal Services (Monitoring Officer)	Phillip Horsfield	23/01/24

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