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Date: Friday 20 January 2023

Dear All

COMMUNITIES AND ECONOMIC DEVELOPMENT CABINET ADVISORY BOARD - WEDNESDAY 25 JANUARY 2023

I enclose, for consideration at the next meeting of the Communities and Economic Development Cabinet Advisory Board on Wednesday, 25 January 2023, the following items that were unavailable when the agenda was published.

Agenda No	Item
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9	Household Recycling and Waste Collection Service (Pages 2 - 12)
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Kind regards,

Emer Moran
Democratic Services

Household Recycling and Waste Collection Service

For Cabinet on 9 February 2023

Summary

Lead Member: Councillor Luke Everitt

Lead Director: Paul Taylor

Head of Service: Gary Stevenson Head of Housing, Health and Environment

Report Author: Gary Stevenson Head of Housing, Health and Environment

Classification: Public document (non-exempt)

Wards Affected: All

Approval Timetable	Date
Cabinet Member	19 January 2023
Communities and Economic Development CAB	25 January 2023
Cabinet	9 February 2023

Recommendations

Officer recommendations as supported by the Cabinet Member:

1. That Cabinet gives authority to the Head of Housing, Health and Environment to extend, for the period November 2022 to March 2023, the provision of limited financial assistance to Urbaser Ltd and Urbaser SA in respect of the contract originally procured.
2. That Cabinet approves a one-off contribution to Urbaser Ltd of up to £150,000 towards the costs of terminating a number of existing collection vehicle leases to facilitate the provision of a new fleet of collection vehicles in 2023/4.
3. That Cabinet gives authority to the Head of Housing, Health and Environment in consultation with Director of Finance, Policy and Development and the Head of Legal Services to complete all necessary negotiations, legal processes and legal documentation to enter into an agreement with Urbaser Ltd to allow for the

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transfer of the new vehicle lease(s) to the Council in conjunction with Tonbridge and Malling Borough Council or to the organisation(s) contracted to provide the two councils' household waste collection service on the expiry of the current joint recycling and waste collection and street cleansing contract

4. That Cabinet gives authority to the Head of Housing, Health and Environment in consultation with the Director of Finance, Policy and Development and the Head of Legal Services to complete all necessary negotiations, legal processes and legal documentation and enter into an agreement with Tonbridge and Malling Borough Council to share the liability for the new vehicle fleet from the end of the current joint household recycling and waste collection and street cleansing contract
5. That Cabinet notes that a Voluntary Ex-Ante Transparency Notice will be published containing details of the proposed changes set out in recommendation 1,2 and 3 to cover the items highlighted above.

1. Introduction and Background

- 1.1 In 2018 the Council jointly awarded a contract with Tonbridge and Malling Borough Council (TMBC) to Urbaser Ltd and Urbaser SA for street cleansing and the collection of household waste and recycling. The contract commenced in March 2019 with an 8-year term.
- 1.2 This report considers two areas in relation to the operation of the contract. The first relates to the time limited provision of limited financial assistance previously agreed by the councils for the period May to October 2022. The second sets out a proposal from Urbaser to undertake changes to the current food, recycling and refuse collection rounds and the introduction of a new fleet of collection vehicles during 2023.

Provision of limited financial assistance by way of additional payments

- 1.3 In response to the HGV driver shortage, Urbaser proposed the introduction of an enhanced pay rate for its HGV drivers working in the joint contract to reflect the pressures in the employment market. The aim of the enhanced pay rate was to improve the recruitment and retention of drivers, ensuring that sufficient drivers were available and aid the reinstatement of suspended garden waste service in early 2022.
- 1.4 A proposal was put forward for the additional unexpected staffing costs to be shared between the two councils and Urbaser. This proposal was approved under a Cabinet Member Decision Notice on 10 March 2022 and a six-month agreement to make additional payments to provide limited financial assistance between May and October 2022 was put in place.
- 1.5 As a result the recruitment and retention of drivers has improved. There is now a higher proportion of directly employed drivers and a reduced reliance on temporary agency staff. The same is also the case for loaders and this has led to an increase in consistency of staff on collection rounds.
- 1.6 The pressures, however, continue to exist in the HGV driver market with wage settlement running ahead of inflation and market conditions have not improved. In response, Urbaser has asked for this support to continue for the remaining years of the contract, reviewed on an annual basis. The two councils

acknowledge that pressures remain in the driver market and that the position since the first period of financial assistance (May to October 2022) were agreed has not significantly altered.

- 1.7 The annual contract sum is subject to a contractual annual indexation each April calculated using the RPI and DERV indices from the proceeding October. The estimated indexation from 1 April 2023 is 16.3% and the councils' view is that this level of indexation takes into account the increased wage costs currently being experienced and that this, together with future annual indexation, removes any need to continue to provide this support beyond April 2023. In recognition of the ongoing exceptional circumstances during 2022/23 the two councils are minded to agree to an extension of the previously approved additional payments but only until 31 March 2023, conditional upon the contractor continuing to provide agreed and satisfactory evidence. The value of these monthly payments is up to a maximum of £29,350 giving an overall additional cost from November 2022 to March 2023 (inclusive) of £146,750 to be allocated between the between the two councils on the agreed split of 51.79% (TMBC) and 48.21% (TWBC). This Council's contribution will be a maximum of £14,000 per month.
- 1.8 The councils have received confidential and privileged legal advice and have concluded that the proposed limited extension of financial support by way of these additional payments is permitted under the Public Contracts Regulations 2015. The payments are made in order to address unexpected additional costs to Urbaser caused by unexpected changes in market conditions and are only paid upon satisfactory evidence of those costs being provided to the councils.
- 1.9 The councils will publish an appropriate procurement notice (a Voluntary Ex-Ante Transparency Notice - a VEAT Notice) in the Official Journal of the European Union and the Find a Tender Service. Any agreement for the proposed further payments will not be entered in to until the expiry of period and absence of a challenge.

2. Re-rounding and Re-fleeting

- 2.1 Members will be aware that Urbaser has already reviewed and implemented the re-rounding of the Garden Waste Service in November 2022 (Phase 1). This was undertaken to re-balance the number of properties per round to reflect the changes in subscription numbers and new housing developments. The changes also allowed for the creation of dedicated collections crews to be based at the Tonbridge and Tunbridge Wells depots and serve the respective council areas. The crews now have an improved familiarity with the area improving service provision for residents.

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- 2.2 Apart from the recent suspension of the garden waste service due to the implications of the adverse weather in December and the usual catch up arrangements following the Christmas and New Year period, the introduction of the new rounds has gone to plan. The full benefits are expected to be seen during the main growing season.
- 2.3 Urbaser has now approached the two councils with a request to consider the implementation of a second phase of re-rounding that will involve changes to food, recycling and refuse collections. This Phase 2 also contains a proposal to replace the existing vehicle fleet with brand new vehicles of different configuration to fully optimise the efficiencies from re-rounding.
- 2.4 Currently on most rounds, food waste is collected on the same vehicle as either the two types of recycling or the refuse. The proposed new fleet configuration will introduce separate food waste collection vehicles to service all properties that currently have a food waste collection. There would then be dedicated vehicles for both recycling and refuse collections. All of these materials will still be collected on the same day, but residents may see a change in their collection day and/or week of collection. If the proposal is approved it would be implemented in June and July 2023 following a communication campaign to inform residents of the specific changes to their collections.
- 2.5 Combining the rebalancing of the collection rounds with the vehicle re-fleeting will enable the optimisation of the collection service, taking in to account actual and projected property growth, the changes in waste composition, volume and weight from changing habits and the expected new legislation and guidance, including the forthcoming change requiring the collection of food waste from all properties.
- 2.6 The re-rounding and re-fleeting will enable a more efficient use of resources to meet the changing demands on the service, reducing travel distances, carbon emissions and vehicle down time and improving the stability of the service.
- 2.7 To realise the maximum efficiencies from the re-rounding and re-fleeting will require the early lease termination of a number of the current vehicles.
- 2.8 Urbaser has requested that the two councils assist with the implementation costs of the Phase 2 proposals and is seeking a contribution towards the early lease termination costs associated with a number of the existing fleet. The total cost of termination will be in the region of £775,000 and following discussions with Urbaser, the contribution that has been sought from the councils is set at a maximum of £150k per council. Any agreed payment would be made in the 2023/24 financial year and this has been included in the draft budget that is also being considered at the 9 February Cabinet meeting.

- 2.9 Urbaser is proposing to lease circa 44 new vehicles, subject to finalising the requirements of the new rounds, and has requested our consent for the lease to be 8 years. This is the accepted industry norm for the lifecycle of a new vehicle, but this approach will result in the vehicle leases expiring beyond the end of the existing service contract. Entering into a lease of this length will result in lower monthly vehicle costs to Urbaser to offset against the cost of implementing the Phase 2 changes. This proposal will also contribute to long-term cost certainty (to the benefit of both councils and their populations) by securing a fleet of vehicles for use for 4 years from April 2027 by the next service provider(s) of their recycling and waste collection service at a known monthly cost. This benefit would also be achieved if the service was brought in-house by one, or both, of the councils, allowing a transition period with the key assets in place and not being exposed to the need to compete with established service providers for new vehicles in a congested market during the start-up period.
- 2.10 Planning for the next vehicle change in 2031 will also allow the electric vehicle market to have matured further and give the councils time to investigate and implement the enhancements necessary for the associated power network infrastructure.
- 2.11 The engines of the new fleet will meet the most recent Euro VI emissions standards, and, unlike the existing fleet, they will be capable of running on the biofuel HVO (hydrotreated vegetable oil) the use of which can significantly reduce the carbon dioxide emissions in comparison to diesel. The option of using HVO can be considered in 2027. In the meantime, the re-rounding is expected to reduce vehicle mileage and emissions and other opportunities to reduce emissions, such as the use of electric bin lifts on the vehicles are being explored.
- 2.12 The 8-year lease length will require the councils to enter into an appropriate contract variation to provide a binding commitment that the vehicle lease(s) will be transferred either to the council(s) or to the new service provider(s) from April 2027. The two councils will also need to enter in to binding agreement to confirm which vehicles each council will take responsibility for from April 2027.
- 2.13 The councils have received confidential privileged legal advice and have concluded that the above proposal is permitted under the Public Contracts Regulations 2015.
- 2.14 The councils consider that the proposal does not amount to a substantial modification of the contract. It does not alter the scope or nature of the contract but brings about efficiencies and service improvements to the benefit of the councils and the populations they serve.

- 2.15 The proposed contribution to the vehicle termination costs does not alter the economic balance of the contract in favour of the incumbent. The changes will benefit the councils during the remainder of the contract with improved performance and a response to new legislation. The longer term vehicle lease agreements will also be beneficial to the Council when the current contract expires as part of any option to provide the service in house or re-procure as a partnership or individually.
- 2.16 The re-fleeting and re-rounding proposals do not fundamentally change the character of the service nor the contract originally procured, retaining the collection of the same material streams as set out in the contract specification.
- 2.17 As above, and as part of their commitments to transparency, the councils will publish an appropriate procurement notice (a Voluntary Ex-Ante Transparency Notice - a VEAT Notice) in the Official Journal of the European Union and the Find a Tender Service.

3. Options Considered

- 3.1 Option 1 - Accept proposal the proposal in full.
- 3.2 Option 2 – Consider parts of the proposal.
- 3.3 Option 3 – Reject the proposal.

4. Preferred Option and Reason

- 4.1 The recommendation is for option 1, to accept both aspects of the proposal detailed above. This will meet both objectives of ensuring the retention of necessary staff in light of continuing difficulties in the HGV driver market and bringing about long term cost certainty and efficiencies as detailed above.
- 4.2 It is considered that both aspects of the above proposal are required in order to meet the councils' objectives.
- 4.3 Rejecting this proposal would risk staff not being retained until April 2023 (when increased staffing costs will be reflected by indexation in the contract). This would present an unacceptable risk of service(s) having to be cut or suspended (as happened previously with the Garden Waste service) and is likely to require the provision of higher levels of support to re-recruit and retain staff. Rejecting this proposal would also mean that the councils will not secure the benefits of a new fleet of vehicles with the long term cost certainty or the beneficial effect on the next contract, however this is provided, that this will bring.

5. Consultation on Options

- 5.1 There has been consultation with Kent County Council regarding the changes to the tipping arrangements for food waste at the North Farm Transfer Station.
- 5.2 This report will be presented to the Climate Emergency Advisory Panel on 26 January.

Recommendation from Cabinet Advisory Board

- 5.3 The Communities and Economic Development Cabinet Advisory Board were consulted on 25 January 2023 and agreed the following:

Insert text from Cabinet Advisory Board minute, or request text from Democratic Services Officer.

6. Implementation

- 6.1 The publication of the VEAT notice will take place after the Full Council meeting on 1 March 2023. Formal implementation of the recommendations will not take place until the expiry of the 30-calendar day period and absence of a challenge.
- 6.2 Work will continue with Urbaser to review the existing collection rounds and other parameters to enable Urbaser to finalise the detailed new collection schedules.
- 6.3 It is proposed that the new collection schedules will be introduced in June 2023 following a communications campaign.

7. Appendices and Background Documents

None

8. Cross Cutting Issues

A. Legal (including the Human Rights Act)

The provision of an extension to the limited financial assistance by way of additional, time limited payments and the re- rounding and re-fleeting proposals are permitted under the Public Contracts Regulations 2015.

The Council will publish an appropriate procurement notice (a Voluntary Ex-Ante Transparency Notice - a VEAT Notice) in the Official Journal of the European Union and the Find a Tender Service. Any agreement for the proposed further payments will not be entered in to until the expiry of the notice period and absence of a challenge.

Lucinda MacKenzie-Ingle Team Leader - Contracts & Commissioning (Solicitor) 19 January 2023

B. Finance and Other Resources

The addition monthly payments of £14,000 between November 2022 and March 2023 are not budgeted for but can be covered by the additional income has been generated through the Kent CC Inter Authority Agreement from a reduction in net disposal costs.

The proposed budget for 2023/24 has been increased to cover the cost of contraction and indexation and the possibility of contributing towards the costs of re-fleeting.

Lee Colyer Director of Finance, Policy and Development 20 January 2023

C. Staffing

The work involved with reviewing and communicating the new collection round schedules will be undertaken within existing staff resources. The proposals in the report have no implications on the Council's staffing levels or structures.

Anita Lynch, HR Manager 20 January 2023

D. Risk Management

The management of contracts and contractors is identified as risk scenario 3 in the Strategic Risk Register. The proposals in this report will act as mitigating actions towards a range of the vulnerabilities and contributing factors identified.

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There are operational risks associated with the effective implementation of the new collection rounds. A project team is in place with membership from Urbaser, Tonbridge and Malling BC and this Council. A separate TWBC team will be re-established, involving representatives from the Communications and Customer Teams with the operational representatives.

The proposal for the councils to take on responsibility for the new fleet of vehicles from April 2027 presents an element of risk. At the time of considering this proposal the configurations of the new vehicles are industry standard and the expectation is that they will meet the needs of the service for the long term foreseeable future. The proposal to provide dedicated food waste collection vehicles will assist with the forthcoming implementation of the Environment Act 2021 requiring councils to provide separate food waste collections.

The vehicles will be maintained by the supplier under the lease contract and it is in all parties' interests to ensure that they are suitably maintained. The councils will carry out regular monitoring of maintenance records during the remainder of the service contract. In addition, each vehicle will be subject to a full condition survey in the run up to the next service procurement exercise and at the handover of the vehicles in March 2027.

Gary Stevenson Head of Housing, Health and Environment 19 January 2023

E. Environment (inc. Biodiversity) and Sustainability

A Climate Emergency Impact Assessment has been undertaken. The household waste and recycling and street cleansing contract is the largest emitter of carbon dioxide in the Council's operations.

There has been an 8% reduction in emissions between 2018/19 and 2021/22 associated with small decrease in amount of fuel use and in the emissions factor associated with the fuel, (mix of biofuels in purchased fuel has increased hence improved factor).

The recommended pathway to carbon emission reduction up to 2030 assumes that the vehicles used on the recycling and waste collection and street cleansing contract are all electric vehicles under the service provision arrangements from April 2027.

The re-fleeting proposals in this report would potentially delay the implementation of EV vehicles for the collection of food, recycling, and residual waste until 2031. The engines of the new fleet will meet the most recent Euro VI emissions standards, and, unlike the existing fleet, they will be capable of running on the biofuel HVO (hydrotreated vegetable oil) the use of which can significantly reduce the carbon dioxide emissions in comparison to diesel. The option of using HVO can be considered in 2027. In the meantime, the re-rounding is expected to reduce vehicle mileage and emissions and other opportunities to reduce emissions, such as the use of electric bin lifts on the vehicles are being explored.

The opportunity to operate EV garden waste collection and street cleansing vehicles from 2027 will still be available.

Gary Stevenson Head of Housing, Health and Environment, consulted with Karin Grey on 5 January 2023

F. Community Safety

The proposals in this report do not create any community safety issues.

Gary Stevenson Head of Housing, Health and Environment 19 January 2023

G. Equalities

The proposals in this report do not create any equalities issues.

Gary Stevenson Head of Housing, Health and Environment 19 January 2023

H. Data Protection

The proposals in this report do not create any new data protection issues.

Gary Stevenson Head of Housing, Health and Environment 19 January 2023

I. Health and Safety

The proposals to change the configuration of the collect vehicles does not fundamentally change the collection processes that have already been risked assessed. However, the re-rounding proposals will require the review of existing route assessments to be undertaken.

Gary Stevenson Head of Housing, Health and Environment 19 January 2023

J. Health and Wellbeing

There are no health and wellbeing implications from the report.

Gary Stevenson Head of Housing, Health and Environment 19 January 2023