



ADUR & WORTHING
COUNCILS

WBC Executive Member for Digital &
Environmental Services and Adur
Executive Member for Environment
23 November 2021

Decision to be taken on or after
1 December 2021

Key Decision [No].

Ward(s) Affected: All

Award of contract for disposal of commercial waste

Report by the Director for Digital, Sustainability and Resources

Executive Summary

1. Purpose

1.1. Following completion of the commercial waste tender process (September 2021), and subsequent authority to award a waste disposal contract to the successful supplier, this report explains that:

1.1.1. The successful supplier can no longer offer its services based on its tender submission;

1.1.2. As a result, an alternative supplier (commercial waste contractor) is required urgently to fulfill 2000 + Adur & Worthing Councils' customer contracts for disposal of commercial waste;

1.1.3. Tipping location is a fundamental factor when considering alternative supplier offers, due to the way commercial customer collections operate within Adur and Worthing.

1.2. The Executive Members should be aware that any interim supplier arrangement will increase pressure on the already allocated commercial tipping budgets in Adur and Worthing.

1.3. The report also covers what the immediate options are, what the Business Development and Procurement Teams are seeking to achieve longer term to secure best value for the Councils going forward.

2. Recommendations

- 2.1. Members are asked to note the contents of this report and the shorter term commercial waste arrangement (starting on or before 29th November 2021) with West Sussex County Council (WSCC) on the terms set out in this report.
- 2.2. Note that the agreement with WSCC will enable the Director for Digital Sustainability and Resources sufficient time to carry out a further procurement exercise for a commercial waste management supplier.
- 2.3. Delegate authority to the Director for Digital, Resources and Sustainability to enter into a longer term waste management contract with the successful supplier from the procurement exercise (referred to at clause 2.2 above), in consultation with Executive Members.

3. Context

- 3.1. Further to the recent report (Award of contract for disposal of commercial waste) dated 29th September 2021, the situation has changed and the successful supplier (being the only bidder in the process) has decided to withdraw its tender submission. The tender process has been terminated without an award.
- 3.2. Our existing commercial waste arrangements with the incumbent supplier are due to continue until 26 November 2021.
- 3.3. Worst case scenario:
 - 3.3.1. Failure to secure an alternative tipping location/ supplier could mean that the Councils are forced to (at least temporarily) close the service to customers.
 - 3.3.2. The Councils provide an essential waste collection service to many Adur and Worthing businesses. Should the service close, the Councils would be forced to contact individual customers and work with them while an alternative provider is sought.
- 3.4. Adur & Worthing Councils' commercial waste rounds depend on a local tip location (general waste), to remain efficient and it is therefore imperative that an equivalent solution is identified as soon as possible.

- 3.5. The Councils' commercial waste service supplies essential waste management for over 2000 Adur and Worthing business customers, so it is vital that there is no break in their waste service to remain able to trade effectively, while an alternative general waste tip supplier is sought.
- 3.6. Adur & Worthing Councils' Commercial Waste product is an essential service for local businesses and an important income stream, so it's imperative that every effort is made to ensure that the service remains operational, dependable and efficient.

4. Issues for consideration - interim arrangements

- 4.1. An assessment of all viable local general waste tipping agents (by company and location) has been completed.
- 4.2. WSCC (in partnership with Biffa plc) are able to offer a suitable general waste tipping facility, which is adjacent to the outgoing supplier's waste tipping gate and available on a short-term basis, commencing 29th November 2021. This means that the existing commercial collection schedule and round system can be retained, although this will of course be reexamined over the coming months while alternatives are considered.
- 4.3. At this time, there is no realistic alternative to this arrangement, as the nearest suitable alternative is a 90 minute/ 30 mile round trip for each of the 4 main commercial waste rounds that can tip their waste at least twice a day.
- 4.4. There is a negative impact to both Adur and Worthing budgets, allocated to the service. As tonnages vary slightly over time, the impact has been measured by taking an average general waste disposal weight which is circa 628 tonnes per month, approximately 440 for Worthing and 188 for Adur.

Based on an expected timeframe of 4 months, estimated additional costs listed below (1st November 2021 until March 31st 2022). *This is based on a jump from £133 charged per tonne (April 2021-October 2021) to £143 (November 2021) and then £150 per tonne.*

	Current budget	Budget Nov - March	Estimated cost (November / March)	Additional cost
	£	£	£	£
Adur	307,540	102,510	114,850	12,340
Worthing	737,750	245,920	275,500	29,580
Total	1,045,290	348,430	390,350	41,920

Looking further forward (April 2022 onwards) expected disposal costs per month could rise further, assuming no alternative to the arrangement is found. WSCC's current base of £150 per tonne is expected to rise by around 6%, taking the tonnage charge to £159. Please note that the additional fees are an estimate only. Over the first half of the year, these costs could amount to £90,000 and so every endeavour needs to be made to limit the Council's exposure to the higher tipping charges.

	Current budget	Budget April - Sept	Estimated cost (April - Sept)	Additional cost
	£	£	£	£
Adur	307,540	153,770	180,360	26,590
Worthing	737,750	368,880	432,670	63,790
Total	1,045,290	522,650	613,030	90,380

Very approximately, this means a rise in costs of over £180,000 to the service, per year if an alternative supplier cannot be found.

4.5. The above calculations (November 2021 to March 2022) are based on WSCC general waste tipping charges of £150 per tonne from December with a temporary agreement lasting no more than 4 months. This arrangement also means that Adur & Worthing Councils' commercial waste fleet can carry on with their current arrangements and no customers' collection service will be affected.

4.6. At this time, no alternative tipping arrangement at a tip location that works logistically for the Council is available, but the team are already working with local interested parties on a viable alternative.

5. **Issues for consideration - longer term arrangements, best value**

5.1. It is envisaged that an alternative to WSCC contractor could be found within eight months, possibly before, after a new procurement exercise.

5.2. Officers are already exploring procurement options and there are available frameworks that can be considered in the alternative to an open tender.

5.3. To do nothing now is not an option, as the service must continue for at least 1 year as customer contracts must be honoured.

6. Engagement and Communication

- 6.1. The proposals and recommendations in this report have been drawn up by the Councils' Commercial Team in consultation with the Councils' Legal and Procurement Teams.

7. Financial Implications

- 7.1. The overall budget for tipping charges is £1,045,290. The withdrawal of the contractor from the procurement exercise will lead to an unavoidable cost pressure for the councils as set out above.
- 7.2. As part of the development of the 2022/23 budget, the potential additional cost will have to be accommodated to ensure that the councils' budgets do not remain under pressure throughout the year.

8. Legal Implications

- 8.1. The Council is a waste collection authority and by s45 of the Environment Act 1990, it shall be the duty of each waste collection authority, if so requested by the occupier of premises, to collect any commercial waste from those premises or to arrange for the collection of commercial waste.
- 8.2. Section 1 of the Localism Act 2011 empowers the Council to do anything an individual can do apart from that which is specifically prohibited by pre-existing legislation.
- 8.3. Section 3(1) of the Local Government Act 1999 (LGA 1999) contains a general duty on a best value authority to make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.
- 8.4. Section 1 Local Government (Contracts) Act 1997 confers power on the Council to enter into a contract for the provision of making available assets or services for the purposes of, or in connection with, the discharge of the function by the Council.
- 8.5. By Regulation 12 of the Public Contract Regulations 2015, contracts between public authorities fall outside of the Regulations where the contract a) establishes or implements a co-operation between the participating authorities where they have the objectives (ie commercial waste disposal) in common, which are governed solely by considerations to the public interest and there is a genuine and effective co-operation between the parties.

8.6. In the alternative to the exemption at Regulation 12, The Councils may rely on the power afforded to them by Regulation 32 of the Public Contract Regulations 2015, a direct award can be made as no tenders, no suitable tenders, and no requests to participate or no suitable requests to participate were submitted in response to the open procedure the Council has just concluded without award.

Background Papers

- Forward Plan:
<https://democracy.adur-worthing.gov.uk/mglIssueHistoryHome.aspx?lId=3671&PlanId=144&RPID=2625990>
- Award of contract for disposal of commercial waste:
<https://democracy.adur-worthing.gov.uk/ieDecisionDetails.aspx?ld=555>

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Sustainability & Risk Assessment

1. Economic

The cost of failure to secure a Lancing based general waste contractor is high to both the customer base and Adur & Worthing Councils. Adur & Worthing Councils could lose over £2m income annually if the situation is not resolved. Customers could be faced with higher waste collection bills as competitor/ alternative suppliers sign those customers up, should Adur & Worthing Councils withdraw from the market. The Lancing site dependency is a current high risk and longer term alternatives to waste collection and tipping methodology must now be examined in the longer-term, as a matter of urgency.

2. Social

2.1 Social Value

Members are reminded that Adur & Worthing Councils' Commercial Waste products provide essential services to local businesses, allowing them to trade efficiently.

2.2 Equality Issues

Matter considered and no issues identified.

2.3 Community Safety Issues (Section 17)

Matter considered and no issues identified.

2.4 Human Rights Issues

Matter considered and no issues identified.

3. Environmental

All future general waste disposal contractors must satisfy Adur & Worthing Councils' Procurement, Business Development and Legal teams with approval from the Head of Environmental Services - Matter considered and no issues identified.

4. Governance

There is a risk of potential damage to the Council's brand if the service must be closed to customers. All actions are being taken to prevent this.