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14 May 2020

To: All Councillors

As a Member of the **Emergency Committee**, please treat this as your summons to attend a meeting on **Thursday, 21 May at 6.00pm**.

Under Regulations made under the Coronavirus Act 2020, the meeting will be held virtually. As a member of the public you can view the virtual meeting via the District Council's website at www.derbyshiredales.gov.uk or via our YouTube channel.

Yours sincerely

A handwritten signature in black ink, appearing to be 'Sandra Lamb', written over a faint circular stamp or watermark.

Sandra Lamb
Director of Corporate Services

AGENDA

1. APOLOGIES

Please advise the Committee Team on 01629 761300 or e-mail: committee@derbyshiredales.gov.uk of any apologies for absence.

2. ELECTION OF CHAIRMAN

Proposal that a member of the Committee be elected Chairman.

3. APPOINTMENT OF VICE CHAIRMAN

Proposal that a member of the Committee be elected Vice Chairman.

4. PUBLIC PARTICIPATION

Public Participation, as provided for in the Constitution, is suspended temporarily and is replaced with an alternative mechanism for the public to bring matters to the Council's attention.

Members of the public will be able to comment on any agenda item or matters in the wider public interest and will be invited to submit their questions or comments in writing, before 12 noon on the working day prior to the meeting by:

Email: committee@derbyshiredales.gov.uk

Post: Democratic Services, Derbyshire Dales District Council, Town Hall, Matlock DE4 3NN

The Committee Team will assist any member of the public without access to electronic means by capturing their concerns over the telephone.

Phone: 01629 761300 (working days only 9am – 5pm)

Any such correspondence will be read out at the meeting.

The public will not be admitted to the meeting through virtual means. All meeting proceedings open to the public will be streamed live on our YouTube channel when all non -exempt items are being considered. Recordings of the meeting will also be available after the event on the District Council's website.

5. INTERESTS

Members are required to declare the existence and nature of any interests they may have in subsequent agenda items in accordance with the District Council's Code of Conduct. Those interests are matters that relate to money or that which can be valued in money, affecting the Member her/his partner, extended family and close friends. Interests that become apparent at a later stage in the proceedings may be declared at that time.

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6. GARDEN WASTE COLLECTION SERVICE

03 – 08

To consider the options available for reinstating the garden waste collection service during the COVID-19 pandemic.

NOTE

For further information about this Agenda or on "Public Participation" call 01629 761300 or e-mail: committee@derbyshiredales.gov.uk

Members of the Committee: Councillors Sue Bull, Paul Cruise, Graham Elliott, Chris Furness, Clare Gamble, Susan Hobson, Garry Purdy, Claire Raw

EMERGENCY COMMITTEE

21st May 2020

Report of the Director of Community & Environmental Services

GARDEN WASTE COLLECTION SERVICE

PURPOSE OF REPORT

To outline the options available to the District Council for reinstating the garden waste collection service during the COVID-19 pandemic.

RECOMMENDATION

That the reinstatement of the garden waste collection service on 1 June, as outlined at Option Seven of this report, is approved, with the loss of revenue and possible additional revenue expenditure and its financing by use of government grant.

WARDS AFFECTED

All.

STRATEGIC LINK

Ensuring that waste is collected and recycled effectively helps to protect and enhance the environment and to improve the quality of life of local people. Improvements to the District Council's service facilitates the provision of excellent services.

1. BACKGROUND

- 1.1 On 23rd March this year, the United Kingdom was placed into a lockdown situation by the Government to lessen the spread of COVID-19. In addition, social distancing measures were introduced to help slow the spread of infection.
- 1.2 These measures required an adjustment in working practices which have impacted on the way Serco, the Council's waste collection contractor, has been able to deliver the service.
- 1.3 The strict social distancing measures that had to be implemented by Serco meant that staff had to travel to locations in separate vehicles, rather than in 'crews', as per normal operation. The result of this impacted on the contractor's ability to fulfil the standard level of service.
- 1.4 The 'lockdown' and the subsequent measures implemented to protect employees in line with Government guidance resulted in a reduction in staffing levels within the waste collection team. In order to maintain the residual waste collection service, it was necessary to temporarily suspend the garden waste collections, bulky waste collections and some of the recycling collection rounds. It has also been necessary to move food waste to an alternate weekly collection, rather than a weekly collection service.

- 1.5 Once additional staff had been sourced, employed and trained, Serco were able to resume the recycling collection service. Unfortunately, the suspension of the garden waste service has taken much longer to resolve.
- 1.6 The additional costs of providing the current level of service is approximately £2,500 per week. These costs are wholly covered by Serco and are not passed onto the Council.
- 1.7 Although Serco are contractually obliged to deliver a full waste collection service, there are clauses within the contract which enable them to apply for relief from standard obligations. Therefore, over the last six weeks the Council has worked with Serco in considering options to reinstate the garden waste collection service.

2. REPORT

- 2.1 On 10th May 2020 the Government announced the easing of lockdown measures but reaffirmed the need to retain the necessary social distancing measures. This means that the collection contract continues to require extra resources just to maintain the current level of service and further funds to achieve the restoration of the garden waste collection service.
- 2.2 During the initial discussions with Serco, their preferred route to reinstating the garden waste service was to source the following additional resources:-
 - 5 x suitably qualified drivers;
 - 5 x vans capable of waste / bin collections;
 - 1 x large Refuse Collection Vehicle (RCV);
 - Fuel
- 2.3 Within the agreement with Serco there is a provision at Clause 33 for Relief Events. If a Relief Event occurs (Covid19 does fall within the definition) and this adversely affects the ability of Serco to perform any of its obligations then Serco is entitled to apply for relief from any rights of the Council arising under clause 39 (Practical Remedies and Persistent Breach) and of its obligations under the Agreement.
- 2.4 Serco advised that they could not absorb the total cost of all the extra resources required for the restoration of the garden waste collection service and they consider that further additional costs could be deemed reasonable in the current situation. This would leave the Council needing to find the remaining costs of £3,569 per week.
- 2.5 Should the Council wish to challenge this assumption, it would require invoking the Dispute Resolution Procedure, as set out within the agreement which would result in further delays in restoring the service. Although this process remains an option, the Council have looked towards a quicker and more reasonable solution.
- 2.6 It should be noted that if, as a consequence of a Relief Event, Serco is prevented from providing all or a substantial part of the Services for a continuous period of more than forty (40) Working Days, then the Council may, subject to compensating the Contractor

for any stranded costs, costs of stranded employees (where relevant), other non-cancellable incurred costs and expenses and all loss of profit to the Expiry Date or three (3) years from the Termination Date (whichever is the earlier), serve a notice terminating the Agreement, this is an option to terminate the contract, however this would not result in the restoration of the Green collection service. It would result in the cessation of the entire waste and recycling collection service for an indefinite period, so is not a practical option and has not been considered,

2.7 Discussions with Serco have continued throughout the lockdown period and even at the time of writing the report, an opportunity to explore another option became possible. This option would enable the service to resume on Monday 1 June, but would require Serco to use an alternative waste disposal site for approximately 6 weeks. The diversion would require the Council to accept a loss in revenue through reduced recycling credits, but would help expedite the collection of garden waste through reduced travel times for the disposal of garden waste.

2.8 In addition to the loss of recycling credits, there is the possibility the Council could incur additional fees in order to help Serco cover staff overtime costs. These fees are unlikely to exceed more than £1,500 per week.

2.9 The loss in revenue from recycling credits, based on the fleet's configuration and collection capacity, whilst adhering to social distancing requirements is estimated to be around £12,500 for the 6 week period (i.e. around £2,100 a week).

2.10 The options explored to date include:-

2.10.1 **Option One**

Provide the District Council's Clean & Green Team's vehicles and staff to support the waste collection contract.

2.10.2 **Option Two**

Provide the District Council's Clean & Green Team to drive additional hired vehicles.

2.10.3 **Option Three**

Provide funds to enable the contractor to hire additional vehicles and suitably skilled agency staff.

2.10.4 **Option Four**

Request assistance from Military personnel under the Military Authorised Civilian Assistance Programme (MACA).

2.10.5 **Option Five**

Alternate garden waste collections and recycling collections.

2.10.6 **Option Six**

Wait until the social distancing measures are lifted before reinstating the service.

2.10.7 **Option Seven**

Serco divert the fleet to an alternative disposal site and the Council accepts the temporary loss of revenue from recycling credits and the possibility of incurring additional costs to cover extra staff hours over the 6 week period.

2.11 In reviewing each of the options identified, the Council has concluded the following:-

2.11.1 **Option One**

- The District Council could provide the required number of drivers with the necessary skills and experience but this would impact on its ability to deliver Clean & Green services. The service is already operating at a reduced level due to having fewer staff available as a result of the risks and absences associated with COVID-19 and the required social distancing measures in place.
- If existing Clean and Green staff were to be redeployed to Serco, then the Council would need to find additional funds employ new agency staff to take up their Clean and Green roles. The alternative would be to cease these Clean and Green services.
- The Council would not be able to provide suitable vehicles as it does not have any with bin lift capability. Sourcing suitable staff and vehicles cannot be guaranteed.
- All staff provided would require an induction and training.
- Mobilisation time - up to 2 weeks.

Recommendation: This option is not considered to be feasible.

2.11.2 **Option Two**

- This option would have the same impact as outlined in Option One. There would also be the additional cost of hiring the vehicles, the need for driver checks and amendments to insurances.
- Mobilisation time - 3 to 4 weeks.

Recommendation: This option is not considered to be feasible.

2.11.3 **Option Three**

- This option would have no direct impact on the Clean & Green service and would allow Serco to employ previously trained and inducted agency staff. It would, however, mean that the Council needs to fund the additional resources at a cost of £3,569 per week. Sourcing of vehicles cannot be guaranteed.
- Mobilisation time - 1 to 2 weeks.

Recommendation: This option is not recommended.

2.11.4 **Option Four**

- The Council is unable to pursue this option as we are advised that all other options, including the use of agency staff, have to have been ruled out. It would also require the Council to hire and fund vehicles. There would be additional costs associated with staff and vehicles.
- Mobilisation time - N/A

Recommendation: This option is not recommended.

2.11.5 **Option Five**

- This option would have an undesirable impact on our residents and their ability to store and recycle materials. Serco have already reported a significant increase in recyclable materials and this option would only compound that.
- Mobilisation time - 1 week

Recommendation: This option is not recommended.

2.11.6 **Option Six**

- Due to the increasing number of requests for the restoration of garden waste services and the greater number of people likely to be taking part in gardening activities at this time of year, the Council feels that a continuation of the temporary suspension of the service is no longer acceptable.
- Mobilisation time - N/A

Recommendation: This option is not recommended.

2.11.7 **Option Seven**

- Although this option would result in a loss of revenue to the Council, as well as the possibility of incurring additional payments to help cover staffing costs, it would enable the contractor and the Council to confirm a commencement date and also mitigates against the risk of not being able source suitable vehicles and staff.
- Mobilisation time – 1 June

Recommendation: This option is recommended.

2.12 Should approval be gained to reinstate the service then it should be noted that, due to the expected backlog of garden waste, it could take up to three full cycles of collections before the backlog is cleared and normal service is resumed.

2.13 It is also likely that in the first weeks of the service recommencing, some rounds may not be completed due to the backlog of large amounts of garden waste. Attempts to collect missed bins would result in a 'snowball' affect and generate longer term delays. Therefore, missed bins will not be collected during this period. Also, side waste will not be collected from properties which have received three cycles of garden waste collections.

2.14 In an attempt to expedite the collection of the backlog of garden waste, it is recommended that the temporary arrangement of fortnightly food waste collection remains in place until the backlog is clear.

2.15 The situation and additional funding will be constantly monitored and discussed at the monthly contract meeting between Serco and the District Council unless Government issues guidance which enables a change in working practices. In this instance, an urgent meeting will be convened between the two parties.

3. **RISK ASSESSMENT**

Legal

3.1 The contractual position is set out in the main body of the report. Whilst the recommendation on resumption of the service is a pragmatic solution, the risk of further service failure is a risk, whilst the Council and Serco are not solely in control of the situation, for example the imposition of further controls, It is therefore recommended that Serco enter into a supplementary funding agreement, to regularise performance under the terms of this additional funding. Whilst all legal risk cannot be mitigated, the position remains at medium.

Should the Council decide litigate the contract the Council would initially need to invoke the Dispute Resolution Procedure or perhaps seek Termination of the Contract. It is

envisaged that this would result in exorbitant and protracted negotiation / litigation. If this course of action is undertaken the legal risks are assessed as high.

Financial

- 3.2 There is no provision in the 2020/21 revenue budget for the proposed additional expenditure and estimated lost income of around £3,600 per week for approximately six weeks (around £21,600), as set out in option 7. However, the Council has received a government grant of £744,150 to assist the Council in meeting the additional costs and lost income arising from the coronavirus pandemic. Should the Committee approve option 7 and the additional revenue expenditure associated with it, the costs could be financed by using part of the government grant. The financial risks to the Council are considered low.

Should the Council decide to invoke the Dispute Resolution Procedure or the Termination of the Contract, it is envisaged that this would result in costly and protracted negotiations. The financial risks of such action are assessed as high.

4. OTHER CONSIDERATIONS

In preparing this report, the relevance of the following factors has also been considered: prevention of crime and disorder; equalities; environmental; climate change; health; human rights; personnel and property.

5. CONTACT INFORMATION

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6 BACKGROUND PAPERS

None

7 ATTACHMENTS

None.

BACK TO AGENDA