

<b>SUBJECT:</b>	<b>NEW DEVELOPMENTS - CHARGES FOR BINS</b>
<b>DIRECTORATE:</b>	<b>DIRECTORATE OF COMMUNITIES AND ENVIRONMENT</b>
<b>REPORT AUTHOR:</b>	<b>STEVE BIRD, ASSISTANT DIRECTOR</b>

## **1. Purpose of Report**

- 1.1 To provide a clarification to a decision taken by Executive last year in relation to the costs of providing waste bins in new developments, making clear that this is for the provision of the bin only, not the ongoing service, and that developers are the first choice for payment.

## **2. Executive Summary**

- 2.1 In October 2017 the Executive received a report on the costs incurred by the Council for the supply of waste/recycling receptacles. The report noted that across the city the cost was considerable, and that this was having an adverse impact on budgets. It noted that an alternative way of considering the issue was for developers to provide the bins as a part of the development, at their cost.
- 2.2 This report therefore seeks agreement to maintain the original approach to developers at the outset, but where a developer refuses to pay, then the council is to write to the new occupants of the properties explaining that the developer has refused to pay, and inviting them to either pay themselves, or to take the matter up with their developer.

## **3. Background**

- 3.1 As has been the backdrop for budget planning in recent years, the Council continues to operate in a difficult financial environment. Significant national reforms about future funding allocations to local government, and the implementation of new funding mechanisms, are set to detrimentally impact on the Council's financial position. In addition, the impact of Brexit and the consequent impact on the economic and political landscapes poses significant uncertainty for local government resources.
- 3.2 Furthermore the Council continues to face financial challenges due to changes in the use of and demand for its services as well as escalating costs. In response to these funding reductions and pressures, the Council is undertaking continual reviews of its services, which has led to a reduction in its annual expenditure. However, the Council still has further significant annual savings to deliver if it is to meet the targets set out in the current MTFS.

## 4.0 **Service background**

- 4.1 The Council currently provides waste services by way of a tailored service. That is to say it considers the needs of a property's residents, and the practicalities of collection, before deciding the type of receptacle for the waste.
- 4.2 When a new property is built or a property is redeveloped, the Council should have input to what waste storage system is appropriate. When the property is sold or let, the Council provides suitable waste disposal receptacles as required. This may be bags, 140 litre, 240 litre, or communal 660 litre or 1100 litre bins.
- 4.3 This report identifies the burden that this places on the Council's existing bin purchase budget, which frequently overspends, and suggests making a charge to developers of new or redeveloped properties where a new waste bin system is required.
- 4.4 In developing a way forwards various options have been explored, including S106 and making bin provision a planning condition. Advice is that whilst it couldn't be a planning condition, there is potential as a S106 requirement, provided it could be justified under the Central Lincolnshire plan. However, this is in draft currently and will take some time to bring to fruition, with a currently undetermined timescale. It is therefore suggested that an alternative scheme is developed in the meantime, as set out below.

## 5.0 **The Proposal**

- 5.1 In October 2017 the Executive agreed to charge developers for bin provision. It agreed a set of charges, including delivery.

140 litre bin £22

240 litre bin £26

Communal /1100 litre bin £149

Delivery £10 (up to four bins to one address) or per communal bin.

No concessions.

When considering the overall purchase price of a residential property, and the many professional fees also involved, the above represents a very small additional cost.

- 5.2 The council will continue to ask developers for the costs, but where they will not pay, then the new residents will be approached directly to pay, explaining that they are being asked due to the refusal of the developer to pay. The legislation permitting charging of residents is clear and beyond challenge.
- 5.3 A brief assessment of the state of charging by some other authorities is attached as appendix A. Whilst not all Councils charge, it is understood that many other authorities do, and of those that don't, many are considering this option currently due to their financial pressures. It is expected to be standard practice in due course.

## 6. Strategic Priorities

### 6.1 Let's drive economic growth

A thriving local community requires efficient and effective waste services as just one part of the necessary supporting infrastructure. The city is expanding at a fast rate and each new property will require a waste service. Given the rate of forecast expansion, this will impose a considerable strain on existing budgets if no charge is levied.

See risks below.

### 6.2 Let's reduce inequality

By charging the developers this mitigates costs to the Council, and thereby assists in protecting essential services.

## 7. Organisational Impacts

### 7.1 Finance (including whole life costs where applicable)

Based on the last three years of growth in the city, and based on the fees suggested being applied to what would have been supplied, income would be expected to be in the order of £10,000, although it is stressed that this is an estimate and actual figures would be directly related to growth. Assessing needs, organising deliveries and invoicing would be undertaken by existing resources. The resourcing issues for the section are considerable given the past history of both cuts to budgets and increases in demand, but it is not proposed that the introduction of this charge will incur any further direct costs.

### 7.2 Legal Implications including Procurement Rules

The Council has a legal duty, under Section 46 of the Environmental Protection Act 1990 (EPA) to collect household waste. However, the EPA allows the Council to define the standard and quality of containers that must be used and to require property owners to pay for the containers. The legislation states :

*S46 (1) Where a waste collection authority has a duty by virtue of section 45(1)(a) above to arrange for the collection of household waste from any premises, the authority may, by notice served on him, require the occupier to place the waste for collection in receptacles of a kind and number specified*

*(3) In making requirements under subsection (1) above the authority may, as respects the provision of the receptacles—*

*(a) determine that they be provided by the authority free of charge;*

*(b) propose that they be provided, if the occupier agrees, by the authority on payment by him of such a single payment or such periodical payments as he agrees with the authority;*

*(c) require the occupier to provide them if he does not enter into an agreement under paragraph (b) above within a specified period; or*

*(d) require the occupier to provide them.*

However, a developer challenge has been received previously based on the legislative referral to “occupier”. They have claimed that they are not the occupier, and therefore are not liable for the charge. Although this could be argued, equally it could be said that up to sale of the property and occupation, they are the owner, and therefore by definition the occupier. This was refuted by the developer who challenged, and given the ambiguity it might only be resolved by court case. In order to avoid this, and the costs associated, the alternative approach described in this report is recommended for Executive consideration.

With respect to enforcement the EPA states:

*A person who fails, without reasonable excuse, to comply with any requirements imposed under subsection (1), (3)(c) or (d) ..... shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.*

Should the “occupier” decline to pay for the supply of a waste container they must provide an alternative receptacle of an acceptable standard. There are BS/EN standards for wheeled bins, and the council reserves the right to stipulate sizes, colours, and suppliers for consistency and safety purposes. If they do not comply and provide wheeled bins that are not in line with the requirements, they may be served with a Section 46 notice under the Environmental Protection Act 1990, which would require them to provide the necessary containers. Failure to comply with this notice may lead to the issuing of a Fixed Penalty Notice and or prosecution by the council, if the resident puts rubbish out in an unauthorised container.

### 7.3 Land, property and accommodation

The Council has limited storage for wheeled bins, which has been problematic in recent years, often relying on the contractor for assistance. With the advent of the charged green waste service additional storage space has been acquired, which has eased the situation. No additional storage is foreseen as being required as a result of this change, provided the green waste bin storage remains available.

### 7.4 Human Resources

There are no HR implications beyond the additional workload.

### 7.5 Equality, Diversity and Human Rights

No impact.

### 7.6 Significant Community Impact

No impact

### 7.7 Corporate Health and Safety implications

No impact.

### 7.8 Risk Implications

(i) Options Explored

a) Charging – see below.

b) Not charging - Failure to impose a charge will mean that the pressure on the waste services budgets is not mitigated, and may lead to budget overspends.

Key risks with preferred approach.

Residents could refuse to pay, and thus the council would need to take enforcement action.

## **8. Recommendation**

8.1 Executive agrees that the council will maintain its first approach to charge developers, making a developer responsible for bin provision costs in alignment with previously agreed fees and charges.

8.2 That, where a developer refuses to pay, this cost is passed to residents directly, explaining the reason for the charge.

**Is this a key decision?**

No

**Do the exempt information categories apply?**

No

**Does Rule 15 of the Scrutiny Procedure Rules (call-in and urgency) apply?**

No

**How many appendices does the report contain?**

One

**List of Background Papers:**

Executive October 2017

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