

	<h2>Environment Committee</h2> <h3>11 June 2015</h3>
<p style="text-align: right;">Title</p>	<p>Future operation of Summers Lane Civic Amenity and Recycling Centre</p>
<p style="text-align: right;">Report of</p>	<p>Commissioning Director - Environment</p>
<p style="text-align: right;">Wards</p>	<p>All</p>
<p style="text-align: right;">Status</p>	<p>Public</p>
<p style="text-align: right;">Enclosures</p>	<p>None</p>
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<h2>Summary</h2>
<p>Following an evaluation of the potential ways in which the service could be delivered in the future, this report seeks agreement to the transfer of the Summers Lane Civic Amenity and Recycling Centre to North London Waste Authority from 4 October 2015.</p>

<h2>Recommendations</h2>
<ol style="list-style-type: none"> 1. That the Environment Committee agree to transfer the Summers Lane Civic Amenity and Recycling Centre to North London Waste Authority from 4 October 2015, which is Option B in this report. 2. That the Environment Committee agree to delegate to the Commissioning Director for Environment in conjunction with the Street Scene Director permission to instruct Property Services in order to negotiate and enter into a lease with the North London Waste Authority.

1. WHY THIS REPORT IS NEEDED

- 1.1** The Summers Lane Civic Amenity and Recycling Centre (CARC) opened in October 2001. It was fully operated by a contractor until October 2013. The decision was made to bring the service, along with the kerbside collection of recyclables back in house from October 2013. The site accepts household waste and as much as possible is recycled or reused. Over 30 different materials are collected at the site and treatment/reprocessing outlets need to be secured for these materials. Overall there is a net cost for treating the materials, albeit this cost is less than the cost of collecting and disposing of the materials as residual waste. When the service was due to be brought back in house it was decided to procure a broker to undertake this outlet task, but unfortunately no bids were received. Consequently it was decided that this element of the existing contract should remain with Kier May Gurney, with the in house team undertaking the day to day operations. The contract with Kier May Gurney expires at the end of 3 October 2015, and no further extensions are possible. Without material outlets the site can not function, therefore new arrangements need to be in place from 4 October 2015 for the site to remain open. This report recommends how the service can be provided from 4 October 2015.

2. REASONS FOR RECOMMENDATIONS

- 2.1** Following evaluation of options for the future provider of the CARC it is recommended that this service is transferred to the North London Waste Authority (NLWA), with the operation provided by their contractor, LondonWaste Ltd. (LWL) from 4 October 2015, as it is considered that this is the most cost effective way of this service being delivered in the long term.
- 2.2** A lease between the council and NLWA will be negotiated and agreed for the site. It is recommended that authority is delegated to the Commissioning Director – Environment in conjunction with the Street Scene Director to finalise the terms of the lease. As set out in paragraph 5.4.3 of this report the minimum length of lease that it will be possible to negotiate will be until 2024 at the earliest.

3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

- 3.1** The current brokerage contract for the site expires at the end of 3 October 2015. Two options have been considered in detail for the future of the site - Option A: Letting a Brokerage Contract and Option B: Transfer to NLWA. This report is not recommending Option A: Letting a Brokerage Contract as following a financial evaluation, a review of the options and a soft marketing exercise it is considered that this option is not the best priced in the long term, as set out at paragraph 5.2.2 and material risk is being pushed back to the council, as described at paragraph 5.4.4, which may limit the council's ability to make operational changes to the site, and therefore financial savings, in the future.

4. POST DECISION IMPLEMENTATION

- 4.1** If the recommendations are agreed then negotiations will take place on the detail of the lease.
- 4.2** A transfer plan will be put into action to ensure that from a residents' perspective service continues at the site. This will include implementing the council's policy on the transfer of staff, and planning the handover of the material outlets to LWL.

5. IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

- 5.1.1** The Council's Corporate Plan 2015-2020 includes the following aim:
- Over 50% of waste collected will be reused, recycled or composted in 2020.
- 5.1.2** The CARC is linked to the aim stated at 5.1.1 as the CARC encourages residents to recycle and reuse their waste, rather than send it for disposal, and it makes a contribution to the council's household recycling rate.
- 5.1.3** There are no implications relating to the Health and Wellbeing Strategy and its stated priorities.

5.2 Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)

- 5.2.1** Finance and Value for Money – two options have been evaluated for future service provision; Option A: Letting a Brokerage Contract and Option B: Transfer to NLWA. The evaluation assumed that the tonnage throughput through the site was static and of the same composition as currently.

5.2.2 From 2015/16 a planned re-profiling of the service budgets will result in the available budget for the CARC being £746k.

The indicative operational costs from 2015/16 under the two options have been outlined below. For 2015/16 the costs shown are under the current LB Barnet / Kier May Gurney model up to 3 October 2015 and under the Option A & B models from the 4 October 2015;

Option A

	2015/16 (£'000)	2016/17 (£'000)	2017/18 (£'000)	2018/19 (£'000)	2019/20 (£'000)
Current Available budget	746	726	666	666	666
Option A projected costs	735	750	750	750	750
Additional spend requirements (one off)	20			20	
Forecast (under)/over spend	9	24	84	104	84

In Option A – Brokerage, the one off costs are estimated to be the procurement cost of the brokerage contract. The forecasts indicate an overspend on a recurring basis if this option were to be selected.

Option B

	2015/16 (£'000)	2016/17 (£'000)	2017/18 (£'000)	2018/19 (£'000)	2019/20 (£'000)
Current Available budget	746	726	666	666	666
Option B projected costs	705	675	666	666	666
Additional spend requirements (one off)	65				
Forecast (under)/over spend	24	(51)	(0)	(0)	(0)

In Option B – NLWA, the one off costs are estimated to be the staff costs associated with a transfer to NLWA. This budget pressure will be mitigated by

actively managing costs related to the move to ensure efficiencies can be found and if required resources within the delivery unit will be used.

5.2.3 This financial evaluation assumes that the NLWA Inter Authority Agreement (IAA) has been signed by all parties and is effective from 1 April 2016. As set out in detail at paragraph 6.2 the IAA sets out that transferred CARCs' costs will be apportioned by visitor survey. The results of this and likely costs to be shared between boroughs are included in the forecast Option B costs.

5.2.4 The saving of £20k in 2016/17 related to a reduction in operating hours at the CARC and the £60k saving in 2017/18 related to the CARC transfer to NLWA are not at risk under Option A or B. This has been reflected in the reduction in available budget.

5.2.5 Procurement

Option A - Brokerage – Due to the obligations upon local authorities it is not possible to directly procure outlets for the many materials from the site, as it is not cost effective for Barnet to do so. In this Option A the council would procure a broker. This arrangement requires the broker to have an incentive to find the most cost effective outlets for the materials, and this is generally done through sharing the material value and any savings made from securing better outlets.

Option B - NLWA – No procurement will be required to transfer the operation of the site to NLWA.

5.2.6 Staffing

Option A - Brokerage – There would be no change.

Option B - NLWA – There are 11 posts based at the site, and according to the requirements of NLWA's contractor, LWL, the post holders would either transfer to LWL or would be able to apply to vacancies in the Street Scene Delivery Unit.

It should be noted that the proposed transferee is not a member of the Local Government Pension Scheme nor have they applied to become an admitted body.

Therefore transferring employees will lose the benefit of a defined benefit scheme. This may be detrimental to transferring employees. There will not be any future pension costs that the council have to fund in the future.

Barnet Council applies the "TUPE protocol" that includes certain protections to terms and conditions of employment, for which the pension scheme is one. Therefore the committee should note that the alternative pension arrangements proposed by this transfer are not in keeping with current practise for transferees. LWL provides a defined contribution scheme.

The transferring employees will be briefed on a regular basis to explain the changes and implications, there will be a meet the new employer meeting and one to ones with the new employer. Consultation will take place with the trade unions. The TUPE obligations with regard transferring employees will be met.

5.2.7 IT

Option A - Brokerage – there would be no change.

Option B - NLWA – this would transfer to NLWA.

5.2.8 Property

Option A – Brokerage – there would be no change.

Option B - NLWA – the council would continue to be the freehold owner of the site and land at Summers Lane, and a lease would be entered into between the council and NLWA. If the recommendation is agreed the council will need to transfer a fit for purpose site, and ensure that it has carried out all due diligence and health and safety requirements.

5.2.9 Sustainability

Option A - Brokerage – there would be no change.

Option B - NLWA – NLWA has indicated that they are keen to operate Summers Lane CARC so that they can provide and promote a uniform CARC network across North London. NLWA plans to standardise opening hours, signage and procedures. An initial review of the current proposals indicates that there would no significant changes at Summers Lane CARC.

5.3 Legal and Constitutional References

5.3.1 Waste disposal authorities, including joint waste disposal authorities like NLWA, have had a statutory duty to provide CARCs since 1990 under the Environmental Protection Act 1990. However, London boroughs also had a parallel duty for the same service until the repeal of the relevant section of the Refuse Disposal (Amenity) Act 1978, on 1 April 2012. Waste collection authorities can provide CARCs using general powers.

5.3.2 The Council's Constitution (Clause 15, Responsibility for Functions, Annex A) sets out the terms of reference of the Environment Committee. These include specific responsibilities for commissioning refuse and recycling.

5.4 Risk Management

5.4.1 As set out at paragraph 5.2.3 the financial evaluation assumes that the NLWA IAA has been signed by all parties and is effective from 1 April 2016. Paragraph 6.2 provides information on the IAA, and that it is currently being considered by the parties involved. There is a risk that the IAA is not in place to be effective from 1 April 2016 and that the associated cost sharing does not

happen from this date, and either happens from a later date or not at all. CARC cost sharing is one element of the IAA, a significant element of the IAA is Menu Pricing, under which it is proposed that the NLWA costs are shared in a fairer system. Menu Pricing is the main driver for the agreement of the IAA.

5.4.2 The costs provided by NLWA used in this evaluation are indicative. Barnet would be charged the actual costs of operating the site. There is a risk that the cost of NLWA operating the site are higher than indicated, however it is felt that NLWA/LWL have been prudent in their approach, as they do not use a broker and do not have to bear this cost.

5.4.3 As set out in this report a lease will need to be agreed between the council and NLWA. NLWA has a contract with LondonWaste Ltd. until 2024, which includes the operation of the CARCs, and so a break clause will be negotiated in the lease which matches this timeframe, so that alternative arrangements could be made if appropriate, and further break clauses will be sought in the lease every 10 years thereafter. NLWA will have to treat all its constituent borough councils equally in relation to the leases (subject to individual site constraints) and would like a lease at each site of the same term as the IAA (until December 2055) so that it can invest in improvements where appropriate. The standard lease being finalised with other north London boroughs includes a relocation clause, so if it became necessary the council would have powers to relocate the CARC to another suitable location. It may also be appropriate to include specific provisions in relation to the Summers Lane site such as no right turn out of the site, and reuse within the borough as a higher priority than reuse outside of the borough.

5.4.4 If Option A is selected and a brokerage contract is procured, there is a risk that there would be no bidders, which was the result of an earlier procurement exercise undertaken in the previous two years. To mitigate this risk soft market testing has been undertaken to ascertain what the market would be interested in bidding for, and there was some interest. If it was agreed that a new brokerage contract should be procured then the time available to carry out this procurement is very limited. Experience from the current brokerage contract is that the contractor is trying to pass back as much material risk as possible on to the council. For example in the future under a new brokerage contract there could be a tension between the council making operational changes to the site to lower costs, and the broker claiming that the changes have affected their profitability and claiming compensation.

5.5 Equalities and Diversity

5.5.1 The Corporate Plan (2015-2020) sets the Strategic Equalities Objective, which is: that citizens will be treated equally, with understanding and respect, and will have equal access to quality services which provide value to the tax payer. Changes to policies and services are analysed in order to assess the potential equalities impacts and risks before final decisions are taken.

5.5.2 The future of Summers Lane CARC has been considered in terms of any impacts it would have on residents, traders and other service users. The two

options considered do not specifically define the nature of services that would be provided to residents, traders and other service users. The future service provider of Summers Lane CARC does therefore not have any direct implications for residents, traders and other service users. However service delivery will continue to be monitored to ensure there are no adverse outcomes on residents, traders and other service users. For information this site is for residents only and it is not permitted to accept waste from traders.

5.6 Consultation and Engagement

5.6.1 The options considered for the future of the site have been developed in conjunction with NLWA who have provided indicative financial information for the future.

5.6.2 In September 2014 a soft marketing exercise was undertaken with four potential providers. The outcome of this work has informed the development of the options.

6. BACKGROUND PAPERS

6.1 Options Evaluation

6.1.1 The following options have been evaluated, alongside soft market testing.

A) Letting a brokerage contract. This would mean the council procuring a brokerage contract from October 2015 for three years, and then continuing this cycle. The soft market testing indicated a two year contract with a one year extension would be suitable, there was some appetite in the market for this work, and gave an indication of the procurement timescale, which would be around seven months.

B) Transfer to NLWA. NLWA currently operates seven out of the nine CARCs in the North London area and they have indicated that they are keen to include Summers Lane CARC in this network, as it is their statutory duty to provide the service. The service would be provided by NLWA's contract LWL.

6.1.2 Letting a brokerage contract – a review of other London Authorities has been carried out, and Barnet is the only authority to operate a brokerage contract for the materials collected at a CARC. LB Lewisham operates a small CARC including the outlet arrangements. All other CARCs in London are operated by contractors and/or the joint waste disposal authority.

6.1.3 Transfer to NLWA – as stated elsewhere in this report NLWA operates seven CARCs in North London, via its contractor LWL, and has done so for over two years.

6.2 NLWA wide Inter Authority Agreement

6.2.1 The IAA is intended to set the framework for the governance of the relationship between NLWA and the seven constituent authorities. It is currently in draft form and the constituent authorities are considering the

document and if acceptable the document will be agreed by them; the NLWA and LB Camden have already delegated authority to finalise and agree the IAA. In Barnet the IAA will be subject to a separate report to Policy and Resources Committee at a later date.

- 6.2.2 One element of the proposed IAA relates to CARCs. For sites that have transferred to NLWA costs and performance will be shared according to usage, measured through a visitor survey. For non transferred CARCs the visitor survey allocation will not apply. The visitor survey was most recently carried out in 2014 and this showed that 12% of the users of Summers Lane CARC come from other boroughs, and that Barnet residents make a small use of other transferred sites. If Summers Lane CARC transfers approximately £90k of the site costs will be paid by other boroughs, and Barnet will need to make a payment of approximately £15k to other boroughs. This will have an overall negative impact of about 0.7% on Barnet's household recycling rate. If Summers Lane CARC does not transfer then Barnet will need to make a payment of £15k to other boroughs, and there will be a negligible contribution towards Barnet's household recycling rate.

6.3 Relevant previous decisions

- 6.3.1 The Leader and Cabinet Member for Resources, and the Cabinet Member for Environment and Transport authorised sign-up to the Memorandum of Understanding – North London Waste Authority procurement on 31 August 2008, Delegated Powers decision no. 630.

<http://barnet.moderngov.co.uk/ieDecisionDetails.aspx?ID=3916>

- 6.3.2 The Cabinet Member for Environment and Transport authorised sign-up to the North London Joint Waste Strategy on 29 August 2008, Delegated Powers decision no. 626.

<http://barnet.moderngov.co.uk/ieDecisionDetails.aspx?ID=3073>

- 6.3.3 North London Waste Authority – Inter Authority Agreement, Cabinet 14 September 2011, (decision item 9), which was that Cabinet agreed in principle to the signing of the Inter Authority Agreement, with the exception of Principle four, and that the Leader should write to the North London Waste Authority indicating such agreement in principle, subject to approval at a future meeting of the Cabinet.

<http://barnet.moderngov.co.uk/Data/Cabinet/201109141900/Agenda/Document%202.pdf>

- 6.3.4 North London Waste Authority – Inter Authority Agreement, Cabinet 3 November 2011, (decision item 8), which was that Cabinet agreed to sign the Inter Authority Agreement, and to authorise the Interim Director of Environment, Planning and Regeneration, in consultation with the Chief Finance Officer and the Cabinet Member for Environment to agree the final form of the Inter Authority Agreement.

<http://barnet.moderngov.co.uk/Data/Cabinet/201111031900/Agenda/Document%202.pdf>