

MAYOR OF LONDON

Cllr Richard Cornelius

Leader of the Council
London Borough of Barnet
North London Business Park
Oakleigh Road South
London N11 1LP

Date: 2 August 2018

Dear Cllr Cornelius,

London Environment Strategy – Withdrawal of Weekly Separate Food Waste Collection Service - Further consultation prior to the issuing of a potential Mayoral Direction concerning a Food Waste Service Review

This letter constitutes consultation with the Barnet London borough council (“Barnet”/ “the Council”) as required by section 356(4) of the Greater London Authority Act 1999 (“GLA Act”, as amended) that I am minded to give the Council a direction under section 356(1) of that Act.

Following my letter of 27 June 2018, and your reply of 28 June, you agreed to set aside a six-week period, within which further data and information that had been used to inform Barnet’s decision-making processes would be provided to my officers, so as to better understand and assess the decision (“the Withdrawal Decision”) made by your Environment Committee (“the Committee”) at its meeting on the 5 June 2018 to withdraw the current weekly kerbside separate food waste collection (“the Food Waste Service”/ “Service”) provided to all ground floor residents in your area. This information was provided to us on 12 July and has been thoroughly reviewed by my officers.

As I stated in that letter, the decision made by the Committee to withdraw the Service, stands in direct contradiction of specific provisions within my London Environment Strategy (“LES”/“the Strategy”) which require the Food Waste Service to be provided. This is set out at Proposal 7.2.1 (a) and supporting text (a copy of which is at **Appendix A**), and is the Strategy’s “separate food waste recycling requirement”. That requirement is a provision of the Strategy dealing with municipal waste management.

All waste authorities in London are under a legal duty to exercise their waste functions under Part II of the Environmental Protection Act 1990 (their “Part II Functions”) in general conformity with the provisions of the Strategy dealing with municipal waste management (“the waste management provisions”): see section 355(1) of the GLA Act. The Council is a waste collection authority for the purposes of section 355(1). The waste management provisions and Barnet’s Part II Functions include the collection and recycling of waste from residential properties.

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The London Environment Strategy was published on 31 May 2018 and was in legal force on the date the Committee took the Withdrawal Decision. The Strategy's contents had been widely communicated and Barnet responded to the consultation draft of the LES¹, not specifically mentioning any issues or concerns about what is now Proposal 7.2.1 (a) (separate collection of food waste), and stating only that it already meets the minimum service requirement for the separate collection of food waste. No indication was given by the Council of any intention to withdraw the Food Waste Service.

The relevant report (Street Scene Operational Changes 2018-19: "the Report") to the 5 June Committee meeting includes the recommendation to withdraw the Food Waste Service (the "Service Change 2" referred to in the Report) in order to make an in-year (2018/19) financial saving of £300,000 per annum and £300,000 per annum thereafter.

The Report did not refer to the Strategy's separate food waste recycling requirement, nor to Barnet's statutory duty to perform its waste functions in general conformity with it. Neither did it mention or indicate how the Council proposed to offset or make-up the consequent reduction in recycled waste in order to meet the 50 per cent (by 2025) Local Authority Collected Waste (LACW) recycling target or its 50 per cent per head reduction in food waste target requirement by 2030.

The Relevant Decision by the Committee is directly contrary to the Strategy, published on 31 May 2018, which provided that waste authorities in London to provide weekly kerbside collection of food waste, by 2020 at the latest (Proposal 7.2.1 (a) and supporting text). It was fundamentally flawed and unlawful.

Following my officers' detailed review of the data and information submitted by the Council's officers on 12 July, I have concluded the following:

- 1) The Committee's decision to withdraw the Food Waste Service seems to contradict earlier analysis and decision making on its part. In the Committee's own report (the update to the Environment Section of the Council Medium Term Financial Plan (MTFP) for 2018 to 2020²), in the appendix, line ref 2, the report talks of seeking to enhance the Council's food waste offer and to drive its performance improvement along with dry recycling.
- 2) The only options analysis undertaken by officers in the Report, and so considered by the Committee, was the comparison between maintaining the Food Waste Service and its total and immediate withdrawal. Whilst there are clearly a range of options that sit within these two, they were not explored in the Report or with the Committee at the meeting. For example, options might have included measures to enhance collected volumes of food waste, such as 'bin' volume of residual waste, round structures and logistics, or household education and promotion.
- 3) From information provided by the Council, it is clear that, as the Service is currently operated, it performs poorly. As a consequence, it is not as cost effective as it might be (on a per tonne collected basis). Data provided by the Waste and Resources Action Programme (WRAP) on their separate weekly food waste collection trials found an average (UK) per household collection weight of 68kg per annum (when combined with weekly collection of residual waste, higher if fortnightly). On this basis, Barnet's food waste collection scheme should be looking to collect in the region of 7,000 tonnes per annum (68kg multiplied by 102,000 properties eligible to receive the service), rather than the 5,000 tonnes, and declining (estimated at 4,600

¹ The Draft LES was subject to public and stakeholder consultation between 11 August and 17 November 2017 and contained Proposal 7.2.1 (a).

² <https://barnet.moderngov.co.uk/documents/s43101/Appendix%20A%20Environment%20Committee>.

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tonnes currently) as at present. If Barnet could identify options for increasing volumes of collected food waste, the cost savings available on the disposal side could go some way to enhancing the cost effectiveness of the Service, as opposed to keeping the waste in the residual bin and incinerating it as proposed. It is not clear on the evidence presented that the Council has identified the best value solution.

- 4) The background information and analysis provided in the Report to justify the recommendation to withdraw the Service makes the un-evidenced assertion and assumption that this current poor performance is incapable of being changed and/or improved.

From analysis it is clear that:

- A. The Food Waste Service has been treated in almost total isolation of other waste collection and recycling services in the borough. Evidence from other authorities performing well on food waste recycling suggests that a more system wide perspective, incorporating the full range of resources and operations mobilised across dry recycling, residual collection and garden waste, offers the fullest range of options and choices (for example, the utilisation of staff resource across shared collection rounds, control of residual collection volumes via bin size or collection frequency, shared /modified fleet etc). These alternatives do not appear to have been presented to the Committee previously or put to Committee members in the report.
- B. The financial case presented for the Service's withdrawal, does not adequately account for and deal with the issue of sunk capital investment. While this is understandable to the extent that the priority is to make in-year savings in revenue budgets, it does suggest a very short-term perspective, which ignores capital investment made to date and its ability to support cost effective service delivery in the medium to longer term. Given the Mayor's requirement that all waste authorities have separate weekly kerbside food waste collection in place by 2020, it appears highly unlikely that Barnet would be able to re-introduce the Service at a later date within the next 16 months. And, even if it did, it would represent an inefficient use of existing and productive capital infrastructure.
- C. No detailed information is provided as to how, in the absence of the Service, and with a clear plateauing of Barnet's dry recycling performance, the Council would seek to sustain and drive further improvements towards its own recycling target of 50 per cent household waste by 2020 and contribute to the Mayor's London-wide Recycling target of 45 per cent household recycling by 2025 and 50 per cent by 2030 - let alone credibly and cost-effectively restore the Service by the backstop date of 2020 as required by the LES.
- D. The Report makes significant environmental claims about the preferred option: withdraw separate food waste collection and leave food waste in black bin for onward incineration. It claims that the current onward processing of food waste by Anaerobic Digestion (AD) is equal in environmental terms to leaving food waste in the black bins for onward processing by incineration at Edmonton. Indeed, it goes further and suggests that given Edmonton is nearer than the AD plant in Hampshire, its incineration is environmentally preferable. No evidence for this claim is submitted beyond the referencing of the waste hierarchy. The Government's own advice on the waste hierarchy and indeed all research and evidence supports the separate collection of food waste and processing by AD as the most environmentally beneficial route for food waste. This is so even allowing for transport movements of the collected waste for processing.

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GLA Act 1999 powers

Under section 356(1) of the GLA Act, where I consider it necessary to do so for the purposes of the implementation of the Strategy's municipal waste management provisions, I may give to a waste collection authority in Greater London a direction requiring that authority to exercise a function in a manner specified in the direction. The functions in question are not limited to Part II Functions and may concern any relevant function of the authority. When a direction is given the authority concerned must comply with it: see section 356(5). The power to give a direction under section 356(1) may be exercised generally or specifically. I am required to consult with the authority concerned before giving any direction under that section: see section 356(4)(b). This letter fulfils that consultation requirement.

Considering the submitted evidence by the Council and my officers' subsequent analysis, I am minded to issue a direction under s 356(1) of the GLA Act ("the Direction") to undertake a Food Waste Service Review in the terms (or similar) set out in **Appendix B**, as being necessary for the reasons stated above.

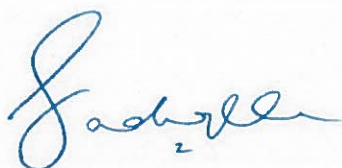
Conclusion

I genuinely hope you find my proposal for a Food Waste Service Review helpful as a way forward and that it will not be necessary to issue a statutory direction. While I appreciate that Barnet, like all local authorities across London, faces a challenging short, medium and long term financial environment, I am not convinced that its decision to withdraw its weekly separate kerbside food waste collection service has been made in full recognition of the wider choices available that could, potentially, save more money for the Council and its residents in the future.

The opportunity for the Council to engage with external experts in understanding how the waste collection and recycling services can be optimised is I feel a valuable one. It has the potential to furnish the authority with the full breadth and depth of options and choices that will enable it to implement measures to enhance the performance and cost effectiveness of its entire waste recycling and collection services and to lay the foundation for even higher recycling in the future.

I request you to formally respond to this letter, for the purposes of section 356(4)(b) of the GLA Act no later than **8 August 2018**. Given the need to scope the food waste service review, procure external support and deliver the review within four months, I consider a response by 8 August to be reasonable notice. Please provide confirmation of your agreement by signing a copy of this letter.

Yours sincerely,



Sadiq Khan
Mayor of London

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Appendix A (Proposal 7.2.1a and supporting text)

Policy 7.2.1 Increase recycling rates to achieve a 65 per cent municipal waste recycling rate by 2030

Proposal 7.2.1.a The Mayor will set targets for local authority collected waste, a minimum level of service for household waste recycling collections and hold a contract register of waste authority waste contracts

The Mayor expects waste authorities to collectively achieve a 50 per cent LACW recycling target by 2025 and aspire to achieve:

- a 45 per cent household waste recycling rate by 2025
- a 50 per cent household waste recycling rate by 2030

As circular economy business models (such as promoting sharing, leasing, design for durability and predictive maintenance) and material specific policies take hold, the amount of waste produced or that can be recycled will fall. The Mayor will keep his recycling targets under review, based on the progress of London's transition to a circular economy.

This will encourage materials to be used at their highest value for as long as possible, and avoid incentivising recycling over and above the more desirable options of reduction and reuse. To help them achieve the recycling targets, waste authorities should deliver the following minimum level of service for household recycling:

- all properties with kerbside recycling collections to receive a separate weekly food waste collection
- all properties to receive a collection of, at a minimum, the six main dry recycling materials, i.e. glass, cans, paper, card, plastic bottles and mixed rigid plastics (tubs, pots and trays)

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APPENDIX B

Proposed statutory direction

The Barnet London borough council ("Council") shall exercise all or any of its relevant functions to secure the following outcomes.

1. For a period of four months from the date of the Direction ("the Review Period") the Council shall continue to provide, or (if it has ceased) the Council shall immediately restore, the Food Waste Service to every household that received it prior to 5 June 2018, to be performed in the identical manner in which that Service was performed before that date. (To clarify, I do not require any new households after 5 June 2018 to be provided with the Service.)
2. The Council shall not within the Review Period make (by itself or by any third party) any specific or announcement or communication by any means to the effect that the Food Waste Service is or will be withdrawn, as such notification is considered to be in essence the beginning of the Service's withdrawal as it is likely that residents will stop separating food waste from their other waste.
3. Within the Review Period the Council shall undertake a Food Waste Service Review ("FWSR") focussing on the cost-effective delivery of food waste recycling collections and its interaction with all associated current waste collection and recycling services provided by the Council pursuant to its Part II Functions.

(a) The aims of the FWSR are to:

- Provide an independent, third party and expert view on the full range of options available to the Council in seeking to both improve the current performance of the Food Waste Collection Service (and, inter alia, other recycling and waste collection services), and to do so in a manner consistent with its best value duties: economically, efficiently and effectively.
- Provide to the Council's decision makers with a more complete range of choices as to how they structure and manage the Service going forward.
- To give the Mayor confidence that a full range of options have been framed, explored, analysed and implemented in conformity with the relevant provisions of the LES.

(b) The general scope of the FWSR will cover the minimum matters (others to be added with the agreement with the Mayor):

- The Food Waste Collection Service
- All other relevant or associated waste collection and recycling services (specifically, but not exclusively, dry recycling, residual and garden waste).
- The system-wide treatment of all included waste collection and recycling services and all key issues impacting cost and performance.
- The presentation of all system wide options that allow for continuation of, enhanced performance of and cost reduction of the Service itself and 'whole system' (all waste and recycling services) costs and performance.
- Onward processing and disposal costs.

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4. The FWSR may be undertaken (at the Council's choice) by external consultants ("FWSR Consultants") appointed procured by either:
 - (a) Resource London through its WRAP framework, in which case the costs of the FWSR and FWSR Consultants will be entirely met by Resource London. (Resource London is already resourced to provide this service to Barnet free of charge. In addition, Resource London will be able to assist in the detailed scoping of the FWSR, ongoing project management and the finalisation of the Review's recommendations.)
 - (b) The Council, where the Council shall be entirely responsible for the full costs of the FWSR and FWSR Consultants.
5. In either case the FWSR Consultants' appointment shall provide that the Greater London Authority (GLA) will be a joint client with the Council and they shall owe a professional duty of care to the GLA as well as to the Council, and afford GLA officers access to all relevant information considered in the FWSR and supplied by the Council for that purpose.
6. The Council will make available the necessary resources (including staff and their time), participate in and undertake the FWSR and act in good faith to the GLA and FWSR Consultants with a view to achieving the aims of the review as set out in paragraph 3(a) above.
7. Subject to paragraph 3(b) above, the Council shall:
 - (a) Develop and sign off the FWSR specification with the GLA.
 - (b) Fully commit to the fundamental service review and to provide all support, data and information as required by the FWSR Consultants to enable them to prepare their report.
 - (c) Ensure that GLA officers receive all interim and milestone reports from the external consultants.
 - (d) Ensure that the draft final report by the FWSR Consultants are provided to the GLA at the same time as it is provided to the Council, preferably through a joint reporting agreement as formalised in the FWSR Specification.
8. At the end of the Review Period and, following the delivery of the agreed FWSR Consultants' report and its recommendations, the Council shall then inform the GLA, having been given a full range of options beyond either simply keeping the Service as currently performed, how it intends to proceed.
9. The Council and GLA will, at this point, jointly review the situation and any further action required.
10. This Direction is without prejudice to my powers to make any further or subsequent direction under section 356(1) of the GLA Act including a direction to extend the period length of the Review Period above and/ or to continue provision of the Service as referred to in paragraph 1 above.