

# Cheshire East Council

## Cabinet Member for Regeneration

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<b>Date of Meeting:</b>	11 <sup>th</sup> September 2017
<b>Report of:</b>	Jan Willis, Director of Finance and Procurement (Section 151 Officer) and Peter Bates, Chief Operating Officer
<b>Subject/Title:</b>	Food Waste Collection, Organic Waste Treatment Solution
<b>Portfolio Holder:</b>	Cllr Don Stockton (Regeneration)

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### 1. Report Summary

- 1.1. The Council is seeking to provide a food waste recycling collection as part of our garden waste recycling service. This is an aspiration of our waste strategy to reduce the disposal of food waste to landfill, which currently accounts for 40% of our residual black bin waste.
- 1.2. Following a Cabinet decision of 9<sup>th</sup> May 2017, authorisation was given to the Corporate Manager for Waste and Environment Services as the Senior Responsible Officer for the Organic Waste Treatment Procurement, in consultation with the Chief Operating Officer and the Director of Legal Services, to clarify, specify and optimise the Preferred Bidder's final tender to enable the Council to enter into a legally binding contract with the Preferred Bidder.
- 1.3. This clarification, specification and optimisation process of the Preferred Bidder's final tender has now been satisfactorily completed and has produced a final set of contract documents ("the Contract").
- 1.4. The final decision to award the Contract to the Preferred Bidder was delegated by the 9<sup>th</sup> May 2017 Cabinet to the Portfolio Holder for Regeneration.

### 2. Recommendation

- 2.1. That the Portfolio Holder for Regeneration give approval to enter into the Contract with the Preferred Bidder.
- 2.2. That, subject to the Contract being awarded to the Preferred Bidder, the Portfolio Holder for Regeneration give approval for the Council to lease part of the site at Leighton Grange Farm as identified in the Contract to the Preferred Bidder.

### **3. Other Options Considered**

- 3.1. The Council has previously investigated an alternative collection methodology for food waste in which it would be collected separately in an additional container with a new dedicated vehicle collection system. This method was rejected as it was estimated it would increase revenue costs by an additional £2million a year.
- 3.2. The Competitive dialogue procurement also sought to identify a potential gate fee bid at an existing facility (Lot 2). The Council only received one incomplete bid in this section. Due to the increase in revenue costs and distance of this facility from Cheshire East this bid has not been progressed.
- 3.3. The Council could continue to collect food waste in the residual waste bin for disposal. Not recycling food waste however would increase costs and endanger the Council's ability to achieve future recycling targets.

### **4. Reasons for Recommendation**

- 4.1. Throughout the procurement process the Council sought to achieve a number of key objectives:
  - To provide the infrastructure for organic waste treatment as set out in the Waste strategy.
  - To maintain the current three bin kerbside waste and recycling collection system.
  - To increase the Council's recycling rate through the collection of food waste.
  - To provide a cost effective recycling solution for food waste in the garden waste bin.
  - Not to exceed the current revenue costs of processing food and garden waste.
  - To reduce disposal costs and the environmental impacts of not recycling food.
  - To provide a quality soil improving recycled compost.
  - To enable the Council to receive a share in profit from the acceptance of commercial waste at the facility.
  - To enable the Council to receive a share in profit from the sale of any energy generated by the process.
- 4.2. This procurement process has delivered on all the aims that it set out to achieve except for the provision of local energy. It sought the most economically advantageous outcome for the Council from an ongoing revenue spend perspective.
- 4.3. The opportunity for a 10% share of the commercial element of the waste and sale of completed compost from the new processing plant, in addition to a highly competitive gate fee, is to be commended.

- 4.4. On the national strategic level, there is a target for the Council to recycle 50% of its waste. Wales and Scotland have set a target to recycle 70% of their waste by 2025 whilst the European Commission has recently adopted its revised Circular Economy package, with a 65% recycling target by 2030. If we are to deliver on these targets, the Council needs to collect food waste, which makes up over 40% of the waste going to disposal.

## **5. Background/Chronology**

- 5.1. On 29<sup>th</sup> September 2015, Cabinet resolved that the Portfolio Holder and Chief Operating Officer should carry out a market engagement and undertake a procurement process to identify and engage a joint venture partner with the intention of entering into a contract to design, finance, build and operate a facility to recycle co-mingled green and food waste from domestic collections.
- 5.2. In addition it resolved that - further Cabinet approval be sought to enter into a contract with the preferred bidder following either a competitive dialogue or competitive procedure with negotiation procurement route.
- 5.3. In May of 2016, the Council began a competitive dialogue procurement process seeking a solution for the recycling of mixed food and garden waste to enable food waste recycling in the garden waste bin. The Council set out a target gate fee for acceptance of this waste of £25.00 per tonne however our overall affordability taking account current disposal cost of food waste is £39.00 per tonne. The documents identified two options for the proposed facility. Lot 1, which was to design, build and operate a plant on Council-owned land under a 15-year contract. At the end of the contract the facility would revert to Council ownership. Lot 2, which was to collect the waste from the Council's facility at Cledford Lane and haul it to an existing facility, either owned by or contracted to the bidder, also under a 15-year contract.
- 5.4. Seven companies/consortia responded positively to the procurements initial stage of a pre-qualification questionnaire. After evaluation, one company was deemed to have failed the evaluation criteria for both lots and were eliminated and notified accordingly. The other six companies were invited to submit outline solutions.
- 5.5. Outline Solutions were submitted in August 2016 by three companies. Dialogue meetings have been held with all 3 bidders who proposed different methods of recycling the waste, at very different capital costs. Following further dialogue, final tenders were received in March 2017; two bids were received for lot 1 and one for lot 2. The bids were subject to an appropriate evaluation process resulting in a preferred bidder emerging.
- 5.6. The proposed preferred bidder (lot 1 Bidder1) is offering a relatively simple, in-vessel composting plant, sited at the rear of the Council-owned Leighton Grange Farm, adjacent to the existing sewage works. The plant has an annual processing capacity of 60,000 tonnes. The solution is sized for Cheshire East's Waste of between, 40,000 – 45,000, with an additional capacity of 15,000 – 20,000 tonnes for commercial food waste. This will be assessed

during the tender optimisation phase to ensure the plant has capacity for the projected housing growth.

## **6. Wards Affected and Local Ward Members**

- 6.1. All Wards. If the Portfolio Holder approves the award of the Contract to the Preferred Bidder, the new in-vessel composting facility will handle green and food co-mingled waste for the whole of Cheshire East. The proposed site for the facility at Leighton Grange farm is within the Leighton Ward.

## **7. Implications of Recommendation**

### **7.1. Policy Implications**

- 7.1.1. Realising value from waste streams is a key objective of the Council's waste strategy. The following high level objectives of the waste strategy are relevant:

- to continue to exceed national targets for recycling;
- to provide all households with a simple, easy to use, kerbside recycling collection service and work to increase the types of recyclable materials collected;
- ensure that residual waste is managed to support waste prevention, reuse and recycling, minimising waste produced; and
- to reduce disposal to landfill to 0 and achieve 100% disposal to waste to energy generation.

### **7.2. Legal Implications**

- 7.2.1. The value of the proposed contract with the Preferred Bidder is above the applicable EU threshold and the award of the contract is therefore subject to the Public Contracts Regulations 2015 ("PCRs"). The PCRs require the Council to treat all economic operators equally and without discrimination. In addition, the Council must act in a transparent and proportionate manner.
- 7.2.2. The Council has followed the Competitive Dialogue procedure, which is a compliant procedure under the PCRs. In addition, the Council has fully complied with its own Contract Procedure Rules during this project. The use of the Competitive Dialogue procedure has allowed the Council to test the market whilst remaining technology neutral.
- 7.2.3. From the inception of this project, the Council has engaged external legal, technical and financial experts to act as specialist advisors. In particular, Sharpe Pritchard were appointed as the Council's legal advisors and have advised on the choice of procurement route, the structuring of the Competitive Dialogue, the procurement documentation and the draft contractual documentation. This use of external experts to supplement the Council's internal departments has ensured that a robust and compliant procurement process has been followed throughout.

- 7.2.4. The Preferred Bidder's final tender has been clarified, specified and optimised to produce the Contract. Appendix A to this report is confidential and contains legal advice in relation to the Contract.

### **7.3. Financial Implications**

- 7.3.1. The Council's approved budget contains the capital funding allocation for this project over three years. A capital funding contribution is required under the contract in addition to the Council's capital costs of land overage, access road, highways works and the purchase of food waste caddies. These costs will be managed within the approved capital budget allocation.
- 7.3.2. The Council capital contribution to the plant will only be made following independent acceptance testing of the plant to prove it operates to the required standards at the end of the build and commissioning period.
- 7.3.3. The revenue impact of operating the plant are outlined in the high level business for the project. Financial aspects of this contract have been covered in a high level business case. The collection of food waste within the garden waste bin will require a service change in stopping the current winter suspension of the garden waste collection service. This is partly offset by reduced processing costs under this contract and potential savings associated with income share from commercial food waste processing and sale of compost. This will leave an ongoing revenue increase, however that will need to be accounted for in future revenue business planning.

### **7.4. Equality Implications**

- 7.4.1. The award of the Contract will result in the development of an in-vessel composting facility which, if successfully delivered by the Preferred Bidder, will result in a borough wide scheme recycling of food waste. The Council operates an assisted bin collection service for residents who have difficulty moving their bins. The collection of food waste will be covered by this scheme.

### **7.5. Rural Community Implications**

- 7.5.1. The development of the preferred solution has the potential to make a positive impact across all rural communities in terms of the processing of food and garden waste.

### **7.6. Human Resources Implications**

- 7.6.1. The preferred solution does not currently require additional resourcing. However, any project would need to be considered on merit and weighed against the business case.

### **7.7. Public Health Implications**

- 7.7.1. The collection and treatment of food and garden waste in the preferred solution's facility will have a positive impact through minimising waste to

landfill and producing quality compost that will contribute to lower carbon emissions. It uses a tried and tested methodology.

7.7.2. The Recycling of food waste is also known to have a positive effect of making residents more aware of the amount of waste food they recycle leading to behaviour change contributing to a reduction in the amount of food prepared. Over the past decades, there has been a trend towards increasing portion sizes in many prepared food products. People may thus find it difficult to consume appropriately sized food portions (particularly when concerned about throwing away food) and it is well accepted that excessive portion size is a contributory factor to the development of obesity due to excess energy intake. It is of note that two thirds of Cheshire East adults are currently classified as overweight or obese.

7.7.3. Recycling food waste can also make people aware of the value of wasted food they are recycling which can change purchasing habits. The purchase of excessive food can have other negative public health outcomes through indirect effects e.g. unnecessary transportation of food to point of purchase and consumption and thus detrimental impacts on air quality. Whilst the additional provision of food recycling locally cannot mitigate against this, such provision would ensure that better options for managing the resultant food waste exist.

## **7.8. Implications for Children and Young People**

7.8.1. There are no specific implications for Children and Young people identified.

## **7.9. Other Implications (Please Specify)**

7.9.1. With the surrounding authorities to Cheshire East now collecting food waste and a move from Europe to ban food waste going to landfill it is likely that in the future the demand for food waste collection will increase. The development of this preferred solution will provide a long-term disposal route for this increased demand across the borough.

## **8. Risk Management**

8.1. The following is a non-exhaustive list of those items which are considered the greatest risks to the success of this exercise:

- Planning consent – There is a risk of the Preferred Bidder failing to secure planning consent on the Leighton Grange Farm site. This has been dealt with contractually by allowing the Council to either oblige the Preferred Bidder to propose a Revised Project Plan or to terminate the Contract at that point. A pre-application meeting has been undertaken with regard to the site at Leighton Grange, information from which has been made available to all bidders for them to assess the likelihood of gaining planning permission, should they use our site.

- Non-performance by the Preferred Bidder during construction - In the event that the Preferred Bidder's construction is delayed, they will still be contractually obliged to accept delivery of the Council's combined food and garden waste and, if they are unable to process it at the new facility, they will haul it to another suitable recycling facility at no additional cost until the new facility is operational.
- Non-performance by the Preferred Bidder during operation – Suitable contractual obligations introduced to safeguard the Council's position in the event the Preferred Bidder's performance is below standard or non-existent.

## 9. Access to Information/Bibliography

- 9.1. In accordance with paragraph 19.4 of the access to information procedure rules, Appendix A Details of Contract is available to members on request (subject to appropriate steps being taken to protect any confidential or privileged information). *This Report contains exempt information as defined in Paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972 (Information relating to the financial or business affairs of any particular person (including the authority holding that information)) and is therefore not for publication).*

## 10. Contact Information

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