

Reintroduction of blue bins to Arboretum, Normanton and Mackworth

Purpose

- 1.1 The Council has reviewed its waste collection in Arboretum, Normanton and Mackworth and is looking to offer additional recycling collections within this area. This will aid in meeting Government targets for reducing the volume of waste sent to landfill as well as positively contributing to the city's Climate Emergency status.

- 1.2 Cabinet considered a report on 15th May 2013 which covered a number of waste related items. One part of this report was to remove the dry recyclable service (blue bins) from a number of properties within the inner city wards (Arboretum, Normanton and Mackworth) due to high levels of contamination and bins on streets issues.

- 1.3 To review the current situation regarding the collection of dry recyclables and recommend provision of a collection service in the city that complies with the Environmental Protection Act 1990 (EPA).

Recommendations

- 2.1 To agree to introduce an-opt in service for blue bins within Arboretum, Normanton and Mackworth.
- 2.2 To approve the implementation of the service on a staged approach:
- Asking those households who may still have a blue bin to register by 30th September 2019 to be confirmed to participate in the service from 5th November 2019
 - Asking households, who wish to take part in the service and require a new blue bin, to register by 30th September 2019 to be confirmed to participate in the service from 17th December
- 2.3 To approve the inclusion of £12.5k in the 2019/20 capital programme to cover the cost of the purchase of the new bins to be funded from Direct Revenue Finance, this amount assumes an initial 5% sign up to this scheme (based on an estimated 11,000 properties currently without blue bins).

Reasons

- 3.1 To enable residents within the inner city wards to positively contribute to the city's recycling objective.
- 3.2 It is estimated that the introduction of this service, in addition to the services already offered and the new Garden Waste Scheme currently being implemented will help the Council to meet the government's targets for reducing the volume of waste sent to landfill by recycling at least 50% of household waste by 2020.
- 3.3 The current service offered by the Council does not comply with obligations under the EPA.
- 3.4 Offering an opt-in service along with the new garden waste service satisfies the Council's obligations under the EPA.
- A staged approach will allow the Council to communicate and engage with local residents to maximise the use of blue bins that are still within the community, therefore minimising the cost of providing new bins, and will also enable the Council to engage with local communities to maximise the benefits of the scheme.
- 3.5

Supporting information

4.1 Duty to collect recycling under the Environmental Protection Act 1990

Waste collection, including of recyclables, is the responsibility of the Local Authority acting as a Waste Collection Authority ('WCA'). A WCA in England is the District, Metropolitan, City Council or the Unitary Authority (s30 Environmental Protection Act 1990 ('EPA 1990')).

Under s45(2) EPA 1990, WCAs have a duty "to arrange for the collection of household waste from any premises". Under s45A(3) EPA 1990, this duty is further specified as requiring the WCA to make arrangements for "the collection of at least two types of recyclable waste together or individually separated from the rest of the household waste." Together, these sections imply an obligation to separately collect at least two types of recyclable material from every household. Types of recyclable waste are defined as: batteries, garden waste, glass, hazardous liquid waste, catering, metals, paper products, plastics, textiles and shoes, waste electrical and electronic equipment, and wood.

The duty to collect at least two types of recyclable waste under s45 EPA 1990 will not apply where the WCA is satisfied that the cost of doing so would be unreasonably high (in respect of an individual premises) or where a WCA has already made comparable alternative arrangements (in respect of an area within a WCA), for example a doorstep recycling scheme, or a central collection point for a small area (such as a singular street).

The WCA also has a duty to collect recyclable waste materials separately under the Waste Regulations 2011. Regulation 13 Waste (England and

Wales) Regulations 2011 (SI 2011/988) originally specified that co-mingled collection of four different recyclables (that is, collecting recyclable paper, metal, plastic and glass together, with a view to their subsequent separation for recycling at the materials recovery facility) was a valid form of separate collection. However, regulation 13 was amended by the Waste (England and Wales) (Amendment) Regulations 2012 (SI 2012/1889) to remove the provision that co-mingling was a valid form of separate collection, following a Judicial Review challenge by the Campaign for Real Recycling.

The duty to collect recyclable waste material separately under the Waste Regulations 2011 only applies where a separate collection is both necessary and practical. Co-mingling will be permissible where it provides high quality recyclates or where a separate collection is not technically, environmentally and economically practicable.

Failure to comply with the obligations under the EPA could result in Judicial Review proceedings being brought by citizens, whereby the Court assesses the lawfulness of a decision or action by a Public Body, or prosecutions being brought by the Environment Agency.

Public/stakeholder engagement

- 5.1 The Council will communicate and engage with local residents in the relevant areas to ensure the benefits of the scheme are understood and maximised for the communities and for the Council.

Other options

- 6.1 Deliver a blue bin to every household within the inner city wards which is estimated to be approximately 11,000 properties at a capital cost of £220,000 and is therefore not value for money. This would also increase the risk of contaminated bins which will in turn increase contamination costs at the waste treatment facilities and an increase in the number of bins stored/left on streets which negatively affects the street scene and reputation for the Council. This would likely require an additional vehicle and crew at further additional cost.

At the time that blue bins were removed from properties a number of mitigating options were offered to residents, including 'Bring Sites'. Unfortunately these were unsuccessful.

- 6.2 The do nothing option could result in further complaints and run the risk of potential legal action as outlined in the legal implications below.

Financial and value for money issues

- 7.1 The dry recycling duty has an estimated revenue impact of an additional £45k in 2019/20 and then an ongoing requirement of £23k. The additional costs will be identified and managed from within existing resources and budgets within the Waste service.

Legal implications

- 8.1 In order to comply with the duty in the EPA, Derby City Council must offer and arrange for the collection of at least two types of recyclable waste separate from the household waste black bin.

With the current arrangements, not all properties are offered this, meaning the Council does not comply with the Environmental Protection Act 1990. This may result in Judicial Review proceedings or prosecutions being brought against the Council.

Judicial Review proceedings can result in a number of orders being made against the Council (quashing order; prohibiting order; mandatory order; declaration; injunction; and/or, damages) of which the primary concern would be the payment of damages to whichever claimant.

The Environment Agency may prosecute a person or business they believe has committed a crime against the legislation they enforce. This could be a specified maximum fine, unlimited fine or imprisonment.

Other significant implications

- 9.1 Not applicable

This report has been approved by the following people:

Role	Name	Date of sign-off
Legal	Florence Harper	21/05/2019
Finance	Amanda Fletcher	25/06/2019

Service Director(s)
Report sponsor
Other(s)

Richard Antcliff
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Background papers:
List of appendices: