

Public Document Pack



NOTICE OF MEETING

Meeting	Executive Member for Policy and Resources Decision Day
Date and Time	Wednesday, 29th July, 2020 at 9.00 am
Place	Remote Meeting
Enquiries to	members.services@hants.gov.uk

John Coughlan CBE
Chief Executive
The Castle, Winchester SO23 8UJ

FILMING AND BROADCAST NOTIFICATION

This meeting may be recorded and broadcast live on the County Council's website.

AGENDA

DEPUTATIONS

To receive any deputations notified under Standing Order 12.

KEY DECISIONS (NON-EXEMPT/NON-CONFIDENTIAL)

None

NON KEY DECISIONS (NON-EXEMPT/NON-CONFIDENTIAL)

- 1. HOUSEHOLD WASTE RECYCLING CENTRE SERVICE, CROSS BORDER TRANSITIONAL ACCESS AGREEMENT WITH WEST BERKSHIRE COUNCIL (Pages 3 - 8)**

To consider a report of the Director of Economy, Transport and Environment seeking an extension of a year (to the 31st July 2021) of arrangements to enable permit holding residents in the North West of Hampshire to continue to use the Newton Road Household Waste Recycling Centre (HWRC).

- 2. DESIGNATION OF APPROPRIATE OFFICERS UNDER THE HEALTH PROTECTION (CORONAVIRUS, RESTRICTIONS) (NO 2) (ENGLAND) REGULATIONS 2020 AND HEALTH PROTECTION (CORONAVIRUS, RESTRICTIONS (ENGLAND) (NO 3) REGULATIONS 2020 (Pages 9 - 16)**

To consider a report of the Chief Executive on a proposal to delegate the necessary authority and to designate functions to appropriate officers to enable the County Council to effectively exercise its powers under the Health Protection (Coronavirus, Restrictions) (No 2) (England) Regulations 2020) and the Health Protection (Coronavirus, Restrictions) (England) (No 3) Regulations 2020.

KEY DECISIONS (EXEMPT/CONFIDENTIAL)

None

NON KEY DECISIONS (EXEMPT/CONFIDENTIAL)

None

ABOUT THIS AGENDA:

On request, this agenda can be provided in alternative versions (such as large print, Braille or audio) and in alternative languages.

HAMPSHIRE COUNTY COUNCIL

Decision Report

Decision Maker:	Executive Member for Policy and Resources
Date:	29 th July 2020
Title:	Household Waste Recycling Centre Service, Cross Border Transitional Access Agreement with West Berkshire Council
Report From:	Director of Economy, Transport, and Environment

Contact name: James Potter

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Email: James.potter@hants.gov.uk

Purpose of this Report

1. The purpose of this report is to formalise the agreement between Hampshire County Council and Basingstoke and Deane Borough Councils (BDBC) to jointly fund the continuation, for up to 12 months, of the transitional arrangement between Hampshire County Council and West Berkshire Council regarding access for permit holding Hampshire residents to the Newbury Household Waste Recycling Centre. This paper also seeks approval to undertake a review of the site near Kingsclere, locally identified as a potential HWRC site to serve the service gap in the North West of Hampshire.

Recommendations

2. That the Executive Member for Policy and Resources approves the extension of the transitional arrangements with West Berkshire until 31 July 2021, to enable permit holding residents in the North West of Hampshire to continue to use the Newton Road Household Waste Recycling Centre (HWRC) in Newbury, with costs to be shared equally with Basingstoke and Deane Borough Council.
3. That the Executive Member for Policy and Resources approves spend of up to £85,000 to meet Hampshire's share of the extension of the transitional arrangements, to be met from corporate contingencies.
4. That the Executive Member for Policy and Resources approves a review of the feasibility of a potential site for an HWRC at Kingsclere, including consideration of the land interests and other specific site issues, as well as the wider operational context and considerations, to inform a potential business case for a new HWRC facility serving North West Hampshire.
5. That authority is delegated to the Director of Economy Transport and Environment in consultation with the Head of Legal Services to finalise and

enter into the necessary agreements with both Basingstoke and Deane Borough Council and West Berkshire Council.

Executive Summary

6. This paper seeks to set out the background to this decision and the agreement that it would authorise between Hampshire County Council and Basingstoke and Deane Borough Council to co-fund the continuation, for up to 12 months, of the transitional arrangement between Hampshire and West Berkshire Councils regarding access by Hampshire residents to the Newbury HWRC. The paper also sets out the need for the full and proper evaluation of a site near Kingsclere, locally identified as a potential HWRC site, and the completion of feasibility testing including land, planning, and site specific issues as well as the wider operational context and considerations.

Contextual information

7. In November 2015 the Executive Member for Economy Transport and Environment approved the cessation of the on-going voluntary payment that Hampshire County Council made to West Berkshire Council (WBC) to enable its residents to access HWRCs in West Berkshire.
8. In October 2016, a one-year transitional agreement was reached to extend this arrangement as the Cross Border Charging system that Hampshire County Council was planning to introduce had been delayed. This arrangement has subsequently been extended, by agreement, and was due to cease on 31st July 2020, confirmed by a Decision taken on 2nd July 2020 to implement the Hampshire County Council cross border charge from 1st August 2020.
9. We are currently in the midst of the coronavirus pandemic, which initially saw all the HWRCs in Hampshire close in line with the Government's "Stay at Home" message. The HWRCs re-opened on 11th May with restrictions in place to maintain a social distance of 2m, in line with Government Guidance, to ensure the safety of both site staff and users.
10. These measures reduced capacity at the HWRCs to about 25% of pre-covid levels while the demand for this service remained high, so that long and disruptive traffic queues with waiting times of over 2 hours became a common occurrence.
11. In order to alleviate the problems that these queues were presenting to other road users and local businesses that were also attempting to re-open, a Booking System was introduced on 15th June. Whilst through the careful management of this system it has been possible to increase the capacity available at the HWRCs (from c. 25% to c. 40%), the available capacity is still outstripped by demand for the service by residents, particularly in the north west of the County.
12. Despite having the largest HWRC network of any Council in England, the service gap in the North West of Hampshire (i.e. where residents need to drive 10 miles or more to reach their nearest HWRC) is recognised but not unique. This has resulted in regular reviews of any potential sites to expand the capacity in the Basingstoke and North West Hampshire area. The most

recent review resulted in only 3 sites being identified, each with significant issues, and all within the town itself.

13. It had been anticipated that West Berkshire Council would be in a position to implement a cross border charging system of their own at the time that Hampshire County Council terminated the transitional arrangement.
14. Unfortunately, due to the need to focus on other austerity related savings programmes, they have not been able to progress this as swiftly as hoped.

HWRC Capacity

15. Data from the booking system has been monitored on a continual basis, analysing the percentage utilisation of the available booking slots. As table 1 shows, both Andover and Basingstoke, which are the closest alternatives for the residents of North East Hampshire, are amongst those sites that are operating at full capacity given the current operating restrictions. This patterns continues beyond the date shown, highlighting the immediate pressure on capacity, particularly in this area, as a result of the restrictions from social distancing.

Table 1 – Percentage utilisation of Available Booking Slots

	% Full								
	10 th July	11 th July	12 th July	13 th July	14 th July	15 th July	16 th July	17 th July	18 th July
	Friday	Saturday	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Andover	100	100	100	100	100	100	100	100	100
Basingstoke	100	100	100	100	100	100	100	100	100

16. The HWRCs are operating at a significantly reduced capacity. Both Andover and Basingstoke HWRCs are shown to be operating at the currently available capacity. Resident correspondence also indicates significant unfulfilled demand, particularly at Basingstoke HWRC.
17. It is, therefore, considered that adding the additional demand from the 5000 permit holding residents in the North West of the County is not desirable at this time. Therefore, a limited extension to the previous transitional arrangement with West Berkshire is deemed to be prudent, particularly as it will also facilitate the proper evaluation of a locally identified potential site for a new HWRC and the business case for providing such a facility.
18. This extension is proposed for 12 months in anticipation that the specific Covid-19 restrictions will have been lifted by then, allowing the sites to return to normal capacity.

Finance

19. The 2nd July decision by the Executive Member for Economy, Transport and Environment to terminate the transitional arrangements with WBC, including the annual £170,000 payment, coincides with the implementation of the new

Cross Border charging system. This will see residents register for an e-permit linked to the existing ANPR system to maintain free access. Any unregistered site users will be required to make a £5 contribution to the costs of disposing of the material they present.

20. Agreement has been reached between Hampshire County Council and Basingstoke and Deane Borough Council (BDBC) to share on a 50:50 basis the costs associated with this time limited (1 year) extension of the pre-existing transitional arrangement. The Hampshire County Council contribution will, as a one off sum, be appropriately funded from contingencies.
21. West Berkshire have indicated their willingness to continue with the transitional arrangement on the same terms as before.
22. Hampshire County Council have further undertaken to conduct an evaluation of a site near Kingsclere that has been locally identified and proposed as a potential HWRC. This work will be included as part of a wider review of the HWRC service and associated infrastructure that is being programmed in light of proposed large scale residential development across Hampshire.

Consultation and Equalities

23. West Berkshire Council has been consulted and has indicated willingness to continue with transitional arrangements on the same terms as before. The County Council has also been working closely with Basingstoke and Deane Borough Council and will be jointly funding the continued arrangement with that authority.
24. An Equalities Impact Assessment has been carried out, and no impact has been identified on people with protected characteristics, as this decision will extend existing arrangements. Any outcome of the reviews entailed will be subject to further assessment if and when they result in further recommendations

Conclusions

25. Given the reduced capacity that the HWRC network is currently operating under it has been deemed appropriate, following agreement between Hampshire County Council and Basingstoke and Deane Borough Council to share the costs, to extend the transitional arrangements with West Berkshire Council by a year, enabling use of the Newbury HWRC by permitted Hampshire residents.
26. The County Council also undertakes to evaluate the site identified locally for a potential HWRC to address the service gap in the North West of Hampshire.

REQUIRED CORPORATE AND LEGAL INFORMATION:

Links to the Strategic Plan

Hampshire maintains strong and sustainable economic growth and prosperity:	No
People in Hampshire live safe, healthy and independent lives:	Yes
People in Hampshire enjoy a rich and diverse environment:	Yes
People in Hampshire enjoy being part of strong, inclusive communities:	Yes

Other Significant Links

Links to previous Member decisions:	
<u>Title</u> Household Waste Recycling Centres Cross Border Update https://democracy.hants.gov.uk/documents/s52231/Report.pdf	<u>Date</u> 2.7.2020
Direct links to specific legislation or Government Directives	
<u>Title</u> None	<u>Date</u>

Section 100 D - Local Government Act 1972 - background documents	
<p>The following documents discuss facts or matters on which this report, or an important part of it, is based and have been relied upon to a material extent in the preparation of this report. (NB: the list excludes published works and any documents which disclose exempt or confidential information as defined in the Act.)</p>	
<u>Document</u>	<u>Location</u>
None	

EQUALITIES IMPACT ASSESSMENT:

1. Equality Duty

The County Council has a duty under Section 149 of the Equality Act 2010 ('the Act') to have due regard in the exercise of its functions to the need to:

- Eliminate discrimination, harassment and victimisation and any other conduct prohibited by or under the Act with regard to the protected characteristics as set out in section 4 of the Act (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation);
- Advance equality of opportunity between persons who share a relevant protected characteristic within section 149(7) of the Act (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation) and those who do not share it;
- Foster good relations between persons who share a relevant protected characteristic within section 149(7) of the Act (see above) and persons who do not share it.

Due regard in this context involves having due regard in particular to:

- The need to remove or minimise disadvantages suffered by persons sharing a relevant characteristic connected to that characteristic;
- Take steps to meet the needs of persons sharing a relevant protected characteristic different from the needs of persons who do not share it;
- Encourage persons sharing a relevant protected characteristic to participate in public life or in any other activity which participation by such persons is disproportionately low.

2. Equalities Impact Assessment:

An Equalities Impact Assessment has been carried out, and no impact has been identified on people with protected characteristics, as this decision will extend existing arrangements. Any outcome of the reviews entailed will be subject to further assessment if and when they result in further recommendations

HAMPSHIRE COUNTY COUNCIL

Decision Report

Decision Maker:	Executive Member for Policy and Resources and Leader of the County Council
Date:	29 July 2020
Title:	Designation of Appropriate Officers under the Health Protection (Coronavirus, Restrictions) (No 2) (England) Regulations 2020 and Health Protection (Coronavirus, Restrictions) (England) (No 3) Regulations 2020
Report From:	Chief Executive

Contact name: Barbara Beardwell

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Purpose of this Report

1. The purpose of this Report is to delegate the necessary authority and to designate functions to appropriate officers to enable the County Council to effectively exercise its powers under the Health Protection (Coronavirus, Restrictions) (No 2) (England) Regulations 2020) and the Health Protection (Coronavirus, Restrictions) (England) (No 3) Regulations 2020.

Recommendations

2. That the Director of Public Health (including in his absence the Deputy Director of Public Health) is designated as the County Council's 'Relevant Person' for the purposes of the Health Protection (Coronavirus, Restrictions) (No. 2) (England) Regulations 2020.
3. That the Head of Law and Governance and Monitoring Officer (including in her absence the Head of Legal Services and Deputy Monitoring Officer) be designated the County Council's 'Authorised Person' for the purposes of the Health Protection (Coronavirus, Restrictions) (No. 2) (England) Regulations 2020 and the Health Protection (Coronavirus, Restrictions) (England) (No. 3) Regulations 2020.
4. That the Head of Law and Governance and Monitoring Officer (including in her absence the Head of Legal Services and Deputy Monitoring Officer) be given delegated authority to undertake any prosecutions required by the County Council under the Health Protection (Coronavirus, Restrictions) (No.

2) (England) Regulations 2020 and the Health Protection (Coronavirus, Restrictions) (England) (No.3) Regulations 2020.

5. That the Chief Executive (including in his absence the Deputy Chief Executive) be given delegated authority, in consultation with the Director of Public Health, be authorised to exercise the County Council's powers to give Directions under the Health Protection (Coronavirus, Restrictions) (England) (No. 3) Regulations 2020.
6. That the Director of Public Health (including in his absence the Deputy Director of Public Health) be designated as County Council's 'Designated Officer' for the purposes of the Health Protection (Coronavirus, Restrictions) (England) (No. 3) Regulations 2020.

Executive Summary

7. This Report seeks to put in place the necessary designations and delegations to enable the County Council to exercise its powers under the Health Protection (Coronavirus, Restrictions) (No. 2) (England) Regulations 2020 ('the No 2 Regulations) and the Health Protection (Coronavirus, Restrictions) (England) (No. 3) Regulations 2020 ('the No 3 Regulations').

The Health Protection (Coronavirus, Restrictions) (No 2) (England) Regulations 2020

8. The No 2 Regulations came into force on 4 July 2020. Regulation 4 of the No 2 Regulations re-states the requirement to close certain premises and businesses during the emergency. An ever-diminishing list of those premises and business specifically still affected by lockdown as at 4 July is contained at Schedule 2 to the No 2 Regulations.
9. However, while the list is now small, and likely to be reduced further shortly, there is always the possibility the list might be increased in the event of a more general lockdown in the event of a second wave of the virus.
10. Provisions regarding enforcement of requirements relating to the closure of specific businesses and premises (Regulation 4), gatherings (Regulation 5), and local lockdowns (Regulation 6 – requirement to take reasonable steps to restrict public access to restricted area, and not to without reasonable excuse enter or remain in a restricted area) are contained at Regulation 7).
11. By virtue of Regulation 7 a 'Relevant Person' may take such action as is necessary to enforce any requirement of the Regulations. 'Relevant Person' includes someone designated by a local authority, but only in respect of enforcing Regulation 4 (closure of specific businesses and premises). In

respect of all other requirements in the No 2 Regulations the powers of enforcement are limited to the police or person designated by the Secretary of State for this purpose. So far as enforcement of Regulation 4 goes, in the case of a local authority this must be done by a person designated by the local authority for this purpose. It is therefore recommended that the Director of Public Health be designated as the County Council's Relevant Person for these purposes.

12. Enforcement will normally be by way of fixed penalty notice payable within 28 days. Regulation 8 provides details of amounts – £100 for a 'first' offence, rising to £3,200 in the case of sixth and subsequent offences. If the £100 for a 'first' offence only is paid within 14 days this reduces to £50. Fixed penalty notices may be issued by an 'Authorised Person'. So far as a local authority is concerned a fixed penalty notice can only be issued where the alleged offence relates to contravention of Regulation 4 (closure of specific businesses and premises) and obstruction of a person carrying out a function under Regulation 7. Any fixed penalty notice needs to be issued by an 'Authorised Person', designated by the local authority as such. It is therefore recommended that the Head of Law and Governance and Monitoring Officer be formally designated the County Council's Authorised Person for these purposes.
13. If a fixed penalty notice is not paid within the prescribed period, then summary (magistrates court) proceedings may be instigated. By virtue of Regulation 10 proceedings would need to be brought by the CPS or by the County Council (as a body designated by the Secretary of State). Should this happen then a certificate signed by the Chief Finance Officer is evidence of the facts stated. It is therefore recommended that the Head of Law and Governance and Monitoring Officer is formally given delegated authority to undertake any necessary prosecutions on behalf of the County Council

The Health Protection (Coronavirus, Restrictions) (England) (No. 3) Regulations 2020

14. The Health Protection (Coronavirus, Restrictions) (England) (No.3) Regulations 2020 came into force on 18 July 2020. The powers contained in the Regulations are available to 'upper tier' authorities, and thus may be exercised by the County Council. It is anticipated that given the fast moving nature of the Covid-19 emergency any use of powers under the No 3 Regulations to make a Direction may need to be exercised at short notice, thus agility and the ability to act at pace is key. It is therefore recommended that as 'Proper Officer' for the County Council that the Chief Executive (including in his absence the Deputy Chief Executive) be authorised to give any Directions under the No 3 Regulations.
15. The No 3 Regulations grant the County Council new powers to respond to a serious and imminent threat to public health, and to prevent COVID-19

(“coronavirus”) transmission in its area. The No 3 Regulations include powers for the County Council to make a Direction to:

- restrict access to, or close, individual premises (Regulation 4)
- prohibit certain events (or types of event) from taking place (Regulation 5)
- restrict access to, or close, public outdoor places (or types of outdoor public places) (Regulation 6).

16. **Making a Direction**

To make a Direction under the No 3 Regulations the County Council must be satisfied that the following 3 conditions are met:

- the Direction responds to a serious and imminent threat to public health in the local authority’s area
- the Direction is necessary to prevent, protect against, control or provide a public health response to the incidence or spread of infection in the local authority’s area by coronavirus
- the prohibitions, requirements or restrictions imposed by the Direction are a proportionate means of achieving that purpose

17. Before making a Direction, the County Council will need to gather sufficient evidence to demonstrate that these tests have been met. This evidence may come from a range of sources, including information provided to the County Council from local experts, through the Local Resilience Forum, from NHS Test and Trace (including the Joint Biosecurity Centre (JBC)), from Public Health England (PHE) and from other sources. The County Council must also consult with its Director of Public Health and assess whether the conditions for taking action have been met. The County Council is required under the No 3 Regulations to have regard to any advice given to by its Director of Public Health prior to issuing a Direction, or revoking such a Direction.

18. The County Council should also consult the police prior to issuing a Direction, and any neighbouring police forces if the Direction prohibits, requires or restricts access to a premise, event or public outdoor place that is situated against a Local Resilience Forum boundary. The County Council should be clear about why it is taking directive action and communicate this clearly to the person(s) to whom the Direction applies and, where appropriate, those impacted by the Direction.

19. Prior to issuing a direction, the County Council must have due regard to the Public Sector Equality Duty (PSED) as set out in section 149 of the Equality Act 2010 and should consider carrying out an equalities impact assessment to determine whether the measure may disproportionately affect people with protected characteristics. Identifying disproportionate impact would not

prohibit the County Council from taking action. This should be balanced against the wider public health risk in the County Council's area, and that mitigations should be considered and implemented wherever possible.

20. The County Council must review a Direction it has issued under the Regulations at least every seven days and determine whether the three conditions for making the Direction continue to be met. If at any stage the threshold for restrictions is no longer met (there is no longer a serious and imminent threat to public health, or the measures are not deemed to be necessary and proportionate to prevent or control the incidence or spread of infection in the local authority's area), the Direction should be immediately revoked or replaced with a Direction which meets the threshold set out above.

Notification of Direction

21. When the County Council issues a Direction, it should notify the Secretary of State as soon as reasonably practicable after making the Direction. The Secretary of State may also, should he consider the conditions(s) for a Direction are met, require the County Council to make a Direction. The County Council is also required to notify any County Council or Unitary Council whose area is adjacent to the County Council's area, and also any District Council within the area of the Direction.
22. Additionally the County Council is required to notify those directly impacted by any Direction under these Regulations, including the owner or occupier of premises or event organiser against whom a Direction applies, who have the right of appeal to a local magistrate and may make representations to the Secretary of State. Any Direction issued must include details of the right to appeal to a magistrates' court and the time within which such an appeal may be brought. A Direction must also be published on the County Council's website.

Contravention of Direction

23. Where the County Council's Designated Officer reasonably believes that a person is in contravention of a Direction, and it is necessary and proportionate to prevent a person from doing so prohibition, the Designated Officer may take such action as is necessary and proportionate to enforce the Direction.
24. The Designated Officer may issue a prohibition notice to a person who contravenes a direction, for example by failing to close a premise or event that has had a direction placed upon it to restrict or prohibit access.

25. Where an Authorised Person reasonably believes that a person aged 18 or over has committed an offence under the Regulations in respect of breach of a Direction relating to premises under Regulation 4, events under Regulation 5, or failure of an owner or occupier of land in a public outdoor space to which a Direction under Regulation 6 applies to take reasonable steps to restrict access to that land, or obstruction of a local authority officer, may the Authorised Person may issue a Fixed Penalty Notice (FPN). If paid within 28 days beginning from the day after the date of the notice no proceedings may be taken in respect of the offence.
26. The amount of the FPN will be £100 for a first offence (reduced to £50 if paid within 14 days), doubling upon further offences up to a maximum of £3,200.
27. It is therefore recommended that the Director of Public Health be designated as the County Council's Designated Officer for these purposes and that the Head of Law and Governance and Monitoring Officer be designated as the County Council's Authorised Person for these purposes. It is further recommended that the Head of Law and Governance and Monitoring Officer be given delegated authority to undertake any necessary prosecutions on behalf of the County Council.

REQUIRED CORPORATE AND LEGAL INFORMATION:

Links to the Strategic Plan

Hampshire maintains strong and sustainable economic growth and prosperity:	yes
People in Hampshire live safe, healthy and independent lives:	yes
People in Hampshire enjoy a rich and diverse environment:	yes
People in Hampshire enjoy being part of strong, inclusive communities:	yes

Section 100 D - Local Government Act 1972 - background documents	
<p>The following documents discuss facts or matters on which this report, or an important part of it, is based and have been relied upon to a material extent in the preparation of this report. (NB: the list excludes published works and any documents which disclose exempt or confidential information as defined in the Act.)</p>	
<u>Document</u>	<u>Location</u>
None	

EQUALITIES IMPACT ASSESSMENT:

1. Equality Duty

The County Council has a duty under Section 149 of the Equality Act 2010 ('the Act') to have due regard in the exercise of its functions to the need to:

- Eliminate discrimination, harassment and victimisation and any other conduct prohibited by or under the Act with regard to the protected characteristics as set out in section 4 of the Act (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation);
- Advance equality of opportunity between persons who share a relevant protected characteristic within section 149(7) of the Act (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation) and those who do not share it;
- Foster good relations between persons who share a relevant protected characteristic within section 149(7) of the Act (see above) and persons who do not share it.

Due regard in this context involves having due regard in particular to:

- The need to remove or minimise disadvantages suffered by persons sharing a relevant protected characteristic that are connected to that characteristic;
- Take steps to meet the needs of persons sharing a relevant protected characteristic that are different from the needs of persons who do not share it;
- Encourage persons sharing a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

2. Equalities Impact Assessment:

There are no equality impacts arising from the Recommendations in this Report.