

Appendix B

Officer Response to the call-in

Note – the officer response is in italics

4. Evidence which demonstrates the alleged breach(es) indicated in 2 above (required)

Required by part 4E Section 16(c)(a)(ii) of the constitution:

We – the signatories – welcome the fact that the council has at last recognised the concern among a significant number of residents in Merton about the size of wheeled bins in relation to their properties, as per paragraph 2.4 of the report. This is particularly an issue in our own ward of Dundonald as well as various other wards which form part of Merton’s town centres, given the prevalence of terraced housing there with less space for the storage of bins.

However, for the reasons outlined below, we do not believe that full and proper consideration has been given by the council to all other options with regard to the size(s) of waste container proposed to be introduced.

(a) proportionality (i.e. the action must be proportionate to the desired outcome);

It is simply unclear from the report whether the decision taken by Cabinet is proportionate to the desired outcome. The stated objectives of the new service due to be introduced in Merton in October 2018 are outlined at paragraph 1.1, namely encouraging greater recycling; keeping Merton’s streets cleaner; being safer for residents and operatives; and being cost-effective.

Whilst recycling rates and cost are both referred to in the report and appendix, there is no evidence provided on how the Cabinet’s decision on waste container size will impact on street cleanliness. Dan Goode, founder of the Merton Matters group (which was established locally specifically to campaign for a cleaner borough) has made clear previously that wheeled bins will not solve the “intrinsic littering culture” in Merton. At 2.8 the report talks about this in relation to bins smaller than 180l but we are not provided with any comparable empirical evidence on street cleanliness levels using 240l bins, 180l bins, a smaller sized bin or a different type of container.

Response: Officers are not suggesting that a smaller wheeled bin will have an impact on attitudes towards littering. Wheeled bins themselves reduce the problem of waste being blown or spread by animals across the road. There is a judgement to be made about the most suitable size of bin to ensure residents have sufficient storage for their general waste to avoid them resorting to illegal forms of waste disposal, whilst also encouraging recycling by not providing more storage than is necessary. Based on experience in other boroughs, this suggests that 180l for general waste, together with a range of recycling options, does provide sufficient storage capacity.

With regard to safety, it is impossible to glean from the information provided as part of this decision how the safety of residents and operatives would be impacted by it as there is also no comparable data provided on levels of safety using 240l bins, 180l bins, a smaller sized bin or a different type of container.

Response: Officers are not suggesting that a smaller wheeled bin will have significantly greater benefits for health and safety than a larger bin. Wheeled bins themselves make the operation safer for residents and collection crews.

Furthermore, there are serious questions over whether it is proportionate with regard to the effect on the street scene and on convenience for residents given the significant increase in the number of containers that residents will be obliged to store under the new system and the size of those containers.

Response: There is no effect on the number of containers as a result of reducing the size of the wheeled bins.

(b) due consultation and the taking of professional advice from officers;

There has been no formal consultation with residents about the size of the residual waste containers with which they are due to be issued. This is stated explicitly at 2.10. Yet this decision clearly constitutes a radical change to the waste collection service and one that will affect almost all residents across the borough.

Response: Based on officer's professional advice, consideration has been made for the needs of different households. This is addressed by giving residents the choice of bin size once they have established their needs by trialling the 180l bin.

Through informal feedback regarding the service change, residents have indicated their concern about the size of wheeled bins in relation to their properties. These views have influenced the decision to recommend a 180l wheeled bin over a larger one. By listening and responding to residents, it is hoped their concerns will be alleviated to some degree.

Nor is there any evidence provided to demonstrate that the Lavender Fields pilot conducted in 2015 can be relied upon to demonstrate the opinion of residents right across the borough. The area of Lavender Fields that formed the pilot is not representative of the borough as a whole in terms of the mix of different types of housing stock.

Moreover the pilot itself used a different waste collection system from that which is now proposed. There was a weekly – rather than fortnightly – rubbish collection during the trial period and recyclables were collected together rather than being separated out into paper and card and then

plastic, glass and cans as is now planned under the current proposals. Nor were any size bins other than 240l ones used in the pilot.

Response: This results of the pilot were considered by the Overview and Scrutiny Commission in August 2016.

(c) respect for human rights and equalities;

There is no analysis provided in the report on the specific impact for disabled and elderly residents living in Merton of the size of wheeled bins. One might have expected information on the merits or otherwise for disabled and elderly residents of using 240l bins, 180l bins, a smaller sized bin or a different type of container.

Response: It can reasonably be assumed that a smaller bin will be easier for some people to handle rather than a larger bin. Furthermore, the Council's offer of an assisted collection for those who are unable to present their waste for collection will continue regardless of the size of the wheeled bin.

No updated Equality Impact Assessment has been published alongside the report to enable Cabinet members to give this due consideration when making their decision on the size of container.

Response: The size of the bin does not alter the original Equality Impact Assessment which was based on the consideration of a wheeled bin, regardless of size.

Improved safety for operatives is a stated objective of this decision. Yet there is also no breakdown of the demographics of those operatives who will be impacted e.g. age, ethnicity, gender.

Response: There is no claim in the report that a smaller bin is safer for the operatives. Wheeled bins themselves make the operation safer for the collection crews. Therefore, the demographics of the operatives are not a consideration for the size of the wheeled bin. The role is demanding regardless of the size of the wheeled bin and the operatives' ability to carry out their role is for the contractor to consider and address.

(d) a presumption in favour of openness;

There is a lack of openness in the report and appendix as illustrated by their brevity (just 10 pages in total). For example, it is stated at 2.21 that there are no crime and disorder implications as a result of this report. Yet, there have been high profile cases in recent months of wheeled bins being purposefully set on fire here in south London and so one would expect that that would at least have been taken into consideration when looking at container size. The same is true of theft levels of different sizes and types of container.

Response: Officers are not aware of any link between the size of a wheeled container and the likelihood of it being vandalised or set on fire.

Particularly concerning has been the general lack of engagement with residents on this issue. A petition was presented to Full Council on behalf of over 1100 residents asking the council to consider the residents' own proposal for the waste containers which they would like to see introduced in October 2018 and yet this was met with only a brief standard response from the council.

Response: The petition was not in relation to the size of the wheeled bins. However, the signatories did raise concern about the size of the standard wheeled bin. By reducing the size of the wheeled bin to 180l from 240l, and offering residents the opportunity to choose a smaller bin (140l) after the roll out, the decision is intended to help to reduce these concerns.

Also, as per (b) above, the 2015 pilot was not conducted using a fortnightly collection or multiple 180l wheeled bins as is now being proposed.

Response: This results of the pilot were considered by the Overview and Scrutiny Commission in August 2016.

(e) clarity of aims and desired outcomes;

There appear to be contradictions within the report when it comes to the desired outcomes of this decision.

For example, 2.23 states there are no health and safety implications as a result of this report. Yet earlier the report states that the safety of residents and operatives is one of the stated objectives of the decision.

Response: The size of the bin does not have significant health and safety implications for residents or operatives. The smaller bins may be easier for some residents to handle but this is not considered to have significant consequences for the health and safety of residents. The report states that wheeled bins themselves make the operation safer for residents and collection crews.

Then in paragraph 2.5, the report outlines how residents in larger households will be able to request a 240l wheeled bin for residual waste and those who prefer will be able to request a 140l bin. Yet this is only 'once the new service has been introduced'. This does not seem to tally with the stated objective for this scheme to be cost effective. It does not seem clear why the council is proposing to issue these new bins to everyone in the first instance and then potentially replace some of them with bins of a different size. Residents are questioning whether it might not be more cost effective to engage in advance with households about the size of bin that would be most appropriate for them, particularly given the fact that officers stated in their response to a residents' petition on wheeled bins handed in at Full Council in September 2017 that:

'Acceptable criteria to vary from the "norm" should be agreed in advance of any service being rolled out.'

Response: Taking and delivering individual orders to each household will

increase the administrative and delivery cost of the service. It will also increase the risk of households receiving the incorrect bin. Furthermore, without having used the standard wheeled bin, residents will be unaware of whether the size is appropriate for them. Therefore, it is considered best value and the most feasible option to provide all households with a standard sized bin and allow them to make a choice after they have used and experienced the new service.

The intention is to agree the acceptable criteria to vary from the norm before the advance of the service roll out. These will be confirmed before the service roll out.

There is clearly also an environmental aspect to this which appears nit to have been addressed by the Cabinet. In light of the recent press coverage of the damage being done by plastics to the global environment and publication of the Government's 25 Year Environment Plan, it seems that an unnecessary amount of additional plastic is being produced in order to accommodate the Cabinet's decision when the impact of this could potentially be lessened. Concerns have equally been raised by residents about the impact on the environment of the replacement of a large number of perfectly good bins.

Response: Any wheeled bins that were previously delivered as part of the standard roll-out and are then swapped with a different sized bin will be re-used within the South London Waste Partnership area, assuming they are still fit for use.

Currently, some residents have chosen to purchase their own bin for storing their waste. These items are the property of residents and therefore there is no intention to remove them when the new bins are delivered. These bins vary in size, style and quality; this variation means they cannot be used as part of the new service. Residents will be encouraged to reuse their bins for other uses, for example, storage of other items but if they do want to get rid of them, they can be taken to the Household Reuse and Recycling Centre for disposal and where appropriate, recycling.

There is also a lack of clarity around the comparative data provided on potential savings in Appendix A. There are 4 options outlined showing the comparative impact on recycling rates and on savings to be delivered. Yet only the 240l bin is tested with a weekly collection. There is no comparative data provided showing the impact of a weekly collection with a smaller bin e.g. 180l or 140l. This does not appear to have been tested.

Response: The table on slide 5 of the presentation (provided again here in Appendix D) includes theoretical calculations of the possible increases of recycling rates and the related financial savings by restricting the volume of general waste provided to residents. The weekly 240l option provides a baseline for comparison purposes. The frequency of collections is not part of this decision and therefore it is not necessary to provide figures based on a weekly collection service for each bin size as this variable will not

change.

Finally, as the 2017 Annual Residents' Survey showed, street cleaning remains the top priority for Merton's residents with falling levels of satisfaction with how the council tackles litter and dirt in the streets. Clearly all councillors and residents wish to see cleaner streets in Merton. Yet, as at a) above, there is no convincing empirical evidence provided in the report as to how the decision will deliver improvements with regard to this shared aim and what level of improvements can be expected.

Response: The report does not attempt to suggest that a smaller wheeled bin will have an impact on attitudes towards littering. The impact of a smaller bin is expected to affect recycling rates rather than littering. Wheeled bins themselves reduce the problem of waste being blown or spread by animals across the road and thus improve street cleanliness.

(f) consideration and evaluation of alternatives;

The residents' petition handed in to Full Council in September 2017 set out clear alternatives in terms of waste container size. Yet, despite a huge amount of time and research being spent by the residents' group on this, it does not appear to have been given consideration by Cabinet when reaching their decision.

Response: The options presented by the petition did not relate to a wheeled bin service. However, it did propose a smaller bin than the 240l option. Therefore, the decision to have a smaller bin may be preferable to some signatories.

The residents' 5 point proposal included the supply of two 80l lidded 'Bell-Orb' bins for recycling, both in brown with self-coloured, embossed symbols. Unfortunately nowhere in the report is there evidence that this clear alternative has been tested by council officers for its impact on the stated objectives of the decision even though these brown 80l bins would clearly be beneficial in terms of the street scene appearance.

There is also no reference to the 'slave-bin' collection method and the impact of this on container size even though Merton officers themselves have conceded that the 'to-&-fro' collection process proposed will take considerably longer for operatives to complete than the existing 'slave-bin' system. Yet, this has clear environmental and cost implications for the council and so would seem crucial to the decision making process. .

Response: The suitability of wheeled bins was not part of this decision; this was previously debated by Overview and Scrutiny Commission in August 2016.

The Cabinet has only considered either 240l or 180l bins i.e. the same size for both residual/general waste and for paper and card. There is not even any mention of 80l or 120l bins or a variation of these. The council has repeatedly stated in public that 'one size does not necessarily fit all' and so

many residents understandably feel that the council should opt for at least two sizes, and give residents the choice, particularly given that the 180l bins may be thinner but are not smaller in height. For example one other option could be the issuing of one 120l bin and one 180l one.

Response: The decision will provide residents with the choice of three different sizes (240l, 180l and 140l) of wheeled bin depending on their circumstances. Introducing a further size increases costs in terms of administering orders, storage at the depot and carrying out orders. Smaller bins (140l or smaller) as the standard bin are considered too small to ensure residents have sufficient capacity for their general waste. This is noted in paragraph 2.5 of the report (see Appendix C)

The *No Wheelies Please, Merton* group has pointed out that 42% of Merton council taxpayers are claiming 'single-adult-occupier' discount. There will also be a considerable percentage of households comprising couples (many of whom may be elderly). They therefore argue that as many as 60-70% of households may have a relatively low waste output and as such the issuing of 120l bins to them should be considered. Yet this alternative is not referred to in the Cabinet report.

There doesn't seem to have been any proper consideration by the Cabinet of modifications to existing container types used in Merton and their impact on street cleanliness e.g. the provision of lids for recycling boxes. It is therefore impossible to judge the merits and comparable cost of these further options.

Response: The No Wheelies Please group proposed a method that does not consist of wheeled bins but considered alternative types of bin, which have not been trialled anywhere in the country. The decision by Cabinet does not relate to the type of bin, which has been previously decided by Cabinet on 4 July 2016 and debated by Overview and Scrutiny Commission in August 2016.

There is also no evidence that, in reaching this decision, the Cabinet has given any consideration to the cross-party Sustainable Communities scrutiny task group review of efficient household waste management and the environment which published its report and recommendations in May 2011. This task group looked at this issue in extensive detail.

In November 2015 a report was presented to Cabinet by the Sustainable Communities Scrutiny Panel setting out four key considerations that the Panel would wish to be addressed in advance of any roll out of wheeled bins across the borough. These included the following:

- That should the scheme be rolled out, Cabinet considers **choice for residents in the size of wheeled bins** and if they wish to participate in the scheme;
- That Cabinet considers the impact of wheeled bins outside homes on the street scene;
- That Cabinet consider the impact on disabled users if wheeled bins

are used in terms of accessing pavements and homes.

Yet, there is not clear evidence from the report that Cabinet has given these points detailed consideration, particularly around choice being given to residents BEFORE the scheme is rolled out.

Response: Through this decision-making process, the Cabinet has given the Sustainable Communities Scrutiny Panel the opportunity to consider the choice of size of the wheeled bin.

There are concerns among some residents (and not dispelled by the Cabinet report) that the council is being shoehorned into the proposed system of waste collection by its contractor. Rather than looking at what alternatives may be most appropriate for Merton and its residents in terms of container size, they feel the council is being dictated to by the contractor and what works best for them across all of the four boroughs forming the South London Waste Partnership.

Response: The change to the size of the wheeled bin is an example of how the SLWP, LBM and Veolia are working together to ensure the new service reflects as best as possible: residents' preferences; operational feasibility; financial implications; environmental benefits; and, street cleanliness. Officers themselves are ensuring that any considerations reflect the interests of Merton's residents.

With regard to this, it is noteworthy that the following motion has been carried at the most recent meetings of both the Wimbledon and the Raynes Park Community Forum for presentation at the next full Council Meeting:

We, the attendees of the {Wimbledon/Raynes Park} Community Forum, request that Merton Council's Cabinet make time to discuss the following proposal with Veolia's Merton manager:

"ALL MERTON'S FUTURE BIN AND RECYCLING BOX PURCHASES SHOULD BE BROWN IN COLOUR (to match the food & garden waste bins), FREE FROM PRINTED LBM LOGOS, WITH A SIMPLE SYMBOL FOR WASTE OR RECYCLING ON THE LID IN BLACK (less conspicuous than white) IN ORDER TO MAXIMISE UNOBTRUSIVENESS."

Yet, this decision seeks to disregard resident concerns about colour and wider design of the waste containers proposed for introduction in October 2018.

Response: The colour of the bin is not part of this decision. Options were not presented in the report regarding the colour of the bin. The bin colour has been chosen to be inconspicuous.

Finally, the Cabinet appears not to have considered the impact of the EU Referendum result when reaching its decision, particularly in regard to the size of containers in which waste is to be collected. There is no reference to whether EU Directive 2008/98/EC will still apply by the time of the roll out of this new waste collection system. Were it not to be applicable any longer in the UK then this would clearly have an impact on the size of container

choice as it may be that co-mingling of recyclables could in fact continue here in Merton.

Response: There is sufficient flexibility in the service offering to adapt to possible changes in legislation, all of which is very uncertain.

5. Documents requested

All papers provided to the Director of Environment and Regeneration/Director of Corporate Services and relevant Cabinet Members prior to, during and subsequent to the decision making process on residual waste container size.

Response: The slides presented to the relevant Cabinet Member in relation to the wheeled bin size have already been published as part of the cabinet report, 15 January, included as Appendix C in the main agenda pack for the meeting of the Overview and Scrutiny Commission on 30 January 2018.

All emails, reports and associated documentation relating to the decision on residual waste container size provided to the relevant Cabinet Members, Leader of the Council, Chief Executive, Director of Environment and Regeneration, Director of Corporate Services and other council officers.

Response: Provided in Appendix B1 attached.

The detailed financial analysis of the projected costs of implementing the decision on residual waste container size.

Response: The analysis is presented in the presentation (Appendix C in main agenda pack) already circulated to Members and published publicly.

The detailed financial analysis of the projected savings to be delivered through implementation of the decision on residual waste container size.

Response: The analysis is presented in the presentation (Appendix C in main pack) already circulated to Members and published publicly.

Minutes of all the SLWP meetings when residual waste container size was discussed.

Response: The SLWP have been asked to provide these, if any.

The detailed risk analysis in relation to the implementation of the decision on residual waste container size, including both financial and reputational risks.

Response: The financial implications are presented in the presentation already circulated. There was no further risk analysis relating to finance or

reputation.

The detailed analysis of the impact of the decision on residual waste container size on the cleanliness of Merton's streets.

Response: The analysis is presented in the presentation (Appendix C in the main pack) already circulated to Members and published publicly.

The detailed analysis of the impact of the decision on residual waste container size on recycling rates in Merton.

Response: The analysis is presented in the presentation (Appendix C in the main pack) already circulated to Members and published publicly.

The detailed analysis of the impact of the decision on residual waste container size on the health and safety of both residents and operatives.

Response: The size of the wheeled bin is not considered to have any significant impact on health and safety considerations. No detailed analysis was considered necessary.

The detailed analysis of the impact of the decision on residual waste container size on crime and disorder in Merton.

Response: The size of the wheeled bin is not considered to have any significant impact on crime and disorder. No detailed analysis was considered necessary.

The Equality Impact Assessment (or any other equalities analysis carried out) in relation to the decision on residual waste container size.

Response: The size of the wheeled bin is not considered to have any significant impact on equality and diversity. The original EqIA remains appropriate (see appendix B2).

A copy of the detailed 'analysis of operations in other local authorities' referred to at paragraph 2.3 of the report.

Response: The waste collection services in London boroughs and their recycling rates are presented in Appendix B1.

A copy of the detailed 'review of best practice' referred to at paragraph 2.3 of the report.

Response: The top performing authorities for recycling rates is presented in Appendix B1

A copy of the detailed 'guidance from WRAP' referred to at paragraph 2.3 of the report.

Response: A link to the WRAP report is included in the presentation

provided in Appendix C to the Overview and Scrutiny Commission report:

http://www.wrap.org.uk/sites/files/wrap/priv_download/Analysis_of_recycling_performance_and_waste_arisings%20in%20the%20UK%202012%2013.pdf

All correspondence between the relevant Cabinet Members, Leader of the Council, Chief Executive, Director of Environment and Regeneration, Director of Corporate Services, other council officers and Veolia on residual waste container size.

Response: Correspondence has been provided in Appendix B3 of this report.

All correspondence between the relevant Cabinet Members, Leader of the Council, Chief Executive, Director of Environment and Regeneration, Director of Corporate Services, other council officers and WRAP on residual waste container size.

Response: There was no correspondence with WRAP. The evidence and guidance is available publicly.

All correspondence between the relevant Cabinet Members, Leader of the Council, Chief Executive, Director of Environment and Regeneration, Director of Corporate Services, other council officers and the SLWP on residual waste container size.

Response: As attached in Appendix B3 (Annie Baker is the SLWP Manager and she was cc'd to an email to Veolia.)

All correspondence between the relevant Cabinet Members, Leader of the Council, Chief Executive, Director of Environment and Regeneration, Director of Corporate Services, other council officers and the *No Wheelies Please, Merton* residents' group on residual waste container size, including all evidence provided to the council by this group.

Response: There was no correspondence regarding the size of the wheeled containers. The correspondence received referred to an alternative collection method, which is not part of this Cabinet decision.

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