

To: All Members of the Overview and
Scrutiny Committee - Services
(Other Members for Information)

When calling please ask for:

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Date: 22/5/24

Dear Councillors

OVERVIEW AND SCRUTINY COMMITTEE - SERVICES - 22 MAY 2024

I refer to the agenda for the Overview and Scrutiny Committee - Services, on Wednesday, 22 May 2024 and enclose the revised report and revised appendices for agenda item 3. Route to Market for Off-Street Car Parking Enforcement. Note that Appendix 2 is exempt and the contents should only be discussed in exempt session:

3. ROUTE TO MARKET FOR OFF-STREET CAR PARKING ENFORCEMENT (Pages 3 - 22)

Recommendation

That the Services O&S Committee consider and comment on the report and make recommendations to the Executive.

Please note that appendix 2 is exempt and the contents should only be discussed if the meeting goes into exempt session.

Yours sincerely

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Waverley Borough Council

Report to: Overview and Scrutiny

Date: 22nd May 2024

Ward(s) affected: All

Report of Strategic Director: Dawn Hudd - Place

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Report Status: Part Exempt

Key Decision: Yes

Route to Market for Off-Street Car Parking Enforcement

1 Executive Summary

Waverley Borough Council's (the Council) contract for off-street car parking enforcement with its current provider (Marston's Group NSL) expires on the 30th of September 2024, after a short term 6 month contract extension was approved so Waverley Borough Council could review the options available. There are a number of options available to the Council for providing this service once the contract with NSL expires. A project has been undertaken by the Business Transformation team (Waverley Borough Council), car parking teams, and enabling services at both the Council and Guildford Borough Council to explore opportunities to work collaboratively to provide this service. This report sets out the process followed to explore

all options and makes recommendations to the Executive. The exempt appendices attached provide more detail on the options.

2 Recommendation to Executive/ Executive Briefing

That the Executive approves:

2.1 Option 3 – Guildford Borough Council to deliver Waverley Borough Council’s off-street parking compliance enforcement officer function in an agreed arrangement as set out in appendix 1.

2.2 Delegated authority is given to the Strategic Director for Place in conjunction with the Portfolio Holder for Parking to enter into the contract following the conclusion of the Guildford TUPE negotiations. This will dictate the final contract sum as set out section 11. Financial Implications of this report.

3 Reason(s) for Recommendation:

3.1 The Council must provide off-street car parking enforcement and the current contract ends 30 September 2024. The recommended route to market best meets 4/5 of the strategic objectives of the collaboration and offers the best value for money to Waverley of all the options set out in this paper.

3.2 Guildford Borough Council are a high performing service managed in-house. They have already worked within Waverley historically (for on-street enforcement) and know the area well. Although Waverley Borough Council will technically outsource the contract to Guildford, the collaborative relationship between the two councils will foster more accountability from Guildford and a better service for residents.

4 Exemption from publication

4.1 Following advice from the Procurement team, the exempt appendices demonstrate financial modelling.

The Council recognises that due to the commercial nature of some of its business, information may sometimes need to be submitted to a meeting

which meets the criteria of exempt information. The information set out in Appendix 1 is “information relating to the financial or business affairs of any particular person (including the authority holding that information)” as defined in Part 1, Schedule 12A of the Local Government Act 1972, is exempt and can be withheld from publication and disclosure.

This information will only be exempt in accordance with this exemption “if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.”

The Council acknowledges that if any of the proposed exempt information is already in the public domain (including by virtue of having been included in any other section of a public report or having been referred to in other public statements/media), it cannot be exempt.

5 Purpose of Report

5.1 The purpose of this report is to agree a route to market for the Council’s off-street car parking enforcement beyond 30 September 2024.

6 Strategic Priorities

6.1 The recommended option will fulfil the criteria of Waverley’s Corporate Strategy 2020-25: “we will [...] be working collaboratively with other Surrey councils to secure the best outcome for our residents both financially and in terms of locally focused services.”

6.2 The project fulfils 4 out of 5 of the priorities set out in the Guildford Borough Council and Waverley Borough Council Partnership vision and the Transformation and Collaboration Strategic Objectives. Please refer to section 8 for more information.

7 Background

7.1 The Council must provide an off-street car parking enforcement and the current contract ends 30 September 2024. This current six-month

contract was put in place to allow more time to explore all options available for the longer-term provision of this service.

7.2 Each option has been assessed under the five case model for business cases as detailed in appendix 1. The option recommended in this paper is considered the best value for money by officers for Waverley Borough Council after review of all options available.

8 Collaboration with Guildford Borough Council

8.1 In July 2021 Waverley Borough Council and Guildford Borough Council agreed to enter a collaboration under section 113(1) of the Local Government Act 1972, starting with the appointment of a Joint Management Team (JMT) as a way of bringing forward further business cases for collaboration and shared services.

8.2 In November 2023 both Waverley and Guildford Borough Councils agreed to begin the Transformation and Collaboration Programme (the Programme). The vision and objectives for the Programme can be found in section 8 of this report.

8.3 The Business Transformation team and Car Parking team at the Council have worked closely with colleagues from both councils to identify the options available to provide this service and scrutinise them with a view to achieving maximum value for money whilst achieving the wider aims of the Programme.

Whilst all objectives will be considered when undertaking collaborative projects, the aims most applicable to this project are:

Vision

- *The two councils will continue to be accountable to their own residents (first point).*

In this arrangement Waverley Borough Council will be a client with Guildford Borough Council providing the service. There is a defined contract specification which will be used to monitor service delivery closely whilst remaining accountable to residents for the service.

- *The partnership will help protect and enhance priority services in the face of the critical local government funding challenge (second point).*

This will be achieved with through a shared compliance enforcement officer team; providing savings for Waverley Borough Council and increased resilience for Guildford Borough Council.

- *The councils will harmonise internal processes and external service delivery except when there is a good reason not to (fourth point).*

Guildford Borough Council undertaking this enforcement work for Waverley Borough Council harmonises external service delivery and provides best value for money as shown in appendix 1.

- *This partnership will form a stable basis for any future collaborative discussions (fifth point).*

From closer working with Guildford Borough Council we have already improved our negotiating position with the supplier of the back office system used. Collaborative arrangements such as the one recommended in this report put Waverley Borough Council and Guildford Borough Council in a stronger negotiating position in the face of future potential local government reorganisation.

Objectives

- *Bridge budget gaps by making savings (principal objective).*
- *Waverley Borough Council will receive cost savings through the proposed solution. Deliver sustainable and resilient public services (second objective).*

A larger team covering both councils offers better resilience.

- *Realise the aims of the collaboration vision, including the delivery of any agreed business cases for further change (fourth objective).*

This project meets the vision as set out above. The case for option 3 can be found in appendix 1.

- *Respond to local and national economic challenges in terms of services, contracts, and staffing (fifth objective).*

A larger more resilient team will help Guildford and Waverley Borough Council face changes to the service and staffing challenges such as staff absence or illness.

9 Consultations

9.1 Waverley and Guildford borough council officers have worked together to establish potential benefits of a mutually beneficial agreement and consulted colleagues from both councils' Legal, Finance, HR, IT procurement and car parking teams.

9.2 If the recommended option is agreed, any resulting TUPE would be between NSL and Guildford Borough Council. Should this be the case, Guildford Borough Council would be responsible for following the correct TUPE procedures.

10 Key Risks

10.1 There is a risk that should a decision not be made in a timely manner; the Council will fail to have provision in place for car parking enforcement beyond September 2024 due to the mobilisation period of setting up and implementing a new agreement. This has been mitigated by the extension of the contract with NSL to allow the appropriate timescales for mobilisation. Both Councils now operate the same back-office system reducing mobilisation time.

10.2 There is a risk that the current provider, NSL, challenge the decision not to go to full tender. Advice from Procurement provides reassurance that the Council has a responsibility to choose the option it deems most appropriate following a review of all options.

11 Financial Implications

11.1 The financial proposal from Guildford Borough Council offers value for money to Waverley Borough Council. In addition, it also gives greater

resilience to the service as a combined team will serve both councils. The total budget available for enforcement in 2024/25 is £344k. Two options have been sent over by Guildford Borough Council. One assuming the supervisor role is subject to TUPE from the existing contractor and another assuming it is not. The cost of the proposal including the supervisor role is budget neutral when comparing to the 2024/25 budget. The cost without supervisor is £312k and would result in an annual saving of £32k. The Executive Head of Commercial Services is in conversation with HR at Guildford regarding these TUPE arrangements and will update once there is a resolution on this issue.

It is also assumed that GBC will take a more proactive approach to enforcement across Waverley car parks, as has been demonstrated through their own enforcement history at GBC car parks. This will either lead to more enforcement income from PCN's or (and preferably) active enforcement will encourage users of our car parks to pay the fees due and we will also see an increase on car park fee income.

12 Legal Implications

- 12.1 The decision recommended in paragraph 2.1 of this Report is a Key Decision of the Council's Executive to be made in accordance with the Council's Constitution, Part 2, Article 12.3 (b) which can be found at the following link: [Waverley Constitution Oct 2022 Part 2 Articles](#)
- 12.2 Waverley Borough Council and Guildford Borough Council's respective strategies and objectives will achieve Best Value by maximising economies of scale and cost efficiencies by entering into the decision recommended.
- 12.3 Section 112 of the Local Government Act 1972 provides that a local authority has a duty to appoint such officers as it thinks necessary to enable it to discharge its own functions and any functions which it carries out for another local authority.
- 12.4 Section 113(1) of the Local Government Act provides that a local authority may enter into an agreement with another local authority for the placing at the disposal of the latter for the purposes of their

functions, on such terms as may be provided for in a collaboration agreement, of the services of the officers employed by the former.

12.5 The Council wishes to appoint Guildford Borough Council to provide the services, and is entitled to do so by direct award under Regulation 12 of the Public Contracts Regulations 2015 (i.e. without open competition) as the *Teckal* exemption applies. With *Teckal*, open advertising and tendering rules do not apply where a public body obtains services from ‘inhouse sources’. This exemption allows Waverley and Guildford, as contracting authorities, a greater scope of cooperation between themselves provided the tests in Regulation 12 are met. Those tests being:

A) the public body controls the service provider in question as if it was that public body’s own department; and

B) the service provider in question carries out an essential part of its activities with the contracting authority which controls that entity.

The tests are met.

12.6 Again, section 95 of the Local Government Act 1972 provides specifically for local authorities to take part in trading activities with other public and private sector bodies, and to do “for a commercial purpose, anything which they are authorised to do for the purposes of carrying on their ordinary functions”. Awarding this project contract to Guildford Borough Council will establish a continued co-operation between the Councils in order to carry out a public task for the benefit of Borough residents.

12.7 Legal Officers from both Councils will assist in drawing up the requisite Collaboration Agreement for the proposed services.

13 Human Resource Implications

13.1 If the recommended option is followed there are no direct HR implications for the Council. TUPE (of NSL staff) will be managed by Guildford Borough Council.

14 Equality and Diversity Implications

14.1 No direct implications arising from this report.

15 Climate Change/Sustainability Implications

15.1 In the year 2023-24 the reported carbon emissions for this service are 5.45 tonnes of CO₂e. This is based on the 1 small diesel vehicle and 3 small petrol/hybrid vehicles NSL have used to provide this service. The carbon emissions have been reducing year on year since their progressive switch from petrol and diesel to hybrid vehicles which started in 2020/21. To ensure carbon emissions do not increase we would require the contractor to utilise similar vehicles with the aim to switch to electric vehicles. There is an expected change in the mileage as the Guildford office is more centrally situated than the current Farnham office.

15.2 Waverley Borough Council currently do not report on the emissions for the property associated with this service. If this is brought inhouse we would be required to report on those emissions under our Scope 1 or 2 as an additional asset.

16 Procurement Implications

16.1 Following advice from Procurement, this report forms an “approval of route to market” for collaboration. Each option has been assessed under the five-case model for business cases (otherwise known as the treasury model) in appendix 1. Best value is not always about cost, although this does inform the economic case which is considered alongside the strategic, commercial, financial and management cases. This ensures that holistically the best option is chosen for Waverley.

17 Overview & Scrutiny Comments

17.1 This report will go to O&S on the 22nd of May for review and any feedback will be incorporated into this report.

18 Summary of Options

18.1 Appendix 1 sets out the options available to the Executive for provision for off-street car parking enforcement after September 2024. These are summarised below.

18.1.1 The first option would involve Waverley Borough Council doing nothing. This would mean no provision for off street parking enforcement beyond the expiration of the current contract. As this presents a significant risk of loss of revenue, this option is not viable.

18.1.2 The second option would involve the minimum effort for Waverley Borough Council. This would involve Waverley Borough Council entering into a 2 year Framework Agreement with NSL. This option is not viable as legal advice has indicated that the framework does not apply to civil enforcement.

18.1.3 The third option would involve Waverley Borough Council “Doing More.” This would involve Guildford Borough Council managing Waverley Borough Council’s compliance enforcement officer team under an agreed arrangement. This is the recommended option as it presents best value for money for Waverley holistically under the treasury model.

- Economic case: this option is either cost neutral or has better financial value compared to the financial modelling for tendering (see appendix 1 option 4 for more information).
- Financial case: the proposal is possible within the proposed budget giving a strong financial case.
- Strategic case: the strongest case out of all options which meets 4/5 strategic objectives for the collaboration.
- Commercial case: the legal team has outlined the commercial case in section 12.3.
- Management case: the project will be managed by the car parking managers for both councils and the Transformation and Collaboration Programme Board will monitor change control.

18.1.4. The fourth option would involve Waverley Borough Council doing the most. This would involve Waverley Borough Council (or both

Councils) re-tendering the contract to multiple contractors (the “status-quo”). Although this may be cost neutral compared to option 3, the strategic and commercial case is weaker and the time constraints make the commercial case less desirable. Financial modelling is discussed in more detail in Appendix 1.

18.1.5. The fifth option would involve Waverley Borough Council doing something else. Waverley Borough Council would create an in-house compliance enforcement team. This option is explored in greater detail in Appendix 1, but on balance the risk of starting a new service from scratch is less desirable for Waverley. On its own, the Council would also have less negotiating power in the market compared to option 3.

19 Conclusion

19.1 Officers recommend the option that provides best value for money and meets the most strategic objectives set by the Transformation and Collaboration Programme.

20 Background Papers

20.1 None

21 Appendices

21.1 Appendix 1 WBC Options Analysis

21.2 EXEMPT Appendix 2 Financial Modelling

Service	Sign off date
Finance / S.151 Officer	29/04/24
Legal / Governance	GG 01/05/24
HR	22/01/24
Equalities	N/A

Lead Councillor	09/05/24
CMB	07/05/24
Executive Briefing	14/05/24
O&S	22/05/23
Procurement	05/03/24

Appendix 1 to Waverley Borough Council's CMB report on Off Street Car Parking Enforcement provision

Option 1 (Do nothing)

'Do nothing' means no provision for off street car parking enforcement beyond the expiration of the current contract (30 September 2024).

- × This option would not contribute to fulfilling the Guildford Borough Council and Waverley Borough Council Partnership **vision or Strategic objectives** of the Transformation and Collaboration Programme and misses an opportunity to collaborate with Guildford Borough Council to deliver cost savings (Waverley's Corporate Strategy 2020-25) in the face of government funding challenges.
- × This option means no enforcement. This would also result in a significant risk of loss of revenue severely impacting the Council's ability to balance the budget and would also necessitate decommissioning costs.
- × The **savings** from not awarding a CEO contract would be far outweighed by loss of income through non-compliant parking in car parks.
- × This could result in leaving **car parks open without enforcement**, resulting in cars parking illegally, cash machines/signage may be damaged etc. especially without the monitoring which comes with enforcement. Otherwise, **car parks would be shut** which would result in less parking options for residents and would affect town centre shops, and decommissioning costs.
- × Waverley Borough Council would not receive **joint monitoring** benefit from shared executive head of service.

Option 2 (Do Minimum)

'Do minimum' would involve Waverley Borough Council entering into a 2 year Framework Agreement with NSL.

- ✦ Legal advice have indicated that this framework **does not apply** to civil enforcement so a full tender would be the only option.

Option 3 (Do More)

'Do more' would involve Guildford Borough Council managing Waverley Borough Council's compliance enforcement officer team under an agreed arrangement.

- ✓ Fulfils 4 out of 5 of the Guildford Borough Council and Waverley Borough Council **Partnership vision** as set out in appendix 2.
- ✓ Meets 4 out of 5 of the Transformation and Collaboration **Strategic Objectives** as set out in appendix 3.
- ✓ Demonstrates **ownership of change** in the face of government funding challenge and embeds change culture.
- ✓ Fulfills criteria of Waverley's **Corporate Strategy 2020-25** "we will [...] be working collaboratively with other Surrey councils to secure the best outcome for our residents both financially and in terms of locally focused services." This arrangement also creates a more "accountable" team.
- ✓ **Strategic Direction:** This is the preferred option of Guildford Borough Council and Waverley Borough Council's Executive Head of Commercial Services with a view to strengthen the relationships between the two car parking teams and create a larger enforcement team where there are greater operational efficiencies and resilience. This is supported by the Transformation and Collaboration Programme Board (**T&CP Board**).
- ✓ **Mitigation of Potential Future Costs:** Collaboration with Guildford Borough Council creates a larger more resilient team. In addition it increases our market presence offering greater value when procuring for car parking infrastructure.
- ✓ **Civil enforcement officers:** Guildford Borough Council providing civil enforcement is best value for money on like for like basis.
- ✓ **Increased resilience:** The councils will share a parking compliance enforcement officer team. If an officer is ill, there will be a larger pool of people to cover, resulting in less dropped PCNs. Data sharing between councils will be managed under the agreed arrangement. Joint performance monitoring (from shared Executive Head of Service) will be used to review staff wellbeing and evaluate improved work efficiencies.

Option 4 (Do Most)

'Do most' involves Waverley Borough Council (or both councils) re-tendering the contract to multiple contractors (the "status-quo").

- × **Waverley's Corporate Strategy 2020-25** outlines a vision of "a financially sound Waverley, with infrastructure and resilient services fit for future." It is possible that best value for money could be achieved by re-tendering, and a traditional tender would provide benchmarking, however under advice from procurement it is unfair to ask a contractor to undertake a tender exercise if another option is a favourable route to market in the report. This is a waste of their time and resources. Under advice from procurement, legal and finance teams, the best way to accurately financial model this option involves taking the previous budget (based on a successful tender) and adjusting for inflation. This has been assessed in the main report (section 11 – Financial Implications). It was found that option 3 had two different options depending on the outcome of the TUPE process. Option A would be budget neutral (ie comparable to tendering), whilst offering additional benefits such as increased resilience. Option B would provide cost savings compared to the budget or re-tendering.
- × This option would not fulfil the Guildford Borough Council and Waverley Borough Council Partnership **vision** or Strategic **objectives** of the Transformation and Collaboration programme.
- × Passing an opportunity to collaborate with Guildford Borough Council would indicate **lack of ownership** of the change required in the face of government funding challenge.
- × Loss of collaboration opportunity to deliver cost savings, as recommended in **Waverley's Corporate Strategy 2024-24**.
- × **Time:** A competitive tender is unlikely to be achievable within the timeframes, even with an additional 6 month NSL contract. This process would take up to 18 months.

Option 5 (Do Something Else)

'Do something else' involves Waverley Borough Council creating an in house compliance enforcement team.

- × **Waverley's Corporate Strategy 2020-25** outlines a vision of "a financially sound Waverley, with infrastructure and resilient services fit for future." It is possible that best value for money could be achieved with an in house service, but this would present a risk to Waverley with the set up costs of a new service that has never been delivered internally before.
- × This option would not fulfil the Guildford Borough Council and Waverley Borough Council **Partnership vision** or Strategic **objectives** of the Transformation and Collaboration programme.
- × Passing an opportunity to collaborate with Guildford Borough Council could indicate **lack of ownership** of the change required in the face of government funding challenge.
- × Waverley Borough Council would be starting this service **from scratch** whilst Guildford Borough Council have a proven track record of enforcement for Waverley Borough Council.
- × Loss of collaboration opportunity to deliver cost savings, as recommended in **Waverley's Corporate Strategy 2020-25**.
- × **Strategic Direction:** This option would be to be high risk for Waverley Borough Council. It would include increased set-up costs as there is currently a lack of internal back office structure.
- × As a stand alone operator the **resilience** of the team will be **low**. With the small team size staff illness could reduce the amount of PCNs issues
- × There will be additional costs to Waverley to **set up** the necessary back office systems. for a fully in house service. It would also attract greater employment risk as the staff would be directly employed.
- × **Risk:** Recruitment of an in-house team and set-up of the equipment required for an in-house team would be costly and put Waverley Borough Council at performance risk as they have not done this service previously. Vehicles, communications, body worn cameras, office and stationary supplies would need to be costed. Staff recruitment may be unsuitable to Waverley Borough Council due to ongoing costs e.g. pensions, IT, HR, sick pay and pensions.

Acronyms:

CEOs = Compliance Enforcement Officers

EHoS = Executive Head of Service

PCN = Penalty Charge Notices

T&CP = Transformation and Collaboration Programme

TUPE = Transfer of Undertakings (Protection of Employment)

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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