

# Agenda

## Cabinet

Date: **Thursday 16 June 2022**

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Time: **2.00 pm**

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Place: **Council Chamber**

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For any further information please contact:

**Democratic Services**

[committees@gedling.gov.uk](mailto:committees@gedling.gov.uk)

0115 901 3906

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# Cabinet

## Membership

**Chair** Councillor John Clarke

**Vice-Chair** Councillor Michael Payne

Councillor David Ellis  
Councillor Jenny Hollingsworth  
Councillor Ron McCrossen  
Councillor Viv McCrossen  
Councillor Henry Wheeler

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## **AGENDA**

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|----------|--|----------------|
| <b>1</b> | <b>Apologies for absence</b>   |                |
| <b>2</b> | <b>To approve, as a correct record, the minutes of the meeting held on 17 March 2022</b>                           | <b>5 - 7</b>   |
| <b>3</b> | <b>Declaration of interests</b>  |                |
| <b>4</b> | <b>Forward plan</b><br>Report of the Democratic Services Manager   | <b>9 - 17</b>  |
| <b>5</b> | <b>Houses in Multiple Occupation (HMOs) in the Netherfield Ward</b><br>Report of the Head of Development and Place | <b>19 - 35</b> |
| <b>6</b> | <b>Decision of Ombudsman following complaint against the Council</b><br>Report of the Monitoring Officer           | <b>37 - 45</b> |
| <b>7</b> | <b>Waste &amp; recycling policy</b><br>Report of the Head of Environment   | <b>47 - 86</b> |
| <b>8</b> | <b>Any other items the Chair considers urgent</b>  |                |

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## MINUTES CABINET

Thursday 17 March 2022

Councillor John Clarke (Chair)

Councillor Michael Payne  
Councillor Peter Barnes  
Councillor David Ellis

Councillor Jenny Hollingsworth  
Councillor Viv McCrossen  
Councillor Henry Wheeler

Officers in attendance: A Ball, E Minogue, F Whyley, E McGinlay, B Hopewell, M Cryer and L Widdowson

Time of meeting start: 14:00

### 90 APOLOGIES FOR ABSENCE

None.

### 91 TO APPROVE, AS A CORRECT RECORD, THE MINUTES OF THE MEETING HELD ON 17 FEBRUARY 2022

#### RESOLVED:

That the minutes of the above meeting, having been circulated, be approved as a correct record.

### 92 DECLARATION OF INTERESTS

Councillor Hollingsworth declared an interest in item 5 as one of the applicants of the funding. It was agreed she would leave the meeting during this item and would not vote on the recommendation.

### 93 ADOPTION OF CARBON MANAGEMENT STRATEGY & ACTION PLAN

The Head of Environment introduced the report, which had been circulated in advance of the meeting, to update Members on the public consultation of the Carbon Management Strategy and to seek approval to adopt the final Carbon Management Strategy and Action Plan.

#### RESOLVED to:

- Adopt the Carbon Management Strategy as it has now been consulted on with residents, partners, stakeholders and community groups;
- Note the summary and analysis of the consultation; and

- Note the Equalities Impact Assessment accompanying the Carbon Management Strategy and Action Plan

Councillor Clarke left the meeting and Councillor Payne took over as the chair of the meeting

**94 COMMUNITY INFRASTRUCTURE LEVY (CIL) NON- PARISH FUNDING – CONSULTATION RESPONSE AND FUNDING DECISION**

Councillor Hollingsworth stepped out after declaring an interest in this item and returned after discussions around the item had finished.

The Community Infrastructure Levy (CIL) officer presented the report to members, which had been circulated in advance of the meeting, to seek Cabinet approval for funding for two projects.

**RESOLVED to:**

- Use up to £25,000 collected from CIL Non-Parish Neighbourhood Funding contributions towards LIS0001 - Footpath extension at Willow Park, Gedling.
- Use up to £55,760 collected from CIL Non-Parish Neighbourhood Funding contributions towards LIS0002 - Internal works and alterations at Netherfield Forum Children, Young People and Families Hub.

**95 GEDLING PLAN PERFORMANCE INDICATORS 2022/23**

Councillor Hollingsworth re-joined the meeting.

The Director for Corporate Resources and Section 151 Officer introduced the report, which had been circulated in advance of the meeting, to agree the performance indicators and targets against which progress of the Gedling Plan will be measured in 2022/23.

**RESOLVED to:**

- Approve the performance indicators, targets and trackers as set out in Appendix 1 for 2022/23

**96 ANY OTHER ITEMS THE CHAIR CONSIDERS URGENT**

None.

The meeting finished at 2.25 pm

Signed by Chair:  
Date:

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## **Report to Cabinet**

**Subject:** Forward Plan

**Date:** 16 June 2022

**Author:** Democratic Services Manager

### **Wards Affected**

All

### **Purpose**

To present the Executive's draft Forward Plan for the next six month period.

### **Key Decision**

This is not a Key Decision.

### **Recommendation(s)**

**THAT:**

**Cabinet notes the contents of the draft Forward Plan making comments where appropriate.**

## **1 Background**

- 1.1 The Council is required by law to give to give notice of key decisions that are scheduled to be taken by the Executive.
- 1.2 A key decision is one which is financially significant, in terms of spending or savings, for the service or function concerned (more than £500,000), or which will have a significant impact on communities, in two or more wards in the Borough.
- 1.3 In the interests of effective coordination and public transparency, the plan includes any item that is likely to require an Executive decision of the Council, Cabinet or Cabinet Member (whether a key decision or not). The Forward Plan covers the following 6 months and must be

updated on a rolling monthly basis. All items have been discussed and approved by the Senior Leadership Team.

## **2 Proposal**

- 2.1 The Forward Plan is ultimately the responsibility of the Leader and Cabinet as it contains Executive business due for decision. The Plan is therefore presented at this meeting to give Cabinet the opportunity to discuss, amend or delete any item that is listed.

## **3 Alternative Options**

- 3.1 Cabinet could decide not agree with any of the items are suggested for inclusion in the plan. This would then be referred back to the Senior Leadership Team.
- 3.2 Cabinet could decide to move the date for consideration of any item.

## **4 Financial Implications**

- 4.1 There are no financial implications directly arising from this report.

## **5 Legal Implications**

- 5.1 There are no legal implications directly arising from this report.

## **6 Equalities Implications**

- 6.1 There are no equalities implications arising from this report.

## **7 Carbon Reduction/Environmental Sustainability Implications**

- 7.1 There are no carbon reduction/sustainability implications arising from this report.

## **8 Appendices**

- 8.1 Appendix 1 – Forward Plan

## **9 Background Papers**

- 9.1 None identified

## **10 Reasons for Recommendations**

- 10.1 To promote the items that are due for decision by Gedling Borough Council's Executive over the following six month period.

**Statutory Officer approval**

**Approved by:**

Chief Financial Officer

**Date:**

31/8/2020 (report content)

**Approved by:**

Monitoring Officer

31/8/2020 (report content)

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## **FORWARD PLAN FOR THE PERIOD 1 JUNE 2022 TO 31 NOVEMBER 2022**

This forward plan sets out the details of the key and non-key decisions which the executive cabinet, individual executive Members or officers expect to take during the next six months.

The current members of the Executive Cabinet are:

Councillor John Clarke – Leader of the Council

Councillor Michael Payne – Deputy Leader and Portfolio Holder for Resources and Reputation

Councillor Ron McCrossen – Portfolio Holder for Environment

Councillor David Ellis – Portfolio Holder for Public Protection

Councillor Jenny Hollingsworth – Portfolio Holder for Growth and Regeneration

Councillor Viv McCrossen – Portfolio Holder for Young People and Equalities

Councillor Henry Wheeler – Portfolio Holder for Health and Wellbeing

Anyone wishing to make representations about any of the matters listed below may do so by contacting the relevant officer listed against each key decision, within the time period indicated.

Description of the decision	Date decision is expected to be taken and who will take the decision?	Responsible officer	Documents to be considered by the decision maker	Cabinet portfolio	Open / Exempt (and reason if the decision is to be taken in private)  Is this a key decision?
<b>Houses of Multiple Occupation (HMO's) in the Netherfield Ward</b> To consider the suitability of implementing an Article 4 direction to introduce a requirement for planning permission to change from a C3 dwelling house (family home) to a C4 HMO (3-6 un related people who share facilities) in the Netherfield ward.	<b>16 June 2022 Cabinet</b>	Mike Avery, Head of Development and Place	Officer Report	Portfolio Holder for Growth and Regeneration	Open  Yes
<del>Decision of Ombudsman following complaint against the Council</del>	<b>16 June 2022 Cabinet</b>	Fran Whyley, Monitoring Officer	Officer Report	Portfolio Holder for Resources and Reputation	Open  No
<del>Waste &amp; Recycling Policy</del> To recommend adoption of the Waste & Recycling Policy which includes the Nottinghamshire Principles for the Reduction of Contamination, following public consultation	<b>16 June 2022 Cabinet</b>	Melvyn Cryer, Head of Environment	Officer Report	Portfolio Holder for Environment	Open  Yes
<b>Selective licensing</b> To inform Cabinet of the outcome of the public consultation on phase 2 selective licensing proposal.	<b>6 July 2022 Cabinet</b>	Sam Palmer, Food, Health and Housing Manager	Officer Report	Portfolio Holder for Environment	Open  Yes
<b>Modern Slavery</b> To update Cabinet on the latest modern slavery updates	<b>6 July 2022 Cabinet</b>	Mike Hill, Chief Executive	Officer Report	Leader of the Council	Open  Yes
<b>Strategic Review</b> To inform members of the proposed strategic review of community facilities to meet our wider strategic aims	<b>6 July 2022 Cabinet</b>	Eugene Minogue, Corporate Director	Officer Report	Portfolio Holder for Housing, Health & Wellbeing	Open  Yes

<b>Budget outturn and budget carry forward</b> To inform Cabinet of the budget outturn and carry forward position for the 2021/22 financial year	<b>6 July 2022 Cabinet</b>	Paul Adcock, Head of Finance and IT	Officer Report	Portfolio Holder for Resources and Reputation	Open  Yes
<b>Actual treasury activity report 2021/22</b> To inform Cabinet of the treasury activity during the 2021/22 financial year	<b>6 July 2022 Cabinet</b>	Paul Adcock, Head of Finance and IT	Officer Report	Portfolio Holder for Resources and Reputation	Open  Yes
<b>Gedling plan Q4 and year end performance</b> To inform Cabinet in summary of the position against Improvement Actions and Performance Indicators in the 2021/22 Gedling Plan at the end of quarter 4 and year end.	<b>6 July 2022 Cabinet</b>	David Archer, Head of Human Resources Performance and Service Planning	Officer Report	Leader of the Council	Open  Yes
<b>Budget monitoring Q1 and virement report</b> To update members on financial performance information for the 1 <sup>st</sup> Quarter of the 2022/23 year	<b>4 Aug 2022 Cabinet</b>	Paul Adcock, Head of Finance and IT	Officer Report	Portfolio Holder for Resources and Reputation	Open  Yes
<b>Prudential code indicator monitoring 2022/23 and Q1 treasury activity report</b> To inform Members of the performance monitoring of the 2022/23 Prudential Code Indicators, and of the quarterly Treasury activity as required by the Treasury Management Strategy	<b>4 Aug 2022 Cabinet</b>	Paul Adcock, Head of Finance and IT	Officer Report	Portfolio Holder for Resources and Reputation	Open  Yes
<b>Gedling plan Q1 performance</b> To inform Cabinet in summary of the position against improvement actions and performance indicators in the 2022/23 Gedling Plan at the end of quarter 1.	<b>4 Aug 2022 Cabinet</b>	David Archer, Head of Human Resources Performance and Service Planning	Officer Report	Leader of the Council	Open  Yes
<b>Carbon reduction action plan update</b> To update members on the progress of the carbon reduction action plan	<b>8 Sep 2022 Cabinet</b>	Melvyn Cryer, Head of Environment	Officer Report	Portfolio Holder for Environment	Open  Yes

<p><b>Review of complaints received by the Council and Annual Review Letter - Local Government and Social Care Ombudsman 2021/22</b></p> <p>To inform Members of the receipt of the Annual Review letter from the Office of the Local Government and Social Care Ombudsman and the complaints dealt with by the Council through the internal Complaints Procedure during the last year</p>	<p><b>6 Oct 2022 Cabinet</b></p>	<p>Francesca Whyley, Head of Governance and Customer Service</p>	<p>Officer Report</p>	<p>Portfolio Holder for Resources and Reputation</p>	<p>Open No</p>
<p><b>Gedling Borough Five Year Housing Land Supply Assessment 2022</b></p> <p>To note the Five Year Housing Land Supply Assessment 2022</p>	<p><b>6 Oct 2022 Cabinet</b></p>	<p>Jo Gray, Planning Policy Manager</p>	<p>Officer Report</p>	<p>Portfolio Holder for Growth and Regeneration</p>	<p>Open No</p>
<p><b>Authority Monitoring Report April 2021 - March 2022</b></p> <p>To inform Cabinet of Gedling Borough Council's Authority Monitoring Report April 2021 - March 2022</p>	<p><b>6 Oct 2022 Cabinet</b></p>	<p>Jo Gray, Planning Policy Manager</p>	<p>Officer Report</p>	<p>Portfolio Holder for Growth and Regeneration</p>	<p>Open No</p>
<p><b>Local scheme of validation for Planning applications</b></p> <p>To inform Cabinet of the local scheme of validation for planning applications</p>	<p><b>6 Oct 2022 Cabinet</b></p>	<p>Nigel Bryan, Principal Planning Officer</p>	<p>Officer Report</p>	<p>Portfolio Holder for Growth and Regeneration</p>	<p>Open Yes</p>
<p><b>Prudential code indicator monitoring 2022/23 and Q2 treasury activity report</b></p> <p>To inform Members of the performance monitoring of the 2022/23 Prudential Code Indicators, and of the quarterly Treasury activity as required by the Treasury Management Strategy</p>	<p><b>3 Nov 2022 Cabinet</b></p>	<p>Paul Adcock, Head of Finance and IT</p>	<p>Officer Report</p>	<p>Portfolio Holder for Resources and Reputation</p>	<p>Open Yes</p>
<p><b>Budget monitoring Q2 and virement report</b></p> <p>To update members on financial performance information for the 2<sup>nd</sup> quarter of the 2022/23 year</p>	<p><b>3 Nov 2022 Cabinet</b></p>	<p>Paul Adcock, Head of Finance and IT</p>	<p>Officer Report</p>	<p>Portfolio Holder for Resources and Reputation</p>	<p>Open Yes</p>



<b>Gedling plan Q2 performance report</b> To inform Cabinet in summary of the position against Improvement Actions and Performance Indicators in the 2022/23 Gedling Plan for the most recent quarter.	<b>3 Nov 2022 Cabinet</b>	Alan Green, Performance and Project Officer	Officer Report	Leader of the Council	Open  Yes
<b>Sport and Physical Activity Strategy</b> The sport and physical activity strategy for Gedling Borough Council 2022	<b>3 Nov 2022 Cabinet</b>	Lance Juby, Head of Communities and Leisure	Officer Report	Portfolio Holder for Community Development	Open  Yes

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## Report to Cabinet

**Subject:** Houses in Multiple Occupation (HMOs) in the Netherfield Ward

**Date:** 16 June 2022

**Author:** Mike Avery, Head of Development and Place

### Wards Affected:

Netherfield

### Purpose:

The report is to inform Members of the suitability of implementing an Article 4 direction to introduce a requirement for planning permission to change from a C3 Dwellinghouse (family dwelling) to a C4 HMO (3-6 unrelated people who share facilities) in the Netherfield Ward.

**Key Decision:** No

### Recommendation(s)

#### THAT Cabinet:

- 1) **Agree that there is currently insufficient evidence to demonstrate that an Article 4 direction is necessary to protect local amenity or the well-being of the Netherfield Ward.**
- 2) **Agree that the overall number of HMOs in the Netherfield Ward should be monitored.**

## 1 Background

- 1.1 On 20 April the Council resolved to refer the principle of making of an Article 4 Direction to remove permitted development rights for change of use from Use Class C3 (dwelling house) to Use Class C4 (house in multiple occupation) covering the Netherfield area, to Cabinet. The Council also called upon the government to reverse the legislation it introduced in September 2010 that removed a requirement for planning permission for HMOs, and resolved to write to local members of parliament accordingly.

- 1.2 Permitted development rights are a national grant of planning permission which allow certain building works and changes of use to be carried out without having to make a planning application.
- 1.3 An Article 4 direction is a direction made under Article 4 of the Town and Country Planning (General Permitted Development) (England) Order 2015, which enables the Secretary of State or the local planning authority to withdraw specific permitted development rights across a defined area. The National Planning Policy Framework (NPPF) advises that the use of Article 4 directions to remove national permitted development rights should be limited to situations where an Article 4 direction is necessary to protect local amenity or the well-being of the area and in all cases, be based on robust evidence, and apply to the smallest geographical area possible.

## **2 Proposal**

- 2.1 As detailed above, this report is referred to Cabinet in accordance with the Council resolution on 20 April 2022.
- 2.2 An analysis of the suitability of implementing an Article 4 direction is attached at Appendix 1 of the report. The report considers the current evidence available to the Council including the following:
- An assessment of planning applications proposing 7 bedroom HMOs at 56 Meadow Road, 45 Ashwell Street and 112 Victoria Road. The applications have been determined to be compliant with the NPPF, Greater Nottingham Aligned Core Strategy (Part 1 Local Plan), Local Planning Document and the Parking Provision for Residential Developments – Supplementary Planning Document.
  - Concerns raised at a residents meeting held on 03 March 22 at St Georges Church, Victoria Road Netherfield. None of the concerns either singularly or in combination would merit suitable justification to progress an Article 4 direction.
  - A written submission by Tom Randall MP received by the Leader of Gedling Borough Council on 20 April 2022 detailing the results of a survey undertaken by the MP and a County Councillor. The data indicates that the respondents have concerns about HMOs, and whilst these may be valid concerns, this does not demonstrate that an Article 4 direction is justified.
  - An analysis of applications made by Landlords for a HMO Licence under the Housing Act 2004. In Netherfield, there has been 1 licence granted at 1A Meadow Road. The Council has received HMO license applications for 6 further properties which are still being processed. The precise number of smaller HMOs accommodating 3 or 4 or unrelated individuals sharing is unknown but it is understood to be low.

- Comments from the Community Protection Manager. Their comments confirm that antisocial behaviour levels reported to the Council in respect of known HMOs in Netherfield is low.

2.3 There are 2915 residential properties within the ward of Netherfield. An assessment of the composition of the housing stock in Netherfield concludes that only **0.24%** (7 properties) is comprised of HMOs accommodating 5 or more unrelated individuals and this could rise to **0.27%**, should a further pending planning application be granted.

2.4 The overall conclusion of the assessment having regard to the requirements set out in the NPPF and the PPG is that there is currently insufficient evidence to demonstrate that an Article 4 direction is necessary to protect local amenity or the well-being of the Netherfield ward. The situation should however be monitored to ensure that a proliferation of HMOs does not emerge, in any particular locality or the Netherfield ward as a whole which might then justify further that consideration of an Article 4 direction is required.

### **3 Alternative Options**

3.1 An alternative option would be to implement either an Article 4 direction to remove permitted development rights for change of use from Use Class C3 (dwelling house) to Use Class C4 (house in multiple occupation) covering the Netherfield ward which takes effect immediately, or a non-immediate Article 4 direction which would result in permitted development rights being withdrawn upon confirmation of the direction, following local consultation. These options would not however be evidenced based and would not comply with the NPPF and the Planning Practice Guidance (PPG).

### **4 Financial Implications**

4.1 There are no direct financial implications arising from the recommendations in this report. Should either of the alternative options be pursued this may give rise to a liability to compensate, as detailed in paragraph 5 Legal Implications, for which there is no budgetary provision.

### **5 Legal Implications**

5.1 The statutory power and policy requirements in relation to the making of Article 4 directions are set out in the report at paragraph 1.2. The making of such a direction without the necessary justification and evidence as specified in the NPPF could result in the order being challenged. The withdrawal of development rights by an Article 4 direction may give rise to liability to compensate where permission is sought and refused.

### **6 Equalities Implications**

6.1 There are no direct equalities implications arising from this report.

### **7 Carbon Reduction/Environmental Sustainability Implications**

7.1 There are no carbon reduction/environmental sustainability implications arising from this report.

## 8 Appendices

8.1 Appendix 1 - Article 4 Directions and the suitability of implementation in the Netherfield Ward to introduce a requirement for planning permission to change from a C3 Dwellinghouse (family dwelling) to a C4 HMO (3-6 unrelated people who share facilities)

8.2 Appendix 2 – Submission from Tom Randall MP

## 9 Background Papers

9.1 National Planning Policy Framework (2021) [National Planning Policy Framework \(publishing.service.gov.uk\)](https://www.gov.uk/publishing.service.gov.uk)

9.2 Planning Practice Guidance [Planning practice guidance - GOV.UK \(www.gov.uk\)](https://www.gov.uk/planning-practice-guidance)

9.3 Adopted Local Plan and Policy Documents [Adopted local plan and policy documents - Gedling Borough Council](#)

9.4 The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) [The Town and Country Planning \(General Permitted Development\) \(England\) Order 2015 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

## 10 Reasons for Recommendations

10.1 Insufficient evidence exists to support an Article 4 direction to introduce a requirement for planning permission to change from a C3 Dwellinghouse (family dwelling) to a C4 HMO (3-6 unrelated people who share facilities) in the Netherfield Ward.

10.2 To ensure continued monitoring of the position.

<b>Statutory Officer approval</b>	
<b>Approved by:</b> <b>Date: 08 June 2022</b>	<b>Chief Financial Officer</b>
<b>Approved by:</b> <b>Date: 08 June 2022</b>	<b>Monitoring Officer</b>

## **Appendix 1**

### **Article 4 Directions and the suitability of implementation in the Netherfield Ward to introduce a requirement for planning permission to change from a C3 Dwellinghouse (family dwelling) to a C4 HMO (3-6 unrelated people who share facilities)**

#### **1.0 Background**

- 1.1 In April 2010, changes were made to planning regulations involving the introduction of a new C4 HMO Use Class (applicable to residential properties occupied by between 3 and 6 unrelated people who share facilities). Prior to this, there had been no distinction in planning terms between such properties and those occupied as a family home. The April 2010 changes also introduced a requirement for planning permission to be obtained for a material change of use from a C3 Dwellinghouse (family dwelling) to a C4 HMO (3-6 unrelated people who share facilities). The result of this was that, it became possible to assess the merits of individual proposals against local plan policies and any other material considerations such as traffic impacts and antisocial behaviour. Planning permission could either be granted with conditions or refused.
- 1.2 The changes were welcomed by many local authorities, particularly those with high student populations where there is often a significant demand for HMOs.
- 1.3 In June 2010, the coalition government announced its intention to introduce further amendments to the regulations governing HMOs that would introduce a permitted development right to change the use of a C3 Dwellinghouse to a C4 HMO thereby removing the newly introduced requirement to obtain planning permission for this change of use. The changes were subsequently implemented and took effect in October 2010.
- 1.4 Local Planning Authorities wishing to reinstate this requirement would then be required to implement provisions under Article 4 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (“the GDPO”). This article allows Local Planning Authorities to withdraw “permitted development” rights for specified development which would otherwise be permitted where it considers it is expedient that the development should not be carried out unless permission is granted for it on an application.

#### **2.0 The Use of Article 4 Directions**

- 2.1 The National Planning Policy Framework (NPPF) at paragraph 53 advises that the use of Article 4 directions to remove national permitted development rights should be limited to situations where an Article 4 direction is necessary to protect local amenity or the well-being of the area and in all cases, be based on robust evidence, and apply to the smallest geographical area possible. The advice is reaffirmed in the Planning Practice Guidance (PPG) at Paragraph 038,

Revision date 20 08 2021. Local Planning Authorities can therefore only make article 4 direction where it can justify both its purpose and extent. Use of article 4 directions should be limited to situations where it is necessary to protect the local amenity or wellbeing of the area and the Local Planning Authority should clearly identify the potential harm the direction is intended to address.

- 2.2 An article 4 direction does not prevent development but means that an application for planning permission must be made prior to any development taking place. If a Local Planning Authority makes an article 4 direction it can be liable to pay compensation to those whose development rights have been withdrawn.
- 2.3 Two types of article 4 direction can remove permitted rights to change from a C3 Dwellinghouse to a C4 HMO. Firstly, an article 4 direction may take effect immediately but this must be confirmed by the local planning authority following consultation within six months or it will lapse. Secondly, a non-immediate article 4 direction may be made which results in development rights being withdrawn only upon confirmation of the direction following local consultation. The Secretary of State has the power to cancel any direction.
- 2.4 The legal requirement for a non-immediate direction is that the local planning authority considers it is expedient that the development should not be carried out unless permission is granted for it on an application. For an immediate direction the local planning authority must also consider that the development to which the direction relates would be prejudicial to the proper planning of their area or constitute a threat to the amenities of their area. Local authorities can elect to make a non-immediate direction in instances where it would be legally possible to make an immediate direction. The immediacy of the threat and compensation liability may be considerations in determining which to use.
- 2.5 A direction coming into effect immediately would have the clear advantage of straight away requiring a C4 HMOs to require planning permission. However, it would also expose the Council to potentially very high levels of compensation liability in cases where applications submitted within the first 12 months of the removal of the permitted development rights were refused or granted subject to conditions, such compensation being based, in part, on the difference in property values arising from the Council's decision.
- 2.6 A non-immediate direction with a prior notice period of 12 months would avoid compensation liability and also allow the results of local consultation to be taken into account in advance of the Council deciding to confirm the direction removing permitted development rights.
- 2.7 As detailed above, any article 4 direction must be evidenced based to comply with the requirements of the NPPF and the PPG and applied in a measured and targeted way.



### **3.0 Current Evidence**

#### **3.0 Recent Planning Applications**

3.1 Over the past 5 years, there have been 3 determined applications for planning permission in Netherfield to change the use of a property from a dwelling to a HMO proposing the occupation of the property by more than 6 unrelated people sharing basic amenities.

3.2 These applications are detailed below:

2020/0484

56 Meadow Road, Netherfield

Single storey extension to rear elevation and change of use from C3 to sui-generis, 6 bedrooms, 7 occupants House in Multiple Occupation

The proposal was refused planning permission contrary to officer recommendation. A revised scheme was subsequently implemented under permitted development comprising 6 bedrooms.

2020/0630

45 Ashwell Street, Netherfield

Change of use from C3 dwellinghouse to seven bedroom (Sui Generis) HMO including loft dormer extension.

The proposal was refused planning permission by the Borough Council, contrary to officer recommendation. An appeal was subsequently made by the applicant to the Planning Inspectorate. The appeal was allowed and permission was granted.

2020/0789

112 Victoria Road, Netherfield

Proposed change of use from existing residential apartments C3 to a large HMO sui generis

The proposal was granted planning permission under delegated authority, following consultation with the Planning Delegation Panel.

3.3 The three determined applications were each considered in light of the relevant policies contained within the NPPF, Greater Nottingham Aligned Core Strategy (Part 1 Local Plan), Local Planning Document and the Parking Provision for Residential Developments – Supplementary Planning Document.

3.4 The principle of the proposed use, impact upon residential amenity, highway safety, flood risk and other issues were fully considered by officers in each report and no conflict was found with any of the Councils adopted planning policies or national policies.

- 3.5 In relation to highway safety, advice was sought from the Highways Authority prior to determining each application and no objections were received. There is no evidenced highway safety risk identified by the Highway Authority which would indicate that existing and proposed HMOs in the Netherfield ward would result in undue highway safety issues. Dwellings in this locality are situated in close proximity to the Netherfield designated shopping area where there are a number of amenities, shops etc. which are within walking distance and the wider area is well served by public transport.
- 3.6 There are no highway safety grounds identified through the determination of recent planning applications which would support an Article 4 direction.
- 3.7 The analysis of planning applications over the past five years indicates that HMOs requiring planning permission are in full conformity with national and local planning policies and no harm has been identified by officers or the Planning Inspectorate.
- 3.8 There is also 1 pending application detailed below:  
2022/0153  
49 Chandos Street, Netherfield  
Proposed change of use from dwelling (C3) to 7 bedroom HMO including rear dormer loft conversion
- 3.9 This application will be assessed against the same national and local policies.
- 4.0 Residents Meeting
- 4.1 A residents meeting was held at 7pm on 03 March 2022 at the St Georges Church, Victoria Road, Netherfield. The meeting was arranged and chaired by a local resident, and the purpose was to discuss the pending planning application at Chandos Street (detailed above) and HMOs/Article 4 directions more generally. The meeting was attended by approximately 50 residents.
- 4.2 The key concerns raised are detailed below and each concern is assessed in relation to the relevant planning considerations, which have been established through appeal decisions and case law.
- Loss of private rented accommodation  
Comment: HMOs have the potential to increase the level of private rented accommodation and diversify the stock of private rented accommodation.
  - Loss of family homes  
Comment: There has undoubtedly been a loss of some larger properties which are suitable for families. Planning permission has however been granted for 830 new homes at Teal Close and there have already been a significant number of completions. There is also a resolution to grant

planning permission for the redevelopment of the Kendon Packaging site and other housing is anticipated to be delivered in the wider area.

- Waste bins on pavements

Comment: it is accepted that (larger) HMOs have the potential to generate more litter but there is no evidence to suggest that this is causing an undue problem or that it cannot be managed.

- Drainage and water supply

Comment: There is no evidence to suggest that HMOs are causing problems with drainage or the supply of water.

- Impact upon property values

Comment: This is not a material planning consideration.

- Loss of community cohesion

Comment: The numbers are low and there is no evidence that there is a significant concentration of HMOs or grouping on any particular street.

- Highway safety concerns

Comment: As detailed above, no concerns have been raised by the Highway Authority.

- Loss of car parking

Comment: As above.

- No demand for further HMOs as some of the rooms within the recently converted accommodation have not been let.

Comment: If there is an over-supply to meet demand, this is likely to reduce the number of future HMOs coming forward in Netherfield. The demand for a particular housing product cannot usually be given significant weight in the overall planning balance when determining a policy compliant application for planning permission.

- Some of the rooms are being advertised at £700 per calendar month

Comment: This is not a planning consideration and rents will be determined by the market.

- Insufficient school places in the Netherfield area.

Comment: A new primary school has been constructed at Teal Close, with the first intake of students expected in September 2022.

- An Article 4 direction should be implemented to deter investors from targeting properties in Netherfield.

Comment: This is no justification for an Article 4 direction.

4.3 From a planning perspective, none of the concerns either singularly or in combination would merit suitable justification to progress an Article 4 direction. No subsequent submissions have been made by residents in support of the concerns following the meeting, with the exception of further objections to planning application 2022/0153.

#### 5.0 Submission from Tom Randall MP

5.1 A written submission was however received by the Leader of Gedling Borough Council on 20 April 2022, detailing the results of a survey undertaken by the MP and a County Councillor. It is stated that there were 111 respondents. A copy of this submission is contained in appendix 2.

5.2 The following data is included in the covering letter:

- Of those surveyed, 93% said they would like to see Gedling Borough Council introduce an Article 4 direction in Netherfield.
- 40% said that an increase in HMOs in Netherfield is removing family homes off the market and resulting in the community not knowing their neighbours
- 68% said an increase in HMOs is adding to issues around lack of on street-street parking.

5.3 Appended to the covering letter is are the survey questions:

- How does the increase in HMOs in Netherfield affect you?
- Are you aware of any HMOs in Netherfield?
- Have HMOs always been in the area?
- How do you feel about an increase in HMOs in Netherfield?
- Gedling Borough Council could introduce an Article 4 direction that will require property owners to apply for planning permission should they wish to convert their property into a HMO. Would you like to see this introduced in Netherfield?

5.4 No details have been provided in relation to how the data was collected or the overall number of residents/properties surveyed. It would however appear to be primary data collected in the local area which reflects the views of the respondents. The data indicates that the respondents have concerns about HMOs, but it does not demonstrate any demonstrable harm which needs to be addressed by implementing an Article 4 direction.

#### 6.0 Applications made by Landlords for a Licence under the Housing Act 2004.

6.1 From the 01 October 2018 the Government has extended the scope of mandatory HMO Licensing throughout England. All HMOs in the Gedling

Borough with 5 or more tenants who do not form a single household require a licence under the Housing Act 2004 and any licences granted include conditions relating to mandatory national minimum sleeping room sizes and waste disposal requirements.

- 6.2 In Netherfield, there has been 1 licence granted at 1A Meadow Road. The Council has received HMO license applications for 6 further properties which are still being processed:

46 Chandos Street

5 Matlock Street

56 Meadow Road

112 Victoria Road

72-76 Station Road

45 Ashwell Street

The Council has a 12 month timescale for issuing HMO licences. The licence holders have met their legal duty when submitting the application.

- 6.3 The number of smaller HMOs accommodating 3 or 4 or unrelated individuals sharing is unknown but in the opinion of our Environmental Health team who deal with the Selective Licensing applications for all rented properties in Netherfield, the number of 3 and 4 person HMOs is considered to be low.

## **7.0 Antisocial Behaviour**

- 7.1 The Community Protection Manager has advised that between all of the known HMOs in Netherfield, antisocial behaviour levels reported to the Council have been very low or non-existent so far. The bulk of complaints are generated by renovation works needed to convert the properties into HMOs, but typically no diary sheets were ever returned and builders generally worked between reasonable hours so no further action could be taken anyway. Additionally, there seems to be a running theme of complaints about the state of bins which can and has led to pest control complaints and concerns about residents parking, as the streets that HMOs are typically on are terraced with no driveways. The car parking concerns have not however generated any objections from the highways authority on safety grounds. In relation to noise, litter and antisocial behaviour, these matters can be controlled through other legislation and do not require an Article 4 direction.

## **8.0 Composition of the Netherfield Housing Stock**

- 8.1 There are **2915** residential properties within the ward of Netherfield and evidence available to the Council indicates that there are 7 confirmed HMOs providing accommodation for 5 or more unrelated individuals. There is a further property which could deliver a HMO, subject to planning/licensing approval. Therefore, currently **0.24%** of the housing stock in Netherfield is comprised of

HMOs accommodating 5 or more unrelated individuals and this could rise to **0.27%**. Furthermore, the existing HMOs appear to be distributed across the ward and at the current time there does not appear to be an over concentration in one particular locality.

## **9.0 Conclusion**

- 9.1 The private rented sector is an important part our housing market and HMOs form a vital part of this sector, often providing cheaper accommodation for people whose housing options are limited. The available information demonstrates that HMOs in Netherfield are distributed across the ward and comprise a low percentage of the overall number of residential properties.
- 9.2 Having regard to the requirements set out in the NPPF and the PPG, in my view there is currently insufficient evidence to demonstrate that an Article 4 direction is necessary to protect local amenity or the well-being of the Netherfield ward. The situation should however be monitored to ensure that a proliferation of HMOs does not emerge in any particular locality or the Netherfield ward as a whole.



HOUSE OF COMMONS

LONDON SW1A 0AA

Cllr John Clarke  
Leader, Gedling Borough Council  
Civic Centre  
Arnot Hill Park  
Arnold  
Nottingham  
NG5 6LU

20<sup>th</sup> April 2022

Dear Councillor Clarke,

**HOUSES OF MULTIPLE OCCUPANCY (HMOs) IN NETHERFIELD**

Thank you for letter dated 12<sup>th</sup> April 2022 in response to my letter dated 3<sup>rd</sup> March 2022 for an Article 4 Direction in Netherfield.

Since I wrote to you with that request, Netherfield's County Councillor, Mike Adams, and I surveyed Netherfield residents to evaluate how prevalent HMOs have become and how they are affecting the community. There were 111 respondents. I attach at Appendix 1 the results of that survey (note that some answers might have more than 111 responses as residents have chosen multiple options).

Of those surveyed, 93% said they would like to see Gedling Borough Council introduce an Article 4 Direction in Netherfield. 40% told us that an increase in HMOs in Netherfield is removing family homes off the market and resulting in the community not knowing their neighbours. 68% of those surveyed said an increase in HMOs is adding to the issues around lack of on-street parking.

As I originally wrote, most HMOs in Netherfield have been created by developers simply applying for a change of use from Class C3 single dwelling to a Class C4 HMO shared by up to six unrelated residents. This change is not subject to the usual full planning permission process, meaning Netherfield residents are not able to comment in support or object to the plans for individual property conversions and Gedling Borough Council's Planning Committee do not get to debate them.

As we have discussed, the Government has introduced powers to enable councils to activate an Article 4 Direction which requires property owners to apply for planning permission should they wish to convert a property into a HMO. The City of Nottingham and the Borough of Broxtowe have introduced an Article 4 Direction. I understand that Cllr Mike Adams will be tabling a motion during this evening's Full Council meeting of Gedling Borough Council, requesting that the Cabinet you lead introduces an Article 4 Direction in Netherfield.

**Tom Randall, MP**  
Member of Parliament for Gedling



HOUSE OF COMMONS

LONDON SW1A 0AA

On behalf of Netherfield residents, I ask that you support this motion to enable the community of Netherfield to take back control of their neighbourhoods and help them continue to improve and I hope that this piece of work has been useful in helping to make a decision.

With best wishes,

A handwritten signature in black ink, consisting of a long diagonal line above the name 'Tom'.

**TOM RANDALL, MP**  
**MEMBER OF PARLIAMENT FOR GEDLING**

020 7219 6613

tom.randall.mp@parliament.uk tomforgedling.com

Gedling office: 28A High Street, Arnold, Nottingham NG5 7DZ (0115) 648 0754



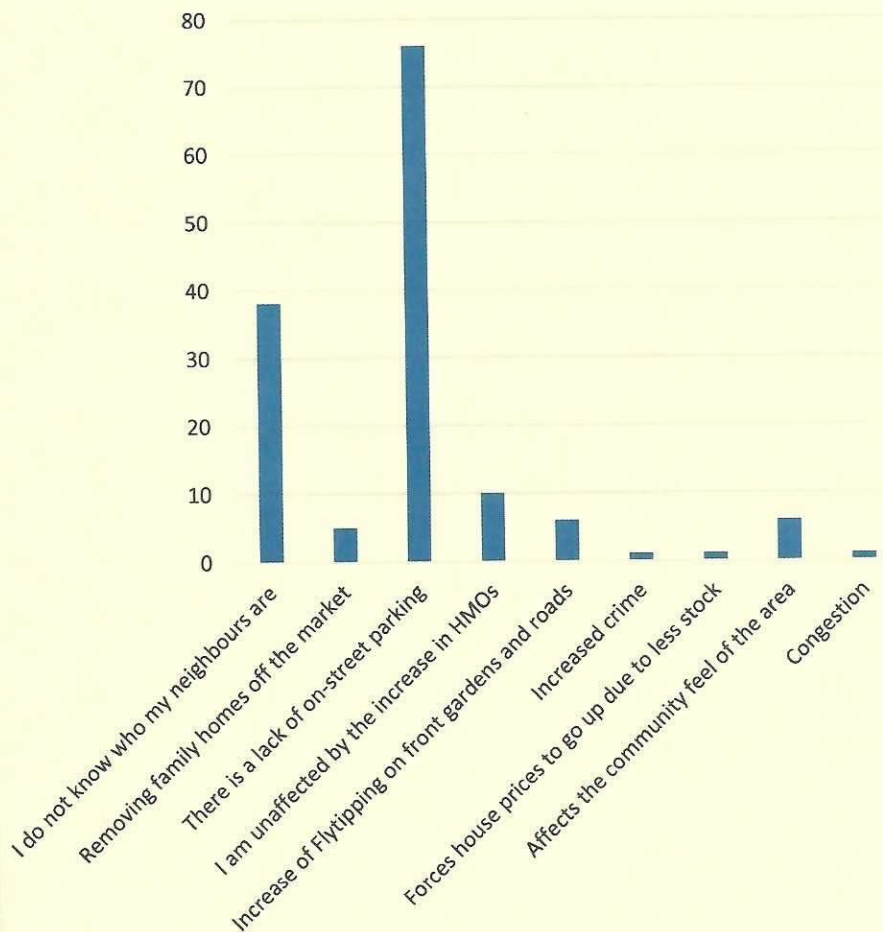


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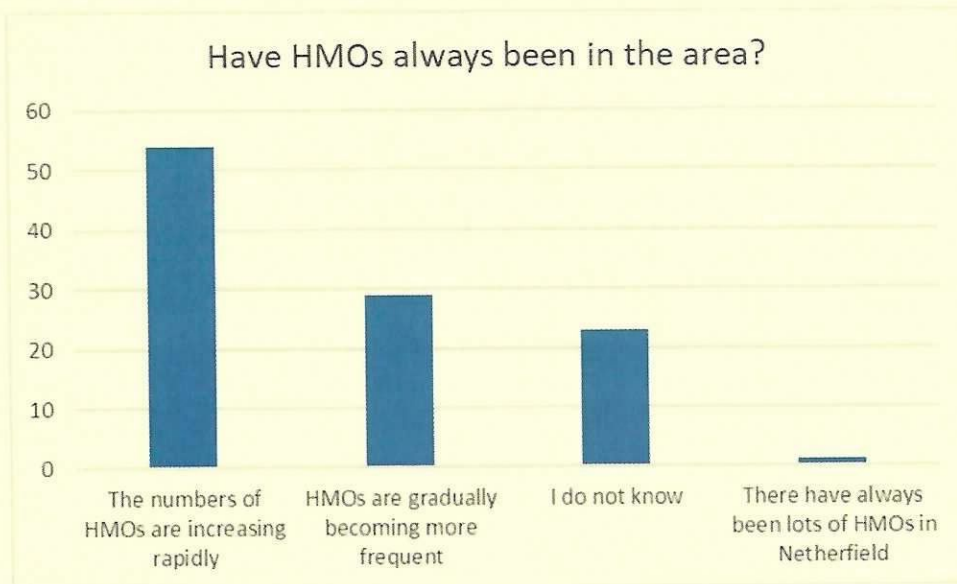
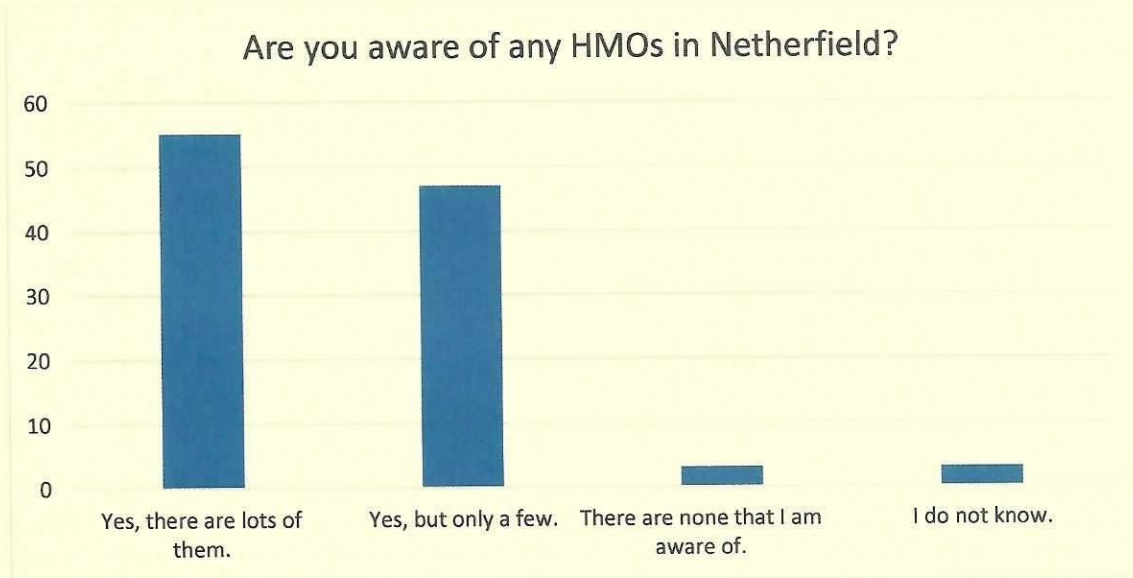
APPENDIX 1

How does the increase in HMOs in Netherfield affect you?





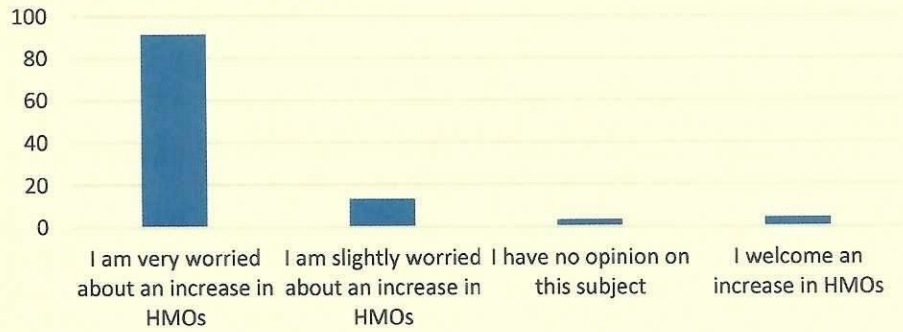
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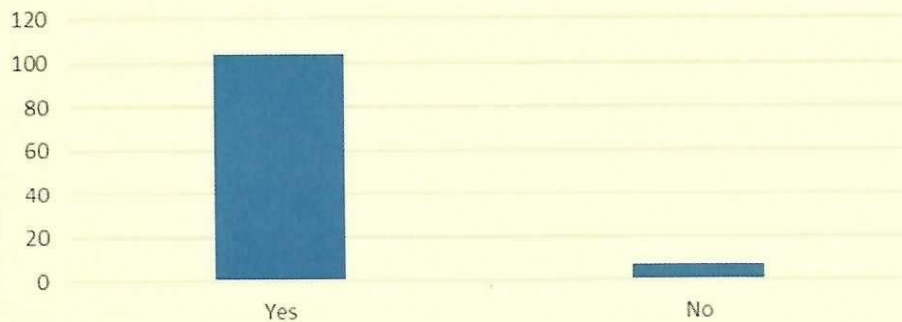


**HOUSE OF COMMONS**  
LONDON SW1A 0AA

**How do you feel about an increase in HMOs in Netherfield?**



Gedling Borough Council could introduce an 'Article 4 Direction' that will require property owners to apply for planning permission should they wish to convert a property into a HMO.  
Would you like to see this introduced in Netherfield?



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## Report to Cabinet

**Subject:** Decision of Ombudsman following complaint against the Council

**Date:** 16 June 2022

**Author:** Monitoring Officer

### Wards Affected

Borough wide

### Purpose

This report is to inform Members of a finding of maladministration with injustice by the Local Government and Social Care Ombudsman ("the Ombudsman") against Gedling Borough Council in response to a complaint by Mr D about missed garden waste collections in 2020 and 2021.

### Key Decision

This is not a key decision

### Recommendations

#### THAT:

1. **The Ombudsman's decision at Appendix 1 be noted;**
2. **It be noted that a copy of this report has been circulated to all members of the Council;**
3. **A report be prepared on behalf of the Executive setting out the action to be taken and reasons for it being prepared.**

## 1 Background

- 1.1 Members are aware that if an individual is dissatisfied with the service provided by the Council he/she may complain under the Council's Complaints, Compliments and Comments Policy. If the complainant exhausts the Council's complaints process and is unhappy with the

response at Stage 2 he/she is entitled to refer the complaint to the Ombudsman. If the Ombudsman decides to investigate a complaint he will determine whether, in his opinion, the Council has been guilty of “maladministration” and if so whether the complainant has sustained “injustice” in consequence.

- 1.2 Section 5A of the Local Government and Housing Act 1989 imposes a duty upon the Monitoring Officer to prepare a report to the Executive if at any time it appears to her that there has been maladministration in the exercise of its functions. The duty does not arise unless the Ombudsman has conducted an investigation. The Monitoring Officer must consult the Head of Paid Service and Chief Financial Officer in the preparation of a section 5A report and provide a copy to each Member of the Council.
- 1.3 As soon as practicable after the Executive has considered the Monitoring Officer’s report it must prepare a report which specifies:-
  - (a) What action (if any) the Executive has taken in response to the Monitoring Officer’s report,
  - (b) What action (if any) the Executive proposes to take in response to the report, and
  - (c) The reasons for taking the action or for taking no action.

## **2 Proposal**

- 2.1 This report relates to a complaint by Mr D about repeatedly missed garden waste collections by the Council during 2020 and 2021. Mr D initially complained to the Council in July 2020 in relation to his garden waste bin being missed for collection on two occasions. The Council issued a stage one response apologising and indicating that the Covid-19 pandemic had caused some service disruption to collections. The Council confirmed that the waste supervisor would speak to crews and monitor collection from the property on a weekly basis. Mr D made a second stage complaint to the Council in September 2021 about further missed garden waste collections. Mr D complained that he was having to call or message the Council for every alternate collection, and was given different reasons why the bin was not collected including obstruction of the street, which he felt was incorrect. The Council sent a second stage response to the complainant on 1 October 2021 again apologising for the service disruption and agreeing that there were no obstructions causing missed collections and that repeated requests for collections should not have to be made. The Council stated that the problem had been with the briefing of collection crews. Mr D then made further reports of missed collection in October and November 2021 and escalated his complaint to the Ombudsman.

- 2.2 The garden waste collection service is a paid for service, whereby fortnightly collections of garden waste are undertaken by the Council. The process for collection is that supervisors provide daily route sheets to crews showing which properties require collection. If a crew are unable to make a collection for certain reasons for example blocked streets, this should be reported by the crew and recorded on the waste management system, this report would then trigger a re-collection within 5-7 working days. Where repeated missed collections are reported by a customer, either online or by telephone these should be flagged to a waste supervisor who would speak to crews and issue a memo to ensure collection. The Council confirmed in response to the Ombudsman's investigation that through 2020 and 2021, due to Covid-19, the waste collection service had been operating with reduced resource and had utilised staff who were unfamiliar with collection routes and reporting systems leading to some missed collections. The Council accepted that the service was not satisfactory and did offer a reimbursement of garden waste charges to Mr D for 2020 and 2021 following the Ombudsman's involvement. Additional training was also given to crews to prevent future incidents.
- 2.3 The Ombudsman did conclude that the Council was at fault for missing Mr D's garden waste collections repeatedly in 2020 and 2021 and that as a result he had suffered injustice, namely he had incurred unnecessary time and trouble pursuing missed collections. The Ombudsman accepted that there had been issues with the service and staffing of the service during this period which resulted in missed collections, but also concluded that the Council had given false reasons for failed collections to Mr D and had failed to escalate supervision of the route following several missed collections. The Ombudsman, during the investigation process acknowledged that the Council had agreed to reimburse garden waste fees to this customer for 2020 and 2021 and proposed that £100 compensation be paid to the customer for the trouble incurred in repeatedly reporting missed collections. The compensation and refund were paid by the Council to the complainant prior to the Ombudsman's final report being issued. There are no further recommendations from the Ombudsman in relation to this complaint as compensation was paid and training provided to waste crews.
- 2.4 A copy of the Ombudsman's decision in relation to this complaint is self-explanatory and is attached at Appendix 1. The Ombudsman wrote to the Council again on 17 May 2022 confirming that the Council have complied with the remedy proposed in this matter as the compensation has been paid.
- 2.5 It should also be noted that there is currently, a review of the waste management software system and associated administrative processes underway. A business case is being finalised in relation to the procurement

of a new waste management system which will improve the process of reporting missed bins by crews, through improved in cab reporting. This should reduce the need for customers to self-report missed collections as any issues will be captured during rounds and logged on the system. In the interim, a review of the waste service complaints management process is also being completed to identify and secure ongoing service improvements.

- 2.6 In light of the Ombudsman's findings and the action outlined above, it is proposed that Cabinet consider what further action, if any should be taken in relation to this matter and that a report of the Executive be subsequently circulated setting out what action, if any is required.

### **3 Alternative Options**

- 3.1 In view of the fact that the Ombudsman has categorised the complaint as "Upheld: maladministration and injustice", the statutory process for reporting the decision must be followed and the Executive are required to prepare a report specifying any particular actions required as a consequence of this report. The Executive may determine that no further action is required by the Council, or may propose alternative action in response to the report.

### **4 Financial Implications**

- 4.1 The compensatory payments were made from existing budgets in 2021/22. There are no other direct financial implications arising from this report. The business case for the replacement waste management system is currently being finalised and procurement is expected to commence during quarter 2.

### **5 Legal Implications**

- 5.1 Section 5A of the Local Government and Housing Act 1989 imposes a duty upon the Monitoring Officer to prepare a report to the Executive if at any time it appears to her that there has been maladministration in the exercise of its functions. This report must be provided to all members of the Council and considered by the Executive within 21 days of the report being circulated.

### **6 Equalities Implications**

- 6.1 There are no direct equalities implications arising from this report.

### **7 Carbon Reduction/Environmental Sustainability Implications**

- 7.1 There are no carbon reduction/environmental sustainability implications



arising from this report.

## **8 Appendices**

8.1 Appendix 1 – Copy of Ombudsman’s decision.

## **9 Background Papers**

9.1 None identified.

## **10 Reasons for Recommendations**

10.1 To comply with the provisions of the Local Government and Housing Act 1989.

10.2 To propose any action to be taken by the Council to avoid any further complaints or instances of maladministration in the exercise of this function.

### **Statutory Officer approval**

**Approved by:**

Chief Financial Officer

**Date:**

**Written by:**

Monitoring Officer

**Date:**

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## **The Ombudsman's final decision**

Summary: Mr D complains the Council repeatedly missed his garden waste collections during 2020 and 2021. The Ombudsman has found evidence of fault by the Council and upheld the complaint. He has completed the investigation because the Council agrees to remedy the injustice caused to Mr D.

---

## **The complaint**

1. The complainant (whom I refer to as Mr D) says the Council has repeatedly failed to make on-time collections of his garden waste from 2020 to 2021.

## **The Ombudsman's role and powers**

2. We investigate complaints about 'maladministration' and 'service failure'. In this statement, I have used the word fault to refer to these. We must also consider whether any fault has had an adverse impact on the person making the complaint. I refer to this as 'injustice'. If there has been fault which has caused an injustice, we may suggest a remedy. (*Local Government Act 1974, sections 26(1) and 26A(1), as amended*)
3. If we are satisfied with a council's actions or proposed actions, we can complete our investigation and issue a decision statement. (*Local Government Act 1974, section 30(1B) and 34H(i), as amended*)

## **How I considered this complaint**

4. I considered the information provided by Mr D. I asked the Council questions and examined its response.
5. I shared my draft decision with both parties.

## **What I found**

### **What happened**

6. In 2020 Mr D paid the Council to collect his garden waste. He complained to the Council in July about collections being missed. The Council replied at the end of July, it said lockdown had caused service disruption and it had requested a Supervisor monitor collections. It is unclear what steps the Council took as I do not have any supporting evidence from it. However, Mr D continued to experience problems with the collections and contacted the Council several times.

- 
7. In September 2021 Mr D formally complained again to the Council. The garden waste collections were still being missed on the scheduled day. He was having to call or Facebook message the Council for every alternate collection. He had been given different reasons by Officers for the missed collections including the street was obstructed which was not correct. The Council sent a detailed response on 1 October. It apologised for the poor level of service. It agreed Mr D should not have to request collections and there were no obstructions causing missed collections. The problem had been with the briefing of the collection crews. The Council accepted it should have fully investigated Mr D's concerns sooner and that he had been given inaccurate information. It would ensure the crews for each collection were briefed.

8. Mr D reported further missed collections in October and November.

### **What should have happened**

9. The Council provides a garden waste collection service for which a resident pays an annual fee. Collections should be fortnightly. A Waste Supervisor prints off a daily route sheet for the collection crew to show which properties require a collection. If the crew are unable to make a collection, they should make a report. When a resident reports a missed collection the Council records this on its management system. A re-collection is made within five to seven working days.
10. Where repeated missed collections are reported to the Council these should be flagged up triggering a Waste Supervisor to speak to the collection crew and issue a memo.
11. The Council says that due to lockdown and the pandemic in 2020 it ran the waste collection service with limited resources. It had to use some inexperienced staff unfamiliar with the collection routes.

### **Was there fault by the Council**

12. The Council accepts its handling of this case has been poor. It says the problems were partly due to lockdown and the driver on Mr D's route failed to report missed collections. The Council took action with the staff member. However, there were clearly other issues including Mr D being given false reasons for why collections had been missed and the Council failing to escalate supervision of the route after several missed collections. As a result of Mr D pursuing his case the Council has now provided additional training to Officers to prevent a recurrence of the issues.

### **Did the fault cause an injustice**

13. The repeated failures by the Council in this case meant Mr D incurred unnecessary time and trouble pursuing missed collections. He paid for a service which was not properly provided.

### **Agreed action**

14. The Council agreed to refund Mr D his garden waste collection fees for the 2020 and 2021 periods. In addition, it also accepted my recommendation to pay Mr D £100 for the time and trouble he incurred solely as a result of the fault by the Council. Those payments should be made within four weeks of this case closing.

### **Final decision**

15. I have upheld the complaint and completed the investigation.

---

**Investigator's decision on behalf of the Ombudsman**

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## Report to Cabinet

**Subject:** Draft Waste & Recycling Policy

**Date:** 16 June 2022

**Author:** Head of Environment

### Wards Affected

Borough wide

### Purpose

To recommend adoption of the Waste & Recycling Policy which includes the Nottinghamshire Principles for the Reduction of Contamination, following public consultation.

### Key Decision

This is a key decision as the Waste & Recycling Policy, if approved, is likely to be significant in terms of its effect on communities living or working in an area comprising of two or more wards of the Borough.

### Recommendation(s)

**THAT Cabinet :**

- 1) Adopts the Waste & Recycling Policy, which includes the Nottinghamshire Principles for the Reduction of Contamination, following public consultation. (Appendix A).**
- 2) Notes the summary and analysis of the consultation (Appendix B)**
- 3) Notes the Equalities Impact Assessment accompanying the policy document (Appendix C)**

## 1 Background

- 1.1 Gedling Borough Council has revised their waste policy in order to progress the stated ambitions of the Council, to formalise the approach and to address areas of under-performance in relation to recycling rates

and levels of recycling contamination. This Policy also serves to support the Council's Carbon Management Strategy.

- 1.2 An associated Waste & Recycling Strategy is also being developed to set out the approach of the Council in terms of how the Policy will be delivered for residents, organisations and businesses in Gedling Borough within the national, regional and local context both through and with partners.
- 1.3 As good practice the council held a public consultation between 4<sup>th</sup> February and 4<sup>th</sup> March 2022 to ascertain resident's views on the policy document. 33 responses were received via the website and email. These are summarised in the consultation review Appendix B and have been incorporated into the policy. The comments made have not resulted in any overall material change to the policy. Many comments though directed via the Waste Policy were more pertinent to the delivery of the Carbon Management Strategy that this policy supports and will be picked up in the delivery of that action plan and strategy moving forward.

## **2 Proposal**

- 2.1 That Cabinet adopt the Waste & Recycling Policy, which includes the Nottinghamshire Principles for the Reduction of Contamination, following public consultation. (Appendix A).

Notes the Equalities Impact Assessment accompanying the Carbon Management Strategy and Action Plan (Appendix B)

Notes the summary and analysis of the consultation (Appendix C)

## **3 Alternative Options**

- 3.1 Members could determine not to adopt the Nottinghamshire Principles for the Reduction of Contamination, but this is not recommended as support is required to improve performance countywide and also clarity for householders is intended to support this.

Member could determine not to adopt the Waste and Recycling Policy.

## **4 Financial Implications**

- 4.1 Following approval a review of resources will take place which may require further budget approvals, and the establishment of a modest budget to support the implementation of a Waste & Recycling Policy following adoption of the policy.



## **5 Legal Implications**

- 5.1 The Environmental Protection Act 1990 and regulations made thereunder deal with the protection of the environment and specific responsibilities relating to litter and waste. The Act places a legal duty on local authorities to collect controlled waste and to recycle. The Act also provides the power to specify how waste should be presented for collection and how failure to comply with requirements can be enforced.

The Anti-social Behaviour, Crime and Policing Act 2014 also provides enforcement powers to local authorities to enable community protection warnings and notices to be issued to prevent conduct (such as obstructive vehicles) which impacts on the quality of life of those in the locality.

The Environment Act 2021 sets out new legal frameworks for environmental governance and includes commitments to secure improvement in five priority areas – waste and resource efficiency (part 3); air quality and environmental recall (part 4); water (part 5); nature and biodiversity (part 6), and conservation covenants (part 7). It legally binds the government and future governments to address these priority areas in order to improve the state of the environment. With regards to waste, it includes details on a new direction for resources and waste management.

Given the nature of the policy proposals, and that they relate to all households in the borough, the policy has been consulted upon. Although not statutorily required it is considered to be best practice. The results of the consultation have been taken into account and where relevant incorporated into the Waste & Recycling Policy document.

## **6 Equalities Implications**

- 6.1 The view is that an Equalities Impact Assessment is required for all policies developed for the Council to consider adopting. The assessment is provided at Appendix B of this report. The key elements are provided below:
- In terms of disability - the service offers a range of assistance in terms of householder responsibility for waste disposal. This ranges from an assisted pull out to options to receive communication materials in a range of formats, to ensure services are inclusive.
  - The clarity of information supports the ability of staff teams to apply the elements of policy consistently to all members of the community.

## **7 Carbon Reduction/Environmental Sustainability Implications**

- 7.1 The Waste & Recycling Policy supports the efficient collection of waste which supports the carbon reduction agenda through minimisation of journeys by the fleet.
- 7.2 The Waste & Recycling Policy supports environmental sustainability through the stated aims of increasing recycling levels and reducing levels of contamination in recycling across the Borough.
- 7.3 The Waste & Recycling Policy also supports environmental sustainability through the stated aim of reducing levels of residual waste per household and delivers to the Council's approved Carbon Management Policy and action plan.

## **8 Appendices**

- 8.1 Appendix A - Waste & Recycling Policy
- 8.2 Appendix B - Waste Policy Consultation Review
- 8.3 Appendix C - Waste Policy Equalities Impact Assessment

## **9 Background Papers**

- 9.1 Working Group Terms of Reference - Waste Policy
- 9.2 Nottinghamshire Principles for the Reduction of Contamination
- 9.3 Report to Cabinet Waste Policy 27 January 2022

## **10 Reasons for Recommendations**

- 10.1 The recommendation is based on the performance improvement requirements in the waste service, identified in the regular performance reports provided to Councillors and Portfolio Holders.

### **Statutory Officer approval**

**Approved by:**

**Date:**

**On behalf of the Chief Financial Officer**

**Approved by:**

**Date:**

**On behalf of the Monitoring Officer**

## WASTE & RECYCLING POLICY



Version 1.0: April 2022

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## **1. Introduction**

The Gedling Borough Council (GBC) Waste & Recycling Policy fits the Gedling Plan vision '**Serving People, Improving Lives**' and the stated priority within this to promote a sustainable environment through the objectives set out below:

- Provide an attractive and sustainable local environment that local people can enjoy.
- Promote and protect the environment by minimising pollution and waste and becoming carbon neutral.

Domestic waste collection across the borough is undertaken by GBC as the Waste Collection Authority, whilst the recycling, reprocessing, treatment and disposal of waste from the seven district and borough councils in Nottinghamshire is managed by Nottinghamshire County Council as the Waste Disposal Authority. It is important to note that although both Gedling Borough Council and Nottinghamshire County Council have a role in collecting, processing and disposing of waste, as local authorities, but we cannot control where waste comes from or significantly influence the manufacturing process.

A long-term waste disposal contract between Nottinghamshire County Council and Veolia also stipulates what materials can and cannot be recycled.

## **Policy Aims**

This policy aims to provide the framework for the following:

- A proportionate and considered approach to waste collection across the Borough
- Clarity and communication for residents to support GBC's recycling targets
- Reduction in black bin (residual) waste
- Increase in recycling rates
- Reduction in contamination of waste streams
- Clarity of measures that will be taken for those who continually contaminate or do not comply with this policy
- Minimisation of the carbon impact of the Waste Service, including fleet mileage and route optimisation

## **Legal Framework**

This policy operates within the current legal framework set out below.

### **The Environmental Protection Act 1990**

This deals with the protection of the environment and specifies responsibilities relating to litter and waste. The Act places a legal duty on local authorities to collect controlled waste and to recycle. Section 46 of this Act provides the legal powers for enforcement.

## Environment Act 2021

This sets out legal frameworks for environmental governance (part 1) and includes commitments to secure improvement on five priority areas;

- waste and resource efficiency (part 3)
- air quality and environmental recall (part 4)
- water (part 5)
- nature and biodiversity (part 6); and
- conservation covenants (part 7)

It legally binds the government and future governments to address these priority areas in order to improve the state of the environment. With regards to waste, it included details on a new direction for resources and waste management.

One of the proposed changes is that the Waste Collection Authorities will be required to introduce weekly separate kerbside food waste collections from 2025/26. This will be dependent on current contractual obligations, with the aim of increasing capture rates for organic material, allowing the banning of this material from landfill or incinerators in due course. The Act also aims to standardise the range of single use plastics to be collected and will as a result increase the range currently collected in Nottinghamshire to allow for plastic film, food trays and carrier bags. Items currently found to be contaminants in many of our recycling bin collections at present. Additional items such as fruit juice cartons may also be added. The Government is shortly to make decisions on the details of the Act implementation, which will serve to help increase recycling rates and will necessitate further changes to this Policy.

## Other Legislation

A range of directives, strategies and guidance are also relevant to the work of the Council in setting policy for waste, which include but are not limited to:

- Waste from Electrical and Electronic Equipment directive (WEEE) (2003) - sets targets for electronic waste recycling and lays out rules for recycling electronic waste
- The Waste (England and Wales) Regulation (2011) - this regulation requires that metal, glass, paper and plastic are collected separately where it is technically and environmentally and economically practicable (TEEP) to do so
- The Controlled Waste (England and Wales) Regulations (2012) - states that household, industrial and commercial waste are classed as controlled waste and are subject to the Environmental Protection Act 1990
- The Circular Economy Package (2018) - sets ambitious, legally binding EU targets for waste recycling and reduction of waste to landfill, including:
  - Recycle 65% of waste by 2035,
  - Recycle 70% of packaging by 2030,
  - Reduce landfill to a maximum of 10% of waste by 2035.

It promotes a shift towards a more circular economy. This is an economic model that optimises the use of resources within the economy by increasing the

duration of a product's useful life and ensuring when a product has reached the end of its life its resources can be productively used repeatedly.

- The Revised Waste Framework Directive (2018) - introduced in 2006 and revised in 2008 and again in 2018. The Waste Framework Directive provides an overarching legal framework for the management of waste across Europe, covering recycling targets and waste management plans and introducing the concept of the Waste Hierarchy.
- European Directive on the Landfill of Waste (2020) - aims to reduce reliance on landfill as a disposal option and seeks to decrease the impacts of landfill to both the environment and human health through rigorous operational and technical requirements.
- Waste Management Plan for England (2021) - provides an analysis of the current waste management situation in England and outlines how the plan will support the implementation of the objectives and provisions of the [Waste \(England and Wales\) Regulations 2011](#).

## 2. Waste & Recycling Policies

### The Standard Service for Individual Domestic Properties

All bins provided remain the property of GBC. The domestic waste collection comprises of three types of collection:

Bin Colour/Type	Waste	Bin Size	Frequency	Note
Black wheeled bin	Residual Waste	180L / 240L	Fortnightly	<ul style="list-style-type: none"> <li>1-5 residents in a property = 240L</li> <li>6-7 residents in a property = 2 x 180L</li> <li>8 or more residents in a property = 2 x 240L</li> </ul> <p><u>Note 1:</u> when a residual waste bin is lost, stolen or damaged, the above household size criteria is used to determine the replacement bin size.</p> <p><u>Note 2:</u> apart from the situation above, there are no plans to replace bins unless required under government legislation.</p> <p><u>Note 3:</u> residents are able to request a smaller 180L bin if that suits their personal requirements.</p>
Green wheeled bin	Mixed Recycling (excluding glass)	240L	Fortnightly	If the demand is justified, residents can order additional recycling bins, free of charge.
Box*	Glass	44L	Four Weekly	<p>If the demand is justified, residents can order additional glass boxes, free of charge.</p> <p><small>*GBC are currently exploring the possibility of a 120L wheeled bin</small></p>

### Optional Services for Domestic Waste from Individual Properties where Fees/Charges Apply

GBC sets fees and charges annually and these reports specify the definitions and application of each fee and charge to be applied.



Bin Colour / Type	Waste	Bin Size	Frequency	Note
Brown wheeled bin	Garden	240L	Fortnightly (Note 1)	<p>Hedge trimmings, leaves, grass cuttings, plants, weeds, pruning are collected fortnightly for around 10 months of the year March – December. Contracts for this waste service run from April 1<sup>st</sup> – March 31<sup>st</sup>.</p> <p><u>Note 1:</u> as garden tonnages drop substantially during the winter months, it is not efficient or cost effective to run the Garden Waste service over the winter months.</p> <p><u>Note 2:</u> the Garden Waste service excludes the following materials (refer to section 5 for acceptable weights):</p> <ul style="list-style-type: none"> <li>• Food waste (raw or cooked)</li> <li>• Branches over 10cm diameter</li> <li>• Garden furniture</li> <li>• Treated wood</li> <li>• Soil/rubble</li> <li>• General household waste</li> <li>• Turf</li> <li>• Animal bedding or waste</li> </ul>
Individual items	<p>Bulky Waste</p> <ul style="list-style-type: none"> <li>• Type 1 - domestic fridges/freezers and electrical items</li> <li>• Type 2 - bulky non-electrical items</li> </ul>	N/A	As and when ordered	<p>State pension-aged residents are entitled to a free one-off collection per year in Gedling.</p> <p>A bulky waste amnesty is currently offered for all residents for a limited number of weeks per year, typically in January/February.</p>

### **Multiple Occupancy Properties (flats or apartments)**

In areas where separate collections are not possible, large communal wheeled bins are provided where this is practical. GBC will provide sufficient bins to allow residents to recycle their recyclable waste and to dispose of any residual waste that cannot be recycled.

All multiple occupancy properties shall receive the same fortnightly collection service as other single occupancy properties in the borough, including recycling services.

### **Churches**

Provision is equivalent to that provided to domestic properties. Any additional requirements will be treated and charged as Trade Waste. There will be no glass collections.

### **3. Requirements of Residents**

#### **Bin Collection**

GBC has the right to determine how bins should be presented for collection, and to decline to collect any bins that are not presented correctly. GBC will not return to a property where any bins have not been presented in accordance with the requirements set out below until the next scheduled collection.

If any bin is contaminated the resident will be required to sort the contents into residual and recycling waste accordingly. No side waste shall be presented and the bin lid must be closed. At the discretion of GBC, residents may be authorised to leave or re-present their bin for collection within an agreed timeframe.

Bins may be collected at any time from 6am onward. Collection times can vary and be impacted by vehicle breakdowns, traffic conditions, adverse weather etc.

Residents should present bins in line with the following requirements:

- Correct contents in the correct colour GBC supplied bin
- Green bins should not be contaminated with incorrect items (refer to section 5)
- Easily seen with handles facing out towards the road
- Avoid causing an obstruction for pedestrians or vehicles, at the boundary of the property (unless a variation is agreed with GBC)
- Residents shall label their bin with the property number/name clearly visible - this will enable staff to return the bin as close to the correct collection point
- No form of advertising is permitted on bins unless authorised by GBC
- Residents are responsible for the cleaning and general maintenance of their bins
- All bins must be presented with the lid closed - partly open lids can get caught in the collection vehicle's machinery and cause a hazard
- Bin contents should not be compressed (excessively pushed or forced down), or overloaded in the case of a box
- If using the bulky waste service, items should be presented on the scheduled day of collection in line with the applicable booking in a visible location.

It is the responsibility of the resident to correctly dispose of waste that is not collected by GBC due to any bins not being presented correctly.

#### **Bin Return**

After emptying, GBC staff will return the bin/box as close to the collection point as possible.

Residents should store their bin back within the curtilage (boundary) of the property no later than 24 hours after midnight on the official council collection day (unless advised to leave out by GBC because it was uncollected).

### **Prohibited Items – Black Bins**

The following items are **not** to be deposited in black bins:

- Asbestos
- Batteries
- Building materials
- Car parts
- Chemicals
- Electrical equipment (Under the 2003 WEEE directive)
- Fluorescent tubes/low energy light bulbs
- Furniture
- Gas Bottles
- Hot ashes
- Infectious materials
- Liquid waste, including paints and oils
- Sharps
- Soil and rubble
- Weed killer
- Excessive amounts of animal waste (guidance is 7kg)
- Any item that does not fit in the bin
- Any item exceeding 25kg

### **Prohibited Items – Green Bins**

The following items are **not** to be deposited in green bins:

- Bagged waste – please leave your recycling items loose in the bin
- Batteries – please put in a plastic bag on top of your bin on collection day (not including car batteries or industrial batteries).
- Cardboard/ plastic takeaway packaging (due to food residue)
- Cling film
- Crisp packets
- Foil
- Food and drink waste - tea bags, egg shells, plate scrapings etc.
- Fruit punnet packaging
- Garden waste - Grass cuttings, hedge trimmings etc.
- Glass - please put clean glass and jars in your glass collections box.
- Large metal biscuit/sweet tins
- Light bulbs
- Mirrors
- Nappies
- Paper Tissue
- Pet food pouches
- Plastic carrier bags, bin liners

- Polystyrene
- Pyrex
- Shredded paper
- Spray bottle tops/triggers
- Sticky labels
- Tetra Pak packaging (Waxy outer with foil lined inner) - juice and milk cartons
- Textiles
- Wallpaper

### **Battery Recycling**

GBC provides a kerbside battery recycling collection service from domestic properties. Residents should place batteries in a bag or other secure container on top the black or green bin and this will be collected on the same collection day. Batteries must be kept separate so that they can be recycled.

### **Small Waste Electronic Electrical Equipment (WEEE) Recycling**

GBC provides a kerbside small (laptop size) WEEE recycling collection service from domestic properties. Residents should place items left on top the black or green bin and this will be collected on the same collection day. Small WEEE items must be kept separate so that they can be recycled.

There is limited capacity for collection so on occasions where an item cannot be taken a sticker will be left informing the resident that the item(s) will be removed on the next collection date.

### **Side Waste – Black Bin**

No side waste shall be left outside of the black bin, whether in bags, on the ground, or on top of the bin. No side waste will be collected, with the exception of small WEEE items and batteries for recycling. The responsibility for the disposal of excess residual waste, including that in communal areas, falls to the resident.

### **Side Waste – Green Bin**

Recyclable materials presented as side waste on the green bin collection date will be collected, provided that it is not contaminated, and is presented in a way that it can be easily handled. Recycling materials shall not be presented for collection in plastic bags or sacks. Please ensure side waste for recycling is clean, and where possible kept dry.

### **Trade or Commercial Waste from Residential Properties**

Residents are responsible for their bins. If commercial or trade waste is contained in a household waste bin, then the bin will not be emptied. If this occurs, then enforcement action may be taken.

## **Assisted Collections**

Residents with disabilities or additional needs may request an assisted collection if there is no one else in the household (16 years and over) who is able to take the bin to the boundary. The request requires authorisation at the discretion of GBC. Validation by a Council officer, a home visit or an evidence request may be required.

Residents are required to ensure that the bin is in an accessible location, gates should be unlocked and in good working order to allow entry. Aggressive or dangerous animals should be secured to allow safe access.

If circumstances change, the Customer Services department must be notified to cancel the assisted collection.

Assisted bin collections may be subject to a periodic review and residents may be asked to re-submit their application if required.

## **Replacement, Additional or Larger Bin Request**

**Replacement Bins** - Residents that require a replacement bin due to it being lost or damaged will be required to make a replacement request and may be subject to a charge.

For the avoidance of doubt, additional capacity black bins will not be provided to any property that does not have a full set of recycling bins unless there are exceptional circumstances. If a household's circumstances change, and as a result alter the volumes of waste being produced e.g. a member of the household leaves home, residents must inform GBC through the online process or by contacting the Customer Services team.

**Green Bins/Glass Boxes** - households that produce an exceptional amount of recyclables can request additional green bins and glass boxes at the discretion of GBC free of charge, through the request function on GBC's website or by phoning the Customer Services team.

**Brown Bins** - All brown delivered form a part of the optional Garden Waste service for which a charge is made. Additional bins may be requested and are subject to an additional charge for the service.

**Additional and/or Larger Bin** - requests for a large or additional general black bin will only be granted in the following circumstances:

- a) **Large Households/number of residents** - a large household can request additional or larger black bin online. These requests may be subject to verification and spot checks.
- b) **Medical Conditions** - a request for a larger black bin due to additional waste as a result of a medical condition may be made online. These requests may be subject to verification and spot checks.
- c) **Other Exceptional Circumstances** - a resident should outline the exceptional circumstances for a request, and should also demonstrate full compliance with recyclable waste, for a request to be considered.

The criteria for a larger bin or additional capacity for residual waste will be subject to an annual review.

### **Moving House**

When residents move home, all bins and glass boxes must be left at the property ready for the new occupant to use. When moving house, residents who have an assisted collection must inform GBC so that amendments to the collection round can be made.

### **New Build Properties**

There will be a charge for the provision of an initial set of bins/box for newly built properties. Where appropriate, developers or the builder will be charged for new bins in accordance with GBC's fees and charges policy. If developers fail to make this provision, the resident may be liable for the purchase of the bins. No collections will be made from a new build property until such time as bins of the required standard are in place.

## **4. Requirements of Gedling Borough Council**

### **Bin Use**

GBC has the right to determine how bins should be presented for collection, and to decline to collect any bins that are not presented correctly.

### **Damage during Collection and Replacement Bins**

If the bin is damaged during collection, GBC will either repair or replace it within 10 working days at no cost to the resident, subject to stock availability. A replacement bin may have been reconditioned, i.e. cleaned and repaired.

### **Waste Calendars**

A calendar will be issued annually for waste and recycling showing bin collection days and can also be found either on GBC's website, by contacting Customer Services, or by signing up to the bin reminder email. During Bank Holiday weeks, collections may change.

### **Bin deliveries**

Bin deliveries (either to new properties, as a replacement, or additional bins) will normally take place within 10 working days of request, but this can be delayed during periods of increased demand, and are subject to stock, vehicle and staff availability.

### **Bulky Waste**

GBC offers a separate chargeable service for large household items from domestic properties. There are two different types of bulky waste collection:

- Type 1 - domestic fridges/freezers and electrical items
- Type 2 - bulky non-electrical items

There is an initial charge for the first item and a reduced charge for each additional item. If there is a mix of type 1 and type 2, then there is a charge per type.

If an item is not presented in line with this policy in a visible location on the scheduled day, or if it is contaminated, it will not be collected and a new booking will be required. A refund will not be given if the staff have attended. It is the responsibility of the resident to present bulky waste for collection correctly.

### **Healthcare Waste Collection Service**

There are two types of healthcare waste currently collected from domestic households. The first type of waste is classed as offensive and relates to waste such as incontinence waste. This type of waste can go into the black bin. However, households producing exceptional amounts of this type of waste can request a larger or additional black bin upon completion of an application.

The second type of healthcare waste is classed as infectious and relates to waste such as dressings and needles. This waste may contain blood and as such, may be



hazardous. GBC offers a separate collection service, currently provided through Rushcliffe Borough Council, for infectious waste in yellow sharps boxes (please note: these sacks and boxes are not provided by GBC). Residents requiring an infectious healthcare waste collection should contact the Customer Services.

Note: Purple boxes cannot be collected as these contain Cytotoxic and Cytostatic waste, which require a suitably permitted facility.

## **5. Missed Collections**

### **Reporting a Missed Collection**

All missed collections must be reported to GBC by residents within 3 working days (Monday - Friday). Each missed collection report will be investigated and, where appropriate, GBC will aim to return within 7 working days, unless advised otherwise by GBC or in unforeseen circumstances.

The missed collection procedure will only be actioned if the bin/box was been correctly presented and/or was not contaminated (see below).

### **Adverse Weather**

In the event of adverse weather or other conditions disrupting the collection services, GBC will attempt to maintain services. However, collections will only be made where the collection area has been deemed safe by staff. Key factors that will affect collections can include (but not limited to) road conditions, safe access, poorly parked vehicles, and risks to the public and staff.

If the decision to suspend the service is made depending on the duration of the disruption, GBC will return to uncollected bins within 7 working days. In the event of the disruption lasting a number of days, then extra waste/recycling may be accepted upon a return to collections. In these circumstances, GBC will advise residents of issues, arrangements, and timescales for a return to services through social media, GBC website, and the waste email alert service.

### **Blocked Roads**

If a road is inaccessible on the day of collection due to poorly parked vehicles, road works or other obstruction, then the scheduled collection may not be possible. Wherever possible, GBC will attempt to maintain services, however the safety of the public and staff, alongside any risk to property, will be a priority. GBC will aim to return to make the collection within 7 working days or when the known obstruction has moved e.g. in the case of road works.

If a vehicle is regularly causing access issues then GBC will initially seek to advise and educate the registered vehicle owner. However if this fails to work and they continue to cause access issues then the council may take appropriate enforcement action.

### **Inaccessible Bins**

If a bin is inaccessible on the day of collection e.g. due to locked gates etc., then the scheduled collection may not be made. Wherever possible, GBC will attempt to maintain services. However, GBC will not take any action with regards to removing any blockage, e.g. alerting residents and requesting that they unlock their gates and/or remove the obstruction

## **Contaminated Bins**

Contamination refers to a prohibited item that has been placed in the wrong bin. Details of what can be placed in each bin are available on GBC's website. GBC's collection staff are authorised to inspect bins for contamination prior to collection. Typically a bin will not be collected if it is contaminated with prohibited items. Our Waste Supervisors have the authority to re-direct a green bin into the residual waste stream in exceptional circumstances to support efficient service delivery.

For any contaminated bin that has not been emptied a sticker may be placed on the bin and recorded by the collection staff. The sticker is designed to inform the resident of the contamination, as the aim for the council is primarily to advise and educate. However, if a resident ignores that advice and continues to purposefully contaminate a bin, then the council may take enforcement action (refer to section 6).

If a bin contains a very small amount of contamination, e.g. a couple of small items, the collection staff may remove the contaminant where possible and collect the bin as normal. Any arising residual waste will be placed in the black bin where possible, or within the property boundary. However, a sticker may be placed on the bin informing the resident that the item(s) placed in the bin are not recyclable, and be recorded by the collection staff.

When a bin has not been collected due to contamination, the resident must remove the incorrect items and either place them in the correct bin prior to the next scheduled collection for that particular bin, or, correctly dispose of the waste in accordance with legal requirements.

Collection staff will not return to a property until the next scheduled collection day.

## **Overloaded Bin/Box**

Any bin that is too heavy to be moved by collection staff or be lifted by the collection vehicle will not be collected. A guidance weight limit for any bin is <60kg, and for boxes the limit is <25kg.

Waste that is compressed in bins may not empty when lifted and tipped into the vehicle. The emptying process does not permit the staff to get in and loosen materials, so if it sticks and cannot be emptied, then the bin may be unemptied or partially emptied. In such circumstances, it is the responsibility of the resident to loosen the contents. An additional visit for collection will be at the discretion of GBC and missed collections may be restricted in these circumstances.

## **Returning for missed collections**

If a resident reports a bin as not being emptied and the resident is unable to wait until the next scheduled collection, GBC will assess the reason for missed collection as follows:

- 1) **Collection staff error** – this is the responsibility of GBC and we aim to return within 7 working days. Black bins will always be prioritised over green bins due to the nature of the waste stream.

- 2) **Adverse weather conditions or blocked roads** – this is the responsibility of GBC and we will aim to return to all affected properties on the next available collection date.
- 3) **Contamination** – this is the responsibility of the resident, who will be notified by a sticker on the bin/box to remove the prohibited items from the bin/box, to correctly dispose of it, and to advise GBC that this action has been taken.
- 4) **Unpresented bins** – this is the responsibility of the resident and staff will not revisit properties categorised as unpresented. Note: GBC uses a real time monitoring system to monitor the collections. All bins/boxes not presented will be logged as unpresented. Bins reported as unpresented on the system will be accepted as factual. It takes longer to report an unpresented bin than it does to collect a bin, so there is no incentive for the staff to report unpresented bins.

### **Damaged during collection**

If a bin/box is damaged during collection, GBC will either repair or replace it within 10 working days at no cost to the resident, unless advised otherwise by GBC. Only bins that have been numbered by the resident will be repaired or replaced.

### **Abandoned bins/boxes**

Residents can report an abandoned bin/box through Customer Services. When an abandoned bin/box has been reported to GBC, it will normally be removed within 10 working days.

## **6. Education and Enforcement**

### **Non-compliance**

Building awareness and having an educational approach is important to help residents understand their role, and assist with improving recycling and operating efficient services this includes engagement / working closely with property managers and social landlords. When a resident does not adhere to this waste and recycling policy, the process from education through to enforcement will follow a staged approach:

#### Education

In the vast majority of cases, contamination of a bin is due to a lack of understanding of requirements. For example, the current long-term recycling contract between Nottinghamshire County Council and Veolia accepts some but not all types of plastics, with plastics being all plastic bottles; yoghurt pots and margarine tubs. Carrier bags, plastic films and plastic food trays are not recyclable at present. The Council will always seek to provide clearer guidance, advice and education as follows:

An initial non-compliance will result in a sticker being placed on the bin, and a note added to the Council system.

A recurrence of that non-compliance will result in education, support and advice being provided to ensure that the Policy is fully understood, and allows the resident time to address any issues or misunderstandings regarding the presentation of their waste and recycling for collection. This may be through a personal visit, or by provision of information. In some circumstances the bin may be temporarily removed.

In almost all situations, this education process will resolve the issue.

#### Enforcement

GBC's approach to enforcement in relation to instances of non-compliance with this waste and recycling policy broadly follows the Nottinghamshire Principles for the Reduction of Contamination, approved by the Joint Waste Management Committee (JWMC) which sets out measures to reduce contamination of recycling and minimise levels of residual waste.

The adopted approach is proportionate and fair. Information to support residents in their understanding of waste and recycling requirements is provided on the GBC and County Council websites. GBC has a duty to take action where a resident's non-compliance is causing a nuisance to the environment or impacting on others by causing a detriment to local amenities.

In exceptional circumstances, the Council may withdraw the waste and recycling service or progress to enforcement through a Section 46 Notice.

A Section 46 Notice is issued to inform the resident how they must present their bin correctly in order to avoid further action.

If a resident continues to present the waste incorrectly and/or fails without reasonable excuse to comply with the requirements of a Section 46 Notice, a warning letter will

then be sent detailing how the resident has breached the Notice, what they need to do to rectify this, and the consequences of any further breaches.

If the resident continues to present the waste incorrectly, the Council may issue a Notice of Intent to issue a Fixed Penalty Notice (FPN), which will detail the reason why, the amount of the penalty, and the right to make a representation to the council within 28 days.

Following the 28 day period and subject to consideration of any representations made by the householder, a fixed penalty notice will be issued. This will explain the reasons why, the amount payable, how payment can be made, the period in which it must be paid, the right to appeal to the First Tier Tribunal, and the consequences of non-payment.

### **Enforcement of Blocked Roads Preventing Access**

As with non-compliance, the Council will always adopt an educational approach to instances of roads being blocked by vehicles parked inconsiderately as follows:

#### Education

Initially, information is placed on the windscreen of the vehicle(s) preventing access.

A recurrence would mean a letter is sent to the registered vehicle owner notifying them of the issue, and providing information about the email reminder service for waste collection.

If it continues then a second letter is issued to the registered vehicle owner.

Again, in almost all situations, this will resolve the issue.

#### Enforcement

In exceptional circumstances, the Council may instigate the following process in line with the required process for the issuing of Community Protection Warnings and Notices, the application of the applicable tests, and its Environmental Enforcement Policy:

- Community Protection Warning to the registered vehicle owner.
- Community Protection Notice to the registered vehicle owner.
- Fixed Penalty Notice issued to the registered vehicle owner.

## **Waste Policy Consultation Review**

### **1.0 Background**

- 1.1 This report provides the findings from the Waste Policy Consultation that was open to the public for 4 Weeks from 4<sup>th</sup> February Until 4<sup>th</sup> March 2022.
- 1.2 The consultation aimed to gather resident feedback on a proposed Waste Policy to replace any existing Policy.
- 1.3 The Waste Policy should be read in conjunction with the Waste Strategy.

### **2.0 Waste Policy Consultation Engagement and Communication**

- 2.1 The Waste Policy consultation was accessible via the Gedling Borough Council webpage which contained a brief over view and a link to the draft copy of the Policy.
- 2.2 A link to the Waste Policy consultation webpage was sent to neighbouring Local Authorities and Veolia the Waste Collection organisation.
- 2.3 The Waste Policy consultation was also promoted via a Gedling Borough Council press release which was issued to multiple local papers and online news organisations
- 2.4 Links to the Waste Consultation webpage were posted across Gedling Borough Council's social media channels throughout the 4 week duration of the consultation.
- 2.5 Residents were invited to send general feedback on the policy to [wastehandover@gedling.gov.uk](mailto:wastehandover@gedling.gov.uk) email address. For those without any digital access, residents were invited to send letter to the Gedling Borough Council Waste Department for inclusion in the results and analysis. All feedback received via these routes were captured for collation and analysis in one place.

### **3.0 Waste Policy Consultation Results and Analysis**

- 3.1 The Consultation consisted of a short paragraph introducing the Policy which highlighted the key proposal that all households with one to five residents would be entitled to a large 240L recycling and residual waste bin, plus additional glass recycling boxes to household that need them.

3.2 Residents were invited to read the draft Waste and Recycling Policy and to provide comments as part of the 4 week consultation. A link was provided to the draft policy as a PDF, or the policy as a HTML accessible page. Plus a link to the waste handover email address.

3.3 There were 33 responses, a response rate of 0.088% of the approximate 37500 households and neighbouring Local Authorities.

3.4 Analysis of the Consultation took place on 14<sup>th</sup> March 2022 by the Environmental Service Head of Service and the Business Development Manager of Environmental Services.

3.5 Some responses were short and only covered one theme, other responses were long and covered multiple themes. The top five themes were as follows:

- Need to extend what can be recycled – 48%
- Questioning the need for smaller households to have a 240L residual bin – 37%
- Would prefer better education rather than enforcement – 18%
- Requests for garden bins to be collected all year – 15%
- Smaller households expressing a desire to keep their 180L residual bin – 12%

3.6 A full break down of the 33 responses and the themes they raise can be found in Appendix 1

#### 4.0 Additional detail arising from the consultation

4.1 Gedling Borough Council as a waste collection authority (WCA) is currently in a long term contract with Nottinghamshire County Council (NCountyC) who are the waste disposal authority (WDA). Items that can be collected in the recycling bins and taken to the Materials Recycling Facility (MRF) are stipulated by NCountyC limiting any additional items that can be currently taken.

4.2 The Environmental Act 2021 does aim to deliver consistent and frequent recycling collections across England which should address some of the issues that have been raised in the consultation surrounding the concerns that not enough items can be collected in the recycling bin.



4.3 The Act also allows for local authorities to operate weekly separate food waste collections, preventing food waste from going to landfill or being incinerated.

4.4 A further provision of the Act is a consideration of free garden waste collections which will address the queries regarding this service.

## 5.0 Recommendations

5.1 There have been a number of small suggestions regarding the wording of sections which do not make any direct changes to the policy and can be incorporated to ensure that the policy remains clear for all residents. It is recommended that these are amended.

5.2 Some of the 33 responses have indicated that there is some confusion surrounding the responsibilities of Gedling Borough Council and Nottinghamshire County Council. It is recommended that some of the detail contained in the Strategy is included in the policy, especially the information regarding what items can be recycled and why this is a limited list. Within the introduction of the policy a 'Background' section should be included which refers to the proposals contained in the Environmental Act 2021.

5.3 As a number of the responses did mention that there was still some confusion about what items could be placed in the recycling bin it is recommended that the diagram which is used across the County detailing which items are accepted, and also which cannot be accepted is included within the introduction of the policy.

**Appendix 1**

1. Small household, does not want a larger residual waste bin.
  - Will contact resident to advise that they are able to retain the smaller bin.
2. Would like more recycling centres.
  - These fall under the responsibility of NCountyCWould like an increase in the amount of items that can be taken in the recycling
  - This will be answered by providing more detail in the 'Background' section with information about the Environmental Act.Glass collections should be more frequent and in wheelie bins
  - This will be answered by providing more detail in the 'Background' section with information about the Environmental Act.Bulky waste should be free all year.
  - This is not economically viable
3. Would like an increase the amount of items that can be recycled to be more ambitious.
  - This will be answered by providing more detail in the 'Background' section with information about the Environmental Act
4. Would like more clarity on what can be recycled.
  - This will be answered by providing the diagram of items that can be taken.
5. A larger bin for all households will increase residual waste.
  - The decision to provide 240L bins for all households was made by Cabinet.
6. Increased bin size will increase carbon footprint.
  - The decision to provide 240L bins for all households was made by Cabinet.There should be better education to reduce contamination levels rather than fines.
  - This will be answered by providing more detail in the 'Background' section with information about the Environmental Act.Garden bins should be free.
  - This is not economically viable
7. Should be a larger amount of items that can go in the recycling bin, and more uniform across the country
  - This will be answered by providing more detail in the 'Background' section with information about the Environmental Act
8. Information about what can be recycled should be clearer and more items taken
  - This will be answered by providing more detail in the 'Background' section with information about the Environmental Act, plus the diagram of items that can be taken.

- Glass collections should be more frequent, or containers bigger.
- This is not economically viable however we will be exploring the possible use of 120L wheelie bins for health and safety reasons which will be added into the policy
9. Concerned that if more items can be recycled there will be more containers
- If more waste streams are added to the service it may be a possibility that the number of waste containers will increase. However we will explore the use of split / dual wheelie bins which will limit this.
10. Smaller households don't need the larger bins as this will increase residual waste.
- The decision to provide 240L bins for all households was made by Cabinet.
11. Garden bins should be collected all year round.
- This is not economically viable.  
Larger bins will create more residual waste.
  - The decision to provide 240L bins for all households was made by Cabinet.
- Would like Tetra pack recycling.
- This will be answered by providing more detail in the 'Background' section with information about the Environmental Act
12. Increase range of products that can be recycled
- This will be answered by providing more detail in the 'Background' section with information about the Environmental Act
13. Would like plastic bags recycling
- This will be answered by providing more detail in the 'Background' section with information about the Environmental Act
14. Education section not clearly staged
- The information in the Waste Policy matches the Nottinghamshire Principles for the Reduction of Contamination approved by the Joint Waste Management Committee.
15. Provision of free or subsidised compost bins.
- This is addressed in the Carbon Management Action Strategy.
16. Larger bins will increase residual waste and will not encourage recycling.
- The decision to provide 240L bins for all households was made by Cabinet.
17. Would like an increase in amount of items that can be recycled to reduce residual waste.
- This will be answered by providing more detail in the 'Background' section with information about the Environmental Act
18. Would like garden waste to be collected all year round.
- This is not economically viable.

19. Annoyed not enough action taken against people who contaminate their bins.
  - The policy contains actions to be taken when a bin is contaminated and further action if this continues.
20. Suggests more should be done to tackle 'persistent offenders' of people who contaminate.
  - The policy contains actions that can be taken for regular contamination.
21. Worried they will get a larger bin that they do not want.
  - Will contact resident to advice that they are able to retain the smaller bin.
22. Would like the introduction of food waste.
  - This will be answered by providing more detail in the 'Background' section with information about the Environmental Act
23. Believes waste should be reduced overall, rather than just recycling.  
Larger bins will encourage more residual waste
  - The decision to provide 240L bins for all households was made by Cabinet.
24. Very keen to support and work alongside GBC to provide various recycling services, including paint for toddler groups and wood for Men in Sheds.
  - The content of this response contained a lot of detail which fits with the Carbon Management Action Strategy. Their details will be passed to the Climate Change Office to contact them.
25. There should be a wider range of items that can be recycled.
  - This will be answered by providing more detail in the 'Background' section with information about the Environmental ActLarger bins are not necessary for smaller households.
  - The decision to provide 240L bins for all households was made by Cabinet.
26. Slim bin Policy was introduced in 2001 to encourage recycling so larger bins shouldn't be introduced for the smaller households.
  - The decision to provide 240L bins for all households was made by Cabinet.There should be better education for communal bin locations.
  - Additional information will be included in the policy to demonstrate the engagement with property managers and social landlords.Up to 7 days return for an uncollected bin is too long.
  - Wording in policy amended to read 'a minimum of 3-4 working days and a maximum of 7 working days'.
27. Need a Recycling Officer to educate residents on items that can be recycled rather than fining.
  - The Climate Change Office and Community Wardens carry out the work of a Recycling OfficerProviding larger bins for smaller households will not encourage recycling.

- The decision to provide 240L bins for all households was made by Cabinet.

Would like action to be taken to get NCountyC to increase number of items that can be recycled.

- This will be answered by providing more detail in the 'Background' section with information about the Environmental Act.

28. If smaller households are given larger bins they are being encouraged to increase their waste.

- The decision to provide 240L bins for all households was made by Cabinet.

29. Disappointing that more items cannot be recycled.

- This will be answered by providing more detail in the 'Background' section with information about the Environmental Act.

Bigger bins to smaller households will not reduce residual waste.

- The decision to provide 240L bins for all households was made by Cabinet.

30. Doesn't want to wait until her bin is damaged to get the larger bin.

- Resident will be able to order a larger bin if the policy is adopted.  
Customer will be contacted to advise.

31. Keen to keep the smaller bin.

- Will contact resident to advise that they are able to retain the smaller bin.

32. Elderly resident who wants to keep her smaller bin.

- Will contact resident to advise that they are able to retain the smaller bin.  
Would like garden waste service all year round.
- Not economically viable

33. NCountyC Submission –

Suggests smaller bins for smaller households will increase a reduction in residual waste.

- The decision to provide 240L bins for all households was made by Cabinet.

Suggests some changes to wording.

- Wording does not change the aims of the policy so these will be included.  
Would like to see removal of recycling bin as an option in the enforcement section.

- This has now been included in the draft for consideration by Cabinet.

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# EQUALITY IMPACT NEEDS ASSESSMENT

APPENDIX C

Name of project, policy, function, service or proposal being assessed:		<b>Gedling Borough Council: Waste &amp; Recycling Policy</b>			
The main objective of (please insert the name of accessed document stated above):		<p>The Gedling Borough Council (GBC) Waste &amp; Recycling Policy fits the Gedling Plan vision “Serving People Improving Lives” and stated priority within this to promote a sustainable environment through the objectives set out below:</p> <ul style="list-style-type: none"> <li>• Provide an attractive and sustainable local environment that local people can enjoy.</li> <li>• Promote and protect the environment by minimising pollution and waste and becoming carbon neutral.</li> </ul>			
<p>What impact will this Waste &amp; Recycling Policy have on the following groups? Please note that you should consider both external and internal impact:</p> <ul style="list-style-type: none"> <li>• External (e.g. stakeholders, residents, local businesses etc.)</li> <li>• Internal (staff)</li> </ul>					
Please use only 'Yes' where applicable		<b>Negative</b>	<b>Positive</b>	<b>Neutral</b>	<b>Comments</b>
<b>Gender</b>	External			X	There are no negative impact for this equality strand
	Internal			X	There are no negative impact for this equality strand

<b><u>Gender Reassignment</u></b>	External			X	There are no negative impact for this equality strand
	Internal			X	There are no negative impact for this equality strand
<b><u>Age</u></b>	External			X	Assisted 'pull-outs' are provided for residents with additional needs who may struggle in putting their own bin out.
	Internal			X	There are no negative impact for this equality strand



<b><u>Marriage and civil partnership</u></b>	External			X	There are no negative impacts for this equality strand		
	Internal			X	There are no negative impacts for this equality strand		
<b><u>Disability</u></b>	External			X	Residents with a limiting long term illness in Gedling Borough, 2011		
						Number	Percentage
					With a limiting long-term illness	20421	18%
					Without a limiting long-term illness	91366	82%
					Source: Office of National Statistics, 2011		
Some people with a physical disability may find it harder to move their bins. Also							

					some people with learning disabilities or long term conditions may generate a larger quantity of non-recyclable waste such as medical waste, pads etc. Although assisted 'pull-outs' are provided for residents with additional needs who may struggle in putting their own bin out. We will monitor the potential impact of the proposal on Disabled people, and ensure that communication and publicity materials illustrate diversity in a positive way, are accessible, and promote participation across all disability groups.
	Internal			X	There are no negative impact for this equality strand
<b><u>Race &amp; Ethnicity</u></b>	External		X [Related to availability of language Line.]		No information available to indicate if language is an issue however officers have access to Language Line and independent language translation services
	Internal			X	There are no negative impact for this equality strand

<b><u>Sexual Orientation</u></b>	External			X	There are no negative impact for this equality strand
	Internal			X	There are no negative impact for this equality strand
<b><u>Religion or Belief (or no Belief)</u></b>	External			X	There are no negative impact for this equality strand
	Internal			X	There are no negative impact for this equality strand
<b><u>Pregnancy &amp; Maternity</u></b>	External			X	Families with younger children in nappies may be affected due to the high volume of non-recyclable waste created by the disposal of nappies.
	Internal			X	There are no negative impact for this equality strand
<p><b>Other Groups</b> (e.g. any other vulnerable groups, rural isolation, deprived areas, low income staff etc.)</p> <p>Please state the group/s:</p> <p>No other groups Identified.</p>	External				People in remote rural locations with additional needs cause by their very remoteness may struggle in bad weather conditions to obtain a bin service. We will monitor the potential impact of such weather events on those in remote locations, and ensure that communication at the time are clear to understand and provide them with alternatives as required.

	Internal				No other groups identified.
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## Equality Impact Assessment

Our service is provided equally to all households throughout the Borough irrespective of gender, age, marriage and civil partnership, disability, race & ethnicity, sexual orientation, religion or beliefs and pregnancy & maternity. The information analysed to inform this EIA indicates that there is no significant differential impact for residents. Should concerns be raised at any time the service will be monitored going forward and any emerging impacts for these or other groups will be addressed accordingly.

### Waste Policy Functions and Aims

This policy aims to provide the framework for the following:

- A proportionate and considered approach to waste collection across the Borough of Gedling
- Clarity and communication for residents to support GBC's recycling targets
- Reduction in residual (black) bin waste
- Increase in recycling rates
- Reduction in contamination of waste streams
- Clarity of measures that will be taken for those who continually contaminate or do not comply with this policy
- Minimisation of the carbon impact of the Waste Service including fleet in terms of mileage and route optimisation

Is there is any evidence of a high disproportionate adverse or positive impact on any groups?		No	Comment: Those with disabilities and those who are elderly are most affected. Assisted 'pull out's' and clear communication and publicity materials should resolve this issue.
Is there an opportunity to mitigate or alleviate any such impacts?	Yes		Comment: The service will be monitored going forward and any emerging impacts for any highlighted group will be addressed accordingly.
Are there any gaps in information available (e.g. evidence) so that a complete assessment of different impacts is not possible?		No	Comment: Nil
In response to the information provided above please provide a set of proposed action including any consultation that is going to be carried out:			
Planned Actions	Timeframe	Success Measure	Responsible Officer
To ensure that all publicity and information material concerning the new waste & recycling services is accessible to all ethnic groups.	June 2022	Language leaflets to be made available through web site or printed copy.	Dave Thomas.

Policy Safeguarding

Age Infirmity or Disability

Residents who express difficulty with putting out and returning their bins, will be able to contact the Borough Council either via telephone, online or through their healthcare provider to request an 'assisted 'pull out' collection service', where the collection crew will empty the bin and return it to the resident's property, negating the need for the resident to transport their waste & recycling to collection point. Information regarding special assistance is also detailed within the Domestic Waste and Recycling Service. The locations of these assisted collections are logged and provided to the specific collection crews.

Residents who have additional needs with managing household generated healthcare wastes are able to request a collection of infectious wastes.

### Race & Ethnicity

Should a residents first language not be English, the Council will provide recycling literature in the mother tongue and or using language line for any other enquiry.

### **Authorisation and Review**

<b>Completing Officer</b>	D Thomas
<b>Authorising Service Manager</b>	M Cryer
<b>Date</b>	08 April 2022
<b>Review date ( if applicable)</b>	