

Environment Transport and Development Overview and Scrutiny Panel

Minutes of the Meeting Held on Tuesday 2 November 2010

Present:

Mr A Adams	Mr J Joyce
Dr A Boswell	Mr M Langwade
Mr A Byrne (Chairman)	Mr B Long
Mr N Dixon	Mr I Monson
Mr P Duigan	Mr J Ward
Mr T East	Mr R Wright (Vice-Chairman)
Mr D Harrison	
Mr M Hemsley	

Non-Voting Cabinet Member:

Mr G Plant	Travel and Transport
Mrs A Steward	Sustainable Development

Non-Voting Deputy Cabinet Members:

Mr B H A Spratt	Travel and Transport
Mr J Mooney	Sustainable Development

1. Apologies and substitutions

Apologies were received from

- Mrs M Chapman-Allen (Mr Monson substituted)
- Mrs M Strong (Mr D Harrison substituted)
- Mr G Cook
- Mr B Iles
- Mr A White

2. Declarations of Interests

The following declarations of interests were received in relation to the item on the Waste PFI Contract – Preferred Bidder Appointment:

Mr B Long declared a personal interest as a Borough Councillor at King's Lynn and West Norfolk and a member of the Waste Project Board.

Mrs J Murphy declared a personal interest as the Local Member for Gayton and Nar Valley.

Mr A Boswell declared a personal interest as a member of the Waste Project Board.

Mr J Joyce declared a personal interest as a member of the Waste Project Board.

3. Items of Urgent Business

There were no items of urgent business.

4. Public Question Time

- 4.1** Appendix A to these minutes sets out the questions and responses to the public questions.

5. Local Member Issues/Member Questions

There were no Local Member issues/Member questions.

6. Waste PFI Contract – Preferred Bidder Appointment

- 6.1** The report (6) was received and introduced by the Director of Environment, Transport and Development, who drew Members attention to the fact that it was a very complex and detailed report and that he wanted to mention a couple of strategic points as follows:
- PFI credits worth £169 million had been retained under the Comprehensive Spending Review 2010, which had been a vote of confidence in the procurement process at Norfolk County Council as several other authorities had lost their grants.
 - Two very strong proposals had been received, both of which represented value for money for Norfolk.
- 6.2** Members were asked to make a recommendation to Cabinet that Cory Wheelabrator be appointed as the preferred bidder for the Waste PFI contract subject to confirmation by Defra that the bid remains in line with its requirements for the PFI process.
- 6.3** The Project Director – Residual Waste Services gave the following background information to the report:
- Following a question as to what other waste initiatives had been explored and the total amount of waste recycled across the county, it was confirmed that recycling levels were currently at 43% and Norfolk was one of the highest performers in the country for waste reduction and dry recycling.
 - The recycling figure of 43% was generated from approximately 395,000 tonnes of waste per year and included recycling and composting. Norfolk County Council was supporting local councils

with a £72 per tonne incentive to incentivise kitchen waste collections which it was hoped could result in more waste being treated by anaerobic digesters.

- Current costs for residual waste going to landfill across the county amounted to approximately £11m per year for the landfill tax cost alone. This figure would rise by £1.8m of tax paid per year until 2015 unless a better solution was found to deal with the amounts of rubbish left over.
- An un-ringfenced cash grant of £91m in PFI credits had been retained under the recent Spending Review. This would be equivalent to a grant of £6.7m for the first year of the contract, expected to be 2015.
- Cabinet had approved the evaluation model and supported approving the bidder placement notice in April 2009, following a recommendation by this Panel.
- The following shortlisted bidders were approved in 2009:
 - Amey Cespa (Amey UK plc / Cespa SA).
 - Cory Environmental Management Ltd / Wheelabrator Technologies Inc.
 - MUV Umwelt GmbH.
 - Resources from Waste (United Utilities plc / Laing O'Rourke plc / John Laing Investments Ltd).
- Following the detailed evaluation process, Cabinet had approved two shortlisted bidders in April 2010, following a recommendation by this Panel.
- All the bidders had been required to prove how they would meet and exceed three main contract targets – 92% of the waste delivered to a facility had to be processed as a minimum; 82% of the residues from a process had to be diverted from landfill as a minimum; bidders had to demonstrate how they would achieve a reduction in the average annual emissions of greenhouse gases to achieve a reduction in CO₂.
- Defra had scrutinised the competitive dialogue process and once they had confirmed they were satisfied, Norfolk County Council was allowed to close the dialogue process and call for final tenders. This happened on 17 September 2010.
- The evaluation process took into account the quality and price of the bids and ensured minimum requirements were met. The evaluation process was approved by Cabinet in 2009. The evaluation team had included representatives from a number of specialist organisations.

- Both bidders had put forward proposals for a combined heat and power ready Energy from Waste (EFW) facility using conventional moving grate technology. Both bidders had decided to use the Willows Business Park at King's Lynn. Similar proposals had been received from the two final bidders.
- Once the final bidder had been approved, they would take on responsibility for obtaining the necessary planning permission and ensuring permits were obtained to operate the facility. A full public consultation was also expected to commence in 2011.
- Following the evaluation ranking process, the proposal submitted by Cory Wheelabrator had emerged as the best option. This had led to the recommendation for the Overview and Scrutiny Panel to consider.
- The provisional timetable for the procurement process was as follows:
 - Cabinet to approve the preferred bidder in November 2010.
 - The Waste Project Board to consider awarding the contract and make recommendation to the Overview & Scrutiny Panel in early January 2011.
 - Overview & Scrutiny Panel in January 2011 to consider awarding the contract.
 - Cabinet in January 2011 to decide the contract award.
 - Contract award and financial close for the preferred bidder in March 2011.
- Members were reassured that the lessons learned and the retention of good practice from a previous procurement had led to this being the fastest procurement in the waste sector and had a direct consequence to the County Council of it retaining its PFI grant allocation under the Spending Review.
- The £91m PFI credits generated a cash equivalent to £169m over the life of the contract.
- There had been a great deal of public interest in the project, both in support of the proposal and also raising concerns and objections. A high degree of media interest was also raising public awareness in the project.
- Once the preferred bidder had been appointed they would be expected to organise their own roadshows, communication liaison panels, site visits, consultations, etc.
- Members' attention was drawn to the risk implications, a couple of examples given that significant delays could lead to a loss of the PFI

credits and if the preferred bidder withdrew it could lead to a reduction in the degree of competition which may impact on the ability to secure value for money solutions. If the preferred bidder was unable to obtain planning permission despite their best efforts, Norfolk County Council could be liable for contract breakage costs in excess of several million pounds. The precise sum would depend on whether the project was abandoned. Changes in foreign exchange rates and interest rates may also have an impact on future costs.

- The Waste Project Board had considered all the information at its meeting on 22 October and had agreed to recommend to Cabinet that Cory Wheelabrator be appointed preferred bidder. The recommendations from the Environment Transport and Development Overview and Scrutiny Panel would be given verbally to Cabinet at their meeting on Monday 8 November.

6.4 Following questions from the Panel the following points were noted:

- 6.4.1 The evaluation model had been informed by the results of a public consultation and the views of four focus groups in May 2008 which included a range of stakeholders. A Member and officer workshop considered the results of the consultation process and the outcomes had then gone before the Project Board who had agreed the evaluation criteria for this process.
- 6.4.2 The evaluation criteria had looked at elements including local benefits and partnership working. It was anticipated that the preferred bidder would engage with the public and they were expected to produce a full communications programme when they were appointed.
- 6.4.3 The requirement was for a service to treat 170,000 tonnes of the County Council's waste. However bidders had decided to propose larger facilities to create the opportunity to offer the use of the facility to other organisations that could use the surplus capacity available. This would also create a subsidy effect to the cost of the County Council.
- 6.4.4 Until financial close had been obtained there was a risk to Norfolk County Council of escalated costs due to fluctuating exchange rates. Once financial close had been reached the risk would then rest with the contractor.
- 6.4.5 Tax payers in Norfolk would benefit financially from day one of the plant commencing its operation.
- 6.4.6 Contract A had exposed the pitfalls of the use of an anaerobic digestion plant to treat left over waste. The Government had recognised that anaerobic digestion was the most suitable option for treating food waste and Norfolk County Council in line with that approach had a financial incentive in place of £72 per tonne to assist authorities in the collection of food waste. It was recognised that the disposal of black bin bag waste needed an alternative to landfill and therefore incineration was the preferred

option for some companies for this sort of waste, but those same companies also provided other options like anaerobic digestion too.

- 6.4.7 There were no justified concerns that waste would be imported to the plant from London, although third party income from the disposal of commercial waste from the area would be used to subsidise the cost of the County Council's service.
- 6.4.8 SKM Enviro, the County Council's technical advisors, were involved in a range of waste projects and had provided a balanced and impartial view. It had worked on Defra's New Technologies workstream which focussed on providing advice and guidance on all major waste management technologies except incineration. This information and guidance on a range of technologies had been given in Defra sponsored workshops to Norfolk County Council Members. Enviro also had involvement in delivering an anaerobic digestion facility in Shropshire and an MBT facility in Scotland on some of the first PFI's. County Council officers, and other organisations, had also been members of the Evaluation Team.
- 6.4.9 Both preferred bidders had employed leading experts with very credible track records. Both bidders needed to comply with the relevant legislation and were capable of meeting and beating the relevant legislation for emissions.
- 6.4.10 A continuous reduction in CO2 emissions could be expected from year 5 of the project, after which a continuous improvement should be seen, although Norfolk County Council had not been prescriptive in how these reductions would be achieved.
- 6.4.11 The recent experience of Cory delivering the Riverside EFU was asked as was the long operational experience of Wheelabrator in the United States. Both these companies had very credible track records.
- 6.4.12 It was confirmed that from 2015 onwards the annual savings for the service could be over several million pounds.
- 6.5 The Cabinet Member for Sustainable Development reiterated the point that it had been the preferred bidders who had come forward with the technologies in their bids. She went on to say that the extra investment to divert waste from landfill was extremely important. She also confirmed that she would be speaking to residents in Norfolk throughout the process to allay any fears they had, as it was recognised that there was a great deal of public concern over this issue.

7. Exclusion of the Public

The Project Director - Residual Waste Services presented the following reasoning for exclusion of the public and conclusion in respect of the public interest test:

Financial and bid issues are outlined in detail for Members to consider. This information is considered to be exempt under Paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972 (as amended 1 March 2006) ('information relating to the financial or business affairs of any particular person (including the authority holding that information)').

The public interest test in disclosing these issues is outweighed by the public interest in non-disclosure. Disclosing sensitive business and financial information may impact on the Authority attaining best value in future negotiations.

It was **RESOLVED** that the public be excluded from the meeting under Schedule 12A to the Local Government Act 1972 for the following item of business.

Mr Long left the meeting at this point and did not return. Mr Long informed the Chairman that he was in favour of the recommendations contained in the report.

**8. Summary of Minutes excluded from public deposit:
Residual Waste Treatment PFI Project – Preferred Bidder
Appointment.**

The Panel received and discussed legal, financial and bid issues that were considered to be exempt under paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972.

9. Return to public session

Mr Adams proposed the recommendation contained in the report which was seconded by Mr Wright. With 8 votes in favour, 3 votes against and 2 abstentions it was

RESOLVED:

To recommend to Cabinet that:

1. Cory Wheelabrator be appointed as the preferred bidder for the Waste PFI contract subject to confirmation by Defra that the bid remained in line with its requirements for the PFI process.
2. The appointment as preferred bidder should remain conditional pending a period of detailed fine tuning that must not involve any changes to the basic features of the bid nor distort competition.

The meeting ended at 4pm.

CHAIRMAN



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Appendix A

4 Public Questions

4.1 First Question from Mr & Mrs Wheeler

Can the county council and independent experts fully satisfy us and other local residents that there is really no health risk whatsoever from the particles produced and the odour that will occur from the chemicals?

Response from the Cabinet Member for Sustainable Development

Norfolk County Council takes the health and well-being of Norfolk people very seriously indeed and has taken guidance from the NHS experts we trust to keep us safe.

In 2009 The Health Protection Agency, said “Incinerators that are well run and regulated do not pose a significant threat to public health.”

Their advice was informed by specialist advisors such as those on its Committee on Carcinogenicity of Chemicals in Food, Consumer Products and the Environment (COC). The Committee reports: “Any potential risk of cancer due to residency near to municipal solid waste incinerators is exceedingly low and probably not measurable by the most modern epidemiological techniques.” (COC 2009.).

4.2 Second Question from Mr & Mrs Wheeler

I am also very concerned about the impact of the proposed incinerator would have on the recycling rates. Indeed if Norfolk drives up its recycling rates to well over 70% they would either have to import a great deal from outside the county, or put at risk the recycling target. Therefore if waste is brought in from outside the county this will increase the amount of heavy duty vehicles (increased carbon footprint) on our already congested A roads.

Response from the Cabinet Member for Sustainable Development

We have asked for a facility to treat 170,000 tonnes of Norfolk residents’ leftover rubbish each year. This is three quarters of the total amount of residual household waste produced by Norfolk homes, which leaves plenty of headroom for Norfolk to continue to increase its recycling rate. The county currently recycles 43% of its household rubbish and is on course to increase this further.

The commercial community in Norfolk generates a much higher amount of rubbish than households – estimated to be in the region of 1.4m tonnes a year. The recommended proposal from Cory Wheelabrator would treat 90,000 tonnes of rubbish a year from local businesses.

All of this waste is already being transported on local roads, mainly to landfill sites like Blackborough End. Nonetheless, the actual impact of the proposed facility on the local road network – and the community - will be fully considered in a detailed Highways Assessment that will scrutinised by stakeholders as part of the process of applying for a planning permission for the facility.

4.3 **Question from Mr Mike Knights**

The House of Commons Environmental Audit Committee recently highlighted the health impacts of fine particulate air pollution specifically PM_{2.5}. It is now recognised there is no safe exposure limit to these fine particles and they should be measured and treated separately from the larger group PM₁₀. European law now reflects this in the Directive 2008/50/EC which says PM_{2.5} air pollution must be monitored and reduced from whatever its present level in Urban areas. To protect the residents in King's Lynn and comply with the directive it is necessary to monitor the current level of PM_{2.5} pollution in the King's Lynn urban area to establish the base line current level of this pollutant. If a future incinerator increases the level of PM_{2.5} pollution in King's Lynn it will be in direct breach of the directive. Incinerators like that proposed for King's Lynn are known to produce PM_{2.5} air pollution. The intended location is directly upwind of King's Lynn. Are all Norfolk County Council members present aware the Council's PM_{2.5} monitoring equipment is currently recording base line air quality in the wrong location where it cannot possibly detect emissions from the proposed incinerator and will not provide the necessary information to check compliance with the European directive?

Response from the Cabinet Member for Sustainable Development

European Directive 2008/50/EC was transposed in to UK law via the Air Quality Regulations 2010 and came in to force in June 2010. It requires that an average national exposure indicator is calculated initially from which a national exposure reduction target is then set which should be met by 2020.

The indicator is calculated using a monitoring network across the UK, and not for any single facilities, and this network has already been established by the Government.

The responsibility for compliance with the Directive and the national exposure reduction target will lie at a national level with the government of each EU member state, and consequently a single installation or facility could not be in direct breach of the Directive.

The purpose of the ongoing air quality monitoring in and around the Willows Business Park, which includes measurements of all particulates smaller than two and a half microns (referred to as PM_{2.5}), is to determine existing concentrations in the vicinity of the proposed facility and this will be used to inform the Environmental Impact Assessment (EIA) which is considered as part of the planning application process.

Supplementary Question: Now understanding the harm of PM_{2.5} air pollution, are councillors happy King's Lynn residents should be exposed to unmonitored and elevated concentrations of this dangerous pollution?

The **Cabinet Member for Sustainable Development** reiterated that the process for this meeting was to look at the bidder process only. The

supplementary question was regarding health and would be answered during the next stage of the process once the preferred bidder had been confirmed.

4.4 First question from Mrs Anna Reeves

The borough Council of King's Lynn and West Norfolk has worked extremely hard to promote King's Lynn as a town with a rich heritage and a vibrant community, which does, indeed, attract tourists from all over the world.

Would the ETD O&S Panel of Norfolk County Council agree that an incineration plant such as the one proposed for the willows Business Park, Saddlebow would have a negative visual impact on the landscape for miles around, and could act as a disincentive to many potential visitors who would see this as a symbol of a dirty and possibly health threatening industry?

Response from the Cabinet Member for Sustainable Development

Modern incineration is neither a dirty nor health-threatening industry. It is actually one of the most strictly regulated industrial processes and contributes a fraction of pollutants in comparison.

The site for this proposed facility is on a well-established industrial estate. It is adjacent to Centrica's power station and Palm Paper's mill – the largest in Europe. Both of these facilities dominate the immediate area and they are on much larger sites than the one where a proposed power and recycling centre would be developed.

The Willows Business Park and Saddlebow Industrial Estate are also both identified in local planning policies as being suitable for further industrial and commercial development.

It is not possible to know what the design of the facility will be until the final proposals are put forward for scrutiny as part of the planning process. This process will involve a detailed assessment of the precise impact on the proposed facility on the local landscape – and the community generally.

But it is a fact that more than 20 other UK authorities currently use this type of technology to manage their leftover waste. Treatment plants like this are located in urban and rural communities, including those with strong agriculture and tourism-related economies just like Norfolk. In many of these places, the facility is considered by the local community to make a positive contribution to their area - for example in Jersey and the Isle of Man – locations which are noted for both their high quality tourism industries and high property values.

4.5 Second question from Mrs Anna Reeves

As the Borough Council of KL&WN could do a great deal more to develop green and sustainable methods of waste management, incineration is surely a premature and inappropriate option which could damage the popularity of the town and the surrounding area and the well being of its residents. Would the Panel please comment?

Response from the Cabinet Member for Sustainable Development

Norfolk residents are among the greenest in the county when it comes to rubbish as Norfolk is in the top ten for both its waste reduction and recycling performances. In common with all local authorities in the county, the Borough Council of King's Lynn and West Norfolk has consistently developed the services it provides residents to help us achieve this excellent performance.

The fact of the matter is that no matter how good we get there will always be rubbish that can't reasonably be recycled. So the proposals being considered for a power and recycling centre at Saddlebow would allow us to treat this rubbish as a resource by burning it and generating power, heat and tens of thousands of tonnes of additional materials for recycling from waste instead of dumping it in the ground at landfill sites.

Adopting this approach would also help us tackle climate change as it would stop the release of thousands of tonnes of CO₂ into the atmosphere compared with using landfill.

It would also help save £8m a year, or £200m over the lifetime of the facility. This is money which could be better spent on providing more public services for local people instead of paying landfill tax.

These are sensible proposals that would deliver a financially and environmentally sustainable solution to Norfolk's waste management for the future.