

**16 January 2014**

## **7. REPORTS OF CABINET**

### **(a) MATTERS WHICH REQUIRE A DECISION BY COUNCIL**

#### **Waste Management Services Contract**

#### **Recommendation**

- 1. The Cabinet recommends that having regard to any further report direct from the Director of Resources on the details of the Council's position as potential providers of appropriate funding for the project, to:**
  - i. amend its Treasury Policy Strategy and associated Treasury Management Statements and authorise a loan of up to £125 million (noting that Herefordshire Council intend to loan £40 million) to Mercia Waste Management Ltd (Mercia) for the purposes of the varied Waste Management Service Contract (WMSC) (Option 2);**
  - ii. add up to £125 million to the Council's Capital Programme in order to enable the Council to provide such a loan to Mercia;**
  - iii. authorise the Director of Resources to take all necessary steps to obtain the funding for Option 2 from the Public Works Loan Board;**
  - iv. amend the Medium Term Financial Plan as appropriate;**
  - v. consider whether any arrangements are appropriate to ensure that the Council is able to properly take account of its interests as both the Waste Disposal Authority and as the funder; and**
  - vi. authorise the Director of Resources to finalise a loan agreement with Mercia and advance funds as authorised above to Mercia by way of stage payments, properly authorised by the Councils' independent certifier, as a loan repayable over the remaining life of the WMSC.**
- 2. The Cabinet has considered recommendations for handling residual waste for Herefordshire Council and Worcestershire County Council. All Councillors will have had**

a copy of the full report and Appendices considered by the Cabinet on 12 December 2013 and are referred to it for detail. Waste management is an executive function, and Cabinet has agreed to pursue Option 2 (variation of the existing WMSC to build an EfW at Hartlebury Trading Estate, funded by prudential borrowing). Council is now being asked to approve the related budget decisions to put this into effect.

3. The report considered by the Cabinet advised that doing nothing would cost the two councils £128m (Net Present Cost) more than the recommended option. The report included the background to the current Waste Management Service Contract (WMSC) with Mercia Waste Management (Mercia) that was let in 1998 for the disposal of all Local Authority Collected Waste arising within the two counties. This contract was for 25 years and whilst focused on recycling and recovery outputs it included the provision of waste management infrastructure, including: a Mixed Waste Material Reclamation Facility (MRF), Transfer Stations, Pre-Sorted MRF, Household Waste Sites (now Household Recycling Centres), Operations and Management of Hill and Moor Landfill, Construction and operation of a Waste to Energy Plant (the more modern terminology is Energy from Waste) and Composting facilities. In 1998 this was a pathfinder PFI project for waste disposal and it is important to remember that it was based on an EfW solution for dealing with residual waste (albeit in Kidderminster).

4. As set out in previous reports, the original Kidderminster Waste to Energy Plant site did not receive planning consent, and Mercia were asked to develop further proposals for the disposal of residual waste. Mercia proposed the construction and operation of an Energy from Waste (EfW) plant processing 200,000 tonnes of residual waste per annum. The EfW proposal had been supported in principle by the two Councils since 2009 and officers were authorised to negotiate a variation to enable the EfW proposal to be progressed. Following a call-in Planning Inquiry by the Secretary of State, planning permission was secured by Mercia in July 2012 to locate the proposed EfW plant at a site on the Hartlebury Trading Estate. Recognising this was at a different time and location to that initially envisaged in the 1998 WMSC, it would be progressed as a lawful variation to the existing contract. In December 2012, the two Councils authorised officers to pursue proposals for alternative methods of finance for the EfW plant at Hartlebury.

5. Further to previous Cabinet reports, a value for money assessment of various options had been carried out. In addition, a number of potential financing options had also been considered. The options considered were:

| Option | Description |
|--------|-------------|
|--------|-------------|

|           |   |
|-----------|---|
| Option 1  | EfW Variation to WMSC with Commercial Finance   |
| Option 1a | EfW Variation to WMSC financed by Private finance and Council's Prudential Borrowing ("co-financing")                         |
| Option 2  | EfW Variation to WMSC financed by Councils' Prudential Borrowing  |
| Option 3  | Continue 'As Is'  |
| Option 4  | Termination of the WMSC and Councils procure an EfW Plant and other services through a new Design, Build and Operate Contract |
| Option 5  | Terminate the WMSC and re-procure existing services Without the construction of an EFW  |

6. The recommendations to Cabinet were based on:

- Various potential solutions for dealing with residual waste had been investigated and a revised Joint Municipal Waste Management Strategy (JMWMS) adopted in 2009. The Residual Waste Options Appraisal ranked EfW highly, particularly with Combined Heat and Power
- In line with the JMWMS, Mercia had proposed an EfW and selected the site at Hartlebury Trading Estate as the best available. This proposal had been supported in principle by the Cabinet since December 2009 and officers authorised to prepare a contract variation to give effect to the proposal. In December 2012, Cabinet authorised officers to pursue proposals for alternative methods of finance for the EfW plant, having regard to a refresh by external experts of the JMWMS which continued to rank EfW highly. The current proposal was therefore in line with the refreshed JMWMS
- The previously agreed parameters being substantially met
- Doing nothing would expose the Councils to significant risk of having no capacity for treating or disposing of waste in 2023, when the WMSC expired. Residual waste would continue to be landfilled in the meantime, leaving the only available landfill site in the two counties close to being full, exposing the Councils to additional landfill tax, the expiry of the EfW planning permission and failing to achieve national landfill diversion targets. The additional cost impact was estimated at more than £100m (Net Present Cost) and over £400m (Nominal Costs) over 25 years compared with the preferred option
- Planning Permission for the proposed EfW Plant was secured by Mercia in July 2012. This followed a comprehensive call in Planning Inquiry by the Secretary of State
- The EfW plant was part of the national plan to achieve landfill diversion targets
- Forecasts that the Councils' existing landfill may well be full in 2024
- Not varying the WMSC may lead to additional (immediate) termination costs, and the prospect of having to pay £100 per tonne landfill tax in 2023.

7. The recommended option – Option 2 – showed the best value for money for the whole-life cost (to 2042 and the lowest Net Present Cost). The costs included the construction and operation of an EfW plant as well as the other aspects of waste disposal and management as per the existing WMSC. In addition, there was less risk associated with delivery of this option over those requiring commercial/private finance. Progressing with this option would mean that construction could start in 2014 including the satisfaction of planning conditions ahead of July 2015 (when planning permission would expire if development had not commenced). The EfW plant would be operational in early 2017 diverting residual waste from landfill. Progressing with this option would incur a £6.6m uplift in the Unitary Charge from the point of operation of the EfW Plant as compared to the £6m indicative affordability envelope that had been set by both Councils. As part of recommending this option it was recognised this would result in a reduced level of Waste Infrastructure Grant (previously called PFI credits).

8. The EfW, along with other operational facilities, would be handed back to the Councils at the end of the WMSC in 2023. The EfW would still have considerable operational life remaining at that point and would be a valuable asset for waste disposal from 2023 onwards.

9. The Cabinet report set out the following issues, in some detail, for its consideration:

- the background to the WMSC from the signing of the contract between Herefordshire Council and Worcestershire County Council and Mercia in December 1998 for 25 years, to the report in 2013 regarding proposals for financing and procuring the proposed EfW plant (either by variation of the existing Waste Contract or fresh procurement) to enable Cabinet to take a final decision by weighing up the options
- the purpose of contract variation to enable the delivery of the EfW
- an analysis of waste flows which showed that the total Local Authority Collected Waste was set to increase from 362,273 tonnes in 2012/13 to a forecast 404,177 tones/year by 2023/24. Based on this, it was forecast that the current contracted landfill space in both counties would be full by 2023/24

- the options (as outlined in the table above) which the Councils had considered. The options were detailed in Appendix B to the Cabinet report, which included key assumptions and associated risks
- the key benefits of the Energy from Waste solution
- the key features of the proposed Contract Variation
- the issues raised falling under the following headings: environmental; contamination; recycling; whole-life costs; technology options; grid connection; food waste, and emissions
- in order to maintain a consistent approach to the management and closure of issues and risks, the planning, financial (value for money and affordability of all of the options), contractual and technical parameters. Appendix A to the Cabinet report provided the current position regarding the parameters. In the main these were satisfied
- the deliverability of the proposals. The value for money analysis demonstrated that Option 2 - EfW financed through prudential borrowing - was the best value for money. It also had a number of further benefits over the other options in terms of deliverability and mitigating risk
- the Councils had continued to work with DEFRA, the detail of which had been shared with Her Majesty's Treasury (HMT). The Councils were still awaiting a final position from both DEFRA and HMT. Since the Cabinet decision, DEFRA have indicated that they are satisfied with the Councils adopting Option 2 and have agreed to continue WIG (PFI credits) at a reduced level for the remainder of the waste contract subject to certain conditions
- a summary of key Programme Milestones should the recommendations be accepted
- a small number of outstanding matters which meant that the recommendations were based on various conditions.

10. Members of the Cabinet had received a public briefing by officers (together with Herefordshire Council's Cabinet members) immediately before the formal commencement of the Cabinet meeting. Non-Cabinet members of both Councils had been invited to attend the briefing. The Cabinet had agreed the recommendations before it and was now recommending that the full Council consider and approve the

Council's ability to provide project funding into Mercia to improve the deliverability, affordability and Value for Money of the variation. Similar approvals would also be required from Herefordshire Council.

11. The Director of Resources has produced a supplementary report providing some further background on the budgetary and funding arrangements which is contained in the Appendices attached.

## **Supporting Information**

- Appendix – Waste Management Services Contract – Supplementary Report by the Director of Resources

## **Contact Points**

### **County Council Contact Points**

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### **Specific Contact Points for this report**

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## **Background Papers**

In the opinion of the proper officer (in this case the Director of Resources) the following are the background papers relating to the subject matter of this item:

Agenda papers for the meeting of the Cabinet held on 12 December 2013