

Ms Eve Jones – Waste Credit Governance Committee 15 December 2014

The following answers have been provided to the questions raised by Ms Eve Jones at the Waste Credit Governance Committee on 15 December 2014 where relevant to the Terms of Reference of that Committee.

Question	Response
1. It is stated that a report on the risk register would be brought to a future meeting. Are Councillors content that there is such a delay in providing this? Will it be provided today?	<p>The risk register was presented to the Waste Credit Governance Committee (the Committee) on 15 December 2014 as requested and as planned.</p> <p>The Waste Governance Credit Committee met for the first time on 20 October 2014 to agree its terms of reference. As part of this exercise the Committee determined that it should receive an updated risk register at all of its meetings.</p>
2. Please explain the statement "Mercia may wish to vary the contract (by means of a waiver or consent). The Contract was only signed in May at great cost and after having 16 years to get it right and after some councillors have stated that it was the Contract that was the problem!.	<p>The statement was simply to identify a mechanism available in the loan facility agreement that can only be used subject to Council approval. The only example of where a request has been made to date was to seek agreement for an extension of time for submitting the revised financial model to the custodian.</p> <p>The consideration and approval of any waivers and consents are a standing agenda item for each meeting.</p>
3. What is the view of the Committee regarding Council as lender, in a default situation, taking on shares or assets in Mercia in lieu of repayment of the loan?	<p>The Council has negotiated a market standard loan facility. The rights available to the Council as lender were clearly set out and debated in the January 2014 Full Council</p>
4. It is stated that the Council would be in a position to offer spare capacity to 'other users'. Is the Committee aware that there is over capacity in the West Midlands and other established incinerators can offer capacity at much less cost?	<p>The Committee's terms of reference relate to ensuring loan repayments are secured. The question relating to plant capacity was covered as part of the December 2013 Cabinet Report and Variation Business Case and is not relevant to this Committee.</p>

Question	Response
<p>5. On 31st December 2023 the plant would be handed over to the councils. Please explain the statement regarding the 'need to borrow £0.25 Billion on one business day' as stated by the Chief Financial Officer.</p>	<p>This has been fully explained within the January 2014 report to Full Council. A link to that report is provided below.</p> <p>http://public.worcestershire.gov.uk/web/home/DS/Documents/Committees,%20Panels%20and%20Reviews/Council/Agendas%20and%20Reports%202014/Thursday,%2016%20January%202014.pdf</p>
<p>6. The Chief Financial Officer advised that HC and WCC needed to work closely together, how is this being catered for? KPMG, advisors to HC advised in 2013 that they should seek further advice and currently Herefordshire Council do not have a Waste Credit Governance Committee!</p>	<p>Officers meet on the lending side and have co-procured advisors to support the Councils on the lending arrangements. All lending advisors report to respective Chief Financial Officers.</p> <p>Equivalent business relating to the loan facility is governed through the Audit Committee at the County of Herefordshire Council.</p>
<p>7. The money and WIG credits for the incinerator planned at Kidderminster has been spent. This is now a new arrangement extra to that and using public money. What explanation is there for this installation being inferior to that planned at Kidderminster yet costing so many times more?</p>	<p>The relationship between WIG credits and project funding was covered by the December 2013 Cabinet Report. The choice of technology etc. was also covered within this report. It should be noted that notwithstanding this, the choice of technology is not within the remit of this Committee.</p>

Mr Rob Wilden – Waste Credit Governance Committee 15 December 2014

The following answers have been provided to the questions raised by Mr Rob Wilden at the Waste Credit Governance Committee on 15 December 2014 where relevant to the Terms of Reference of that Committee.

Question	Response
<p>1. “It was likely in the future; Mercia would wish to vary the contract (by means of a waiver or consent)”. Could the Committee please explain exactly what they are referring to? Why is it considered likely that Mercia would wish to vary the contract – on what grounds?</p>	<p>Mercia may request a waiver or consent in relation to the Senior Term Loan Facility Agreement. Granting of any such waiver or consent is subject to the approval of both lenders.</p> <p>The statement was simply to identify a mechanism available in the loan facility agreement that can only be used subject to Council approval. The only example of where a request has been made to date was to seek agreement for an extension of time for submitting the revised financial model to the custodian.</p> <p>The consideration and approval of any waivers and consents forms a standing agenda item for each meeting.</p>
<p>2. “There were various actions that the County Council as lender could take in a default situation to provide security for the loan for example, taking on shares or assets in Mercia in lieu of repayment”. How would shares or assets in Mercia provide security given that the WCGC Risk Register, December 2014, states that a default on the loan could only take place if “SPV (Mercia) or HZI fell into administration”. How would the County Council benefit from shares in a company which is in administration?</p>	<p>The Councils as lender have successfully negotiated a number of significant protections around the loan facility as would normally be found in a lending facility. The scenario described where the lenders would need to take on the shareholders' interests in Mercia would see the lenders taking on agreements with existing subcontractors and/or appointing new ones. It must be recognised though that based on advice from its advisors, this scenario is extremely unlikely to occur.</p>

Question	Response
<p>3. In the WCGC Risk Register, December 2014, it states that default on the loan scores high and “represents a clear and present risk to the project”. Mitigation relies on “the sufficiency of the Council’s reserves”. A Report in the ‘Worcester News’ recently stated that WCC has debts of £240m. Would the Council ‘debt to revenue’ ratio be able to sustain a further debt of £165 million in the case of a default? The Council has relied on making changes to their Treasury Policy Strategies and to their Statement of Prudential Indicators to provide an ‘open ended’ source of money to support the incinerator, seemingly limited only by the value of all the Council’s total assets. Is this of any concern to the WCGC?</p>	<p>Risk Register reference a) sets out how the risk of default is being mitigated. The risk, prior to any mitigating actions is rated at Red. The mitigating actions are set out in the risk register that have resulted in a significant reduction to the risk rating. The risk register is a standing item of the Committee at each of its meetings.</p> <p>The changes that were required to be made to the Council's Treasury Management Strategy were set out and approved in the January 2014 Full Council Report. A link is provided below to that report.</p> <p>http://public.worcestershire.gov.uk/web/home/DS/Documents/Committees,%20Panels%20and%20Reviews/Council/Agendas%20and%20Reports%202014/Thursday,%2016%20January%202014.pdf</p>
<p>4. “The Chief Financial Officer explained that the Committee needed to understand the risks associated with the contract’. Is the WCGC only concerned with the due diligence of financing of the incinerator up until 2023? The PWLB was chosen partly to avoid delays caused by the due diligence procedures used by private lenders. Please state whether the WCGC has carried out due diligence beyond 2023? Has there been any commercial diligence carried out on the scheme to ensure a financial benefit to the Council as stipulated in the Parameters over the 25 year life of the incinerator? Is the absence of a business case beyond 2023 been a concern?</p>	<p>The Waste Credit Governance Committee has been established to oversee the life of the loan facility with Mercia.</p> <p>The January 2014 report to Full Council contains all information relevant to the assessment of the Council as lender to Mercia.</p> <p>A link is provided below to that report.</p> <p>http://public.worcestershire.gov.uk/web/home/DS/Documents/Committees,%20Panels%20and%20Reviews/Council/Agendas%20and%20Reports%202014/Thursday,%2016%20January%202014.pdf</p> <p>The December 2013 report to Cabinet sets out the Business Case for the Energy from Waste Plant that covers the full forecast operational period of the Energy from Waste Plant, beyond 2023. This business case was developed with the support of legal, technical and financial advisors.</p> <p>A link is provided below to that report.</p> <p>http://public.worcestershire.gov.uk/web/home/DS/Documents/Committees,%20Panels%20and%20Reviews/Cabinet/Agendas%20and%20Reports%202013/Thursday,%2012%20December%202013.pdf</p>

Question	Response
<p>5. The Council will need to refinance the unamortised loan of £123m in 2023 on the basis of the residual value of the incinerator at that date. Please state how the 'residual value sum' was arrived at given that there are no other second-hand incinerators on the market? How will the Council obtain a loan if the value of the incinerator is not as much as they predict?</p>	<p>The January 2014 report to Full Council contains information relevant to the assessment of the Council as lender to Mercia.</p> <p>A link is provided below to that report.</p> <p>http://public.worcestershire.gov.uk/web/home/DS/Documents/Committees,%20Panels%20and%20Reviews/Council/Agendas%20and%20Reports%202014/Thursday,%2016%20January%202014.pdf</p> <p>The Council will have already provided full financing to Mercia during the construction period and have secured financing arrangements via the Public Works and Loans Board. 2023 will represent a circular flow of funds (termed refinancing) whereby the Council as procurer will be required to pay to Mercia the outstanding balance of financing (known as the bullet payment) to allow Mercia to pay to the Council as lender this amount. This will mirror what would have occurred within a traditional commercial bank financing arrangement to ensure Mercia are not provided with any additional benefit through the financing arrangements.</p>
<p>6. "There is a risk that when the facility is handed over to the Council [in 2023] it would not be worth the payment of £128m". The WCGC suggests as mitigation that the Council will be able to offer capacity to other users. As spare capacity arising in the incinerator can only be sold for around half the unitary charge per tonne cost; what measures could the WCGC take to mitigate the possibility of the Council being unable to pay the full unitary charges, or the need to compensate for the shortfall in revenue caused by the use of substitute waste?</p>	<p>This question does not fall within the remit of the Waste Credit Governance Committee. The book valuation of the Energy from Waste Plant does not have any impact on the flow of funds to support the debt refinancing.</p>
<p>7. If the Council increases its recycling level above the 46% contracted level, spare capacity will arise in the incinerator. What measures can the WCGC take to ensure that the Council honours its 'minimum tonnage guarantee' to provide sufficient waste to the incinerator of a particular calorific value? Could penalty clauses be put in place as they have been with Mercia to help deter such an occurrence?</p>	<p>This question does not fall within the remit of the Waste Credit Governance Committee.</p>

Mr Sheridan Tranter – Waste Credit Governance Committee 15 December 2014

The following answers have been provided to the questions raised by Mr Sheridan Tranter at the Waste Credit Governance Committee on 15 December 2014 where relevant to the Terms of Reference of that Committee.

Question	Response
<p>1) Plant viability. I posed a question for Adrian Hardman 18th September, full council meeting regards the incineration project being of a reduced stature to that at Kidderminster, It is a single line i.e. one moving grate one furnace. "you have half an incinerator compared to the one envisaged at Kidderminster" Cllr Hardman said I was wrong. Yet my concerns are now being proved otherwise. After going to a drop in session held at very short notice by Mercia Waste (Public notice just three days) Ian Barber & the chief engineer answered some of my questions, the answers have only raised more.</p> <p>Question to Mercia's chief engineer " I have notice the design is for a single line incinerator, what will happen during maintenance, I have spoken to several engineers, they all stated the same, the weakest links are the conveyor belts (moving grate, its old technology) and fuel type. If the furnace shuts down it would be a major shut down. The linings have to be changed it takes weeks or months, Mercia's engineer stated two weeks working 24/7 (noise is an issue it could increase the cost) this scale doesn't stand with the industry standard of 89% or 7,796 hours (per year) this was stated in the planning, in short 40 days per year shut down.</p> <p>The maths: Waste 200,000 tonnes per year divided by 365.25 days = 547.57 per day bunker size capacity is 5 days only = 2,738 tonnes max Close down possible 40 days = 21,903 tonnes</p>	<p>This question does not fall within the remit of the Waste Credit Governance Committee.</p>

Question	Response
<p>Anything over 20 days is dangerous due to the build up of methane. Where will the waste go? no answers were given by the engineer or Ian Barber. I had the same response from one of you officers in October 2013.</p> <p>Even with the engineers comment of 14 days that's 7665.98 tonnes 2.8 times the size of the bunker.</p> <p>Waste decomposes and can self combust, that's what happened at Lawrence's in Kidderminster.</p> <p>Yes you have an incinerator but you were not informed that it only covers part of the waste stream part of the time. A two line plant never really shuts down. But as we know the affordability envelope could not allow for it, Deloitte reasoning. Strange you could have afforded it in 1998 with other beneficial methods, that are no longer in the revised contract.</p>	
<p>2) Air Quality monitoring. It is the biggest concern locally.</p> <p>I helped with a survey of 800 homes in the Hartlebury area, more than twice the turn out for the Parish elections responded, 96% of those polled stated that they didn't want the incinerator. I should imagine they would want air quality monitoring now, before the plant is built. It's not just the household concerned, the farmers are too, since many supply the major retailers, most of the land in the area is grade 1 or 2 arable land. Are you aware that only 15% of Worcestershire is grade 1.</p>	<p>This question does not fall within the remit of the Waste Credit Governance Committee.</p>

Question	Response
<p>At the same drop in meeting Ian Barber back tracked from what we had been told us that Mercia would put monitoring in before the building was commissioned. He stated that WCC regulatory Services should do it. Ian stated other businesses would not be happy if Mercia put air quality monitoring in.</p> <p>This should be seen as a plus since it would highlight any other pollution by others on the estate. i.e. the brick works where the filters have failed, or the waste tips that we have as well. Ian Barber did however state that he wanted to be good neighbours.</p> <p>Monitoring costs just £15,000 per year in relation to the incinerator it's just one eleven thousandth</p> <p>(£165,000,000 divide by £15,000 = 11000 times) the cost of the project build per year.</p> <p>Ian barber also stated " WCC and Mercia are joined at the hip" his words, so between you, you should be able to give a positive reassurance for Air quality monitoring to the residents of Hartlebury and Elmley Lovett, so that the accumulative effects can be measured before the plant is used.</p>	