

SUPPLEMENT TO THE AGENDA FOR

General Overview & Scrutiny Committee

Tuesday 3 September 2013

5.00 pm

The Council Chamber, Brockington, 35 Hafod Road, Hereford

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General Overview and Scrutiny Committee

Briefing Note Waste Management PFI

July 2013

1. Purpose

- 1.1. To provide members with a background to the history of the Council's Waste Management PFI and a brief overview of the issues that surround the decision of whether to vary our current contract to build a 200,000 capacity tonne plant at Hartlebury in Worcestershire.
- 1.2. Herefordshire Council, as a Unitary Council, has two roles in Waste Management as a Waste Disposal Authority and a Waste Collection Authority. To fulfil these two roles there are two principal contracts to deliver our responsibilities.

2. Waste Collection

- 2.1. The Waste Collection Contract is the most high profile element of the service and Herefordshire Council's service is contracted to FCC Environment Ltd. FCC's current contract started in 2009 and is a 7 year contract with the option to extend by a further 7 years in 2016. The contract is worth approximately £4.8 million pa.
- 2.2. FCC are responsible for the collection of all household waste and recycling. They are also responsible for fulfilling the Council's duties to provide a paid service for the collection of trade waste (this does not include industrial waste). FCC are responsible for the provision and distribution of recycling bins and recycling sacks. The services operated by FCC includes the collection of clinical waste, bulky waste (which is subcontracted), the emptying of some rural litter bins and the collection of garden waste for landfilling. Garden waste and bulky waste are charged for services; bulky waste is charged to ensure cost recovery, garden waste is made at a charge to encourage residents to home compost. FCC are responsible for delivering waste and recycle to the two transfer stations based in Leominster and Hereford.

3. Waste Disposal

- 3.1. The Waste Disposal contract is a PFI which has a 25 year term. It is based on a partnership between Herefordshire and Worcestershire. The contract is between the two Councils and Mercia Waste Management (MWM) and was signed in December 1998 and is due to finish in December 2023. MWM is a company who solely operate this contract. There are two equal shareholders in this company FCC Environment and Urbaser Ltd. There is no link between FCC's interest in the collection contract and the disposal contract. The contract is actually operated by an operating company called Severn Waste Services (SWS) who are owned by MWM.
- 3.2. The contract, signed in 1998, was one of the very early PFI contracts for waste management. MWM are required, by the contract, to build and operate a number of facilities across the 2 Counties. Under the original contract these facilities included

a Landfill Site at Hill and Moor (between Pershore and Evesham), an Energy from Waste Plant (EfW) at Kidderminster, Material Recycling Facilities in Worcestershire and Herefordshire, Composting Sites, Transfer Stations and Household Recycling Centres (which include the 5 operating sites in Herefordshire at Bromyard, Ledbury, Ross-on-Wye, Rotherwas, Leominster and a proposed site at Kington). Most of the sites for these facilities are leased from the Councils by MWM and the sites and facilities will revert to the respective authorities at the termination of the Contract. SWS also manage all the logistics associated with the Waste Disposal role.

4. History

4.1. The Contract was signed between Herefordshire and Worcestershire Councils and Mercia Waste Management in December 1998. Mercia duly started the construction of the facilities required under the contract. MWM also started the process to deliver an EfW at the British Sugar site in Kidderminster. MWM's Planning Application for the EfW was met with considerable opposition and in the end WCC refused the Planning Application for the plant. MWM duly appealed that decision and lost that appeal in 2002. The loss of a facility to divert waste from landfill meant the landfill site at Hill and Moor was filling considerably more quickly than anticipated and meant that some means of diverting waste from landfill needed to be developed.

5. Joint Municipal Waste Management Strategy

5.1. The Joint Municipal Waste Management Strategy for Herefordshire and Worcestershire 2004-2034 (JMWMS) identified autoclaving a new process for treating residual waste as the preferred technology alongside the facilities developed by MWM and the Comingled MRF at Worcester. A subcontractor was identified to deliver autoclave technology and they submitted planning applications for autoclave sites at Hartlebury in Worcestershire and Madley in Herefordshire. The Madley site was subject to a Judicial Review, through a group of local residents, and whilst initially the group was successful planning permission was eventually obtained. Despite having planning Permission it became evident that the subcontractor would be unable to deliver a process that would adequately divert waste from landfill. Having failed to deliver a new approach to treating residual waste the Council's reviewed the JMWMS and having assessed the market, and having taken independent advice, the authorities formally adopted EfW as the preferred technology. The current JMWMS was formally adopted by Herefordshire Council in 2009. (The strategy and associated Annexes are accessible through the link: www.herefordshire.gov.uk/environmental-protection/waste-management/refuse-area-waste-strategy/). The 2009 JMWMS also identified EfW as the preferred technology in a report entitled Annex D Residual Options Appraisal July 2009 appended to the Strategy. Annex D Residual Options Appraisal was refreshed in November 2012 to ensure that the options around preferred technology had not changed. The report identified EfW continues to be the preferred technology solution.

5.2. The report is Appendix 2 to the Cabinet Report of the 13th December 2012 (Link: <http://councillors.herefordshire.gov.uk/ieListDocuments.aspx?CId=251&MId=4379&Ver=4>)

- 5.3. The Council has developed its Waste services to match its strategic objectives, this has meant that the Council has concentrated on minimising waste rather than maximising its recycling by collecting and treating more waste than we currently do. This has meant the Council has actively chosen not to collect and treat Garden Waste. The Council actively encourages residents to compost at home which is clearly a much more sustainable approach to the handling of such waste. Herefordshire has a very high take up of subsidised composting bins to support this approach. In addition there is a charge made for the collection of garden waste which is landfilled – the charge is made to encourage residents to home compost garden waste.
- 5.4. In 2009 the Council moved to the co-mingled collection of recyclables using the new facility created under the Waste Contract by Severn Waste Services at Norton in Worcester. This facility means that the Councils' of Worcestershire and Herefordshire Council are able to maximise the amount of recycling (excluding garden waste for composting). The success of this approach is borne out by analysing Herefordshire and Worcestershire's performance when compared against the other local authorities in the West Midlands. Appendix A details the respective performance of the various waste management authorities across the West Midlands in 2011/12. There is a danger in comparing the data between Unitary Authorities and District Councils as different waste streams are included. However it is clear the attached data does demonstrate a number of issues. Firstly the performance of Herefordshire and Worcestershire in dry recycling (that is recycling not including green waste) is amongst the best in the West Midlands. The figures also demonstrate that high levels of reportable recycling are frequently achieved by collecting more waste streams (in particular garden waste). This is demonstrated by Shropshire's performance who were the "best recyclers" in the West Midlands, yet collect the most household waste head of population.
- 5.5. The Council's historic performance, over the life of the contract, is contained in the chart at Appendix B. Herefordshire's performance in 2012/13 showed that we recycled 30.1% and composted 10.1%. This compares with Herefordshire's performance in 2007/08 when we recycled 23.2% and composted 7.6%. The 2007/08 year is used because it removes the impact of the introduction of the co-mingled Materials Recycling Facility at Norton and the introduction of kerbside recycling for every household in the County.

6. Current Position

- 6.1. Following the adoption of the Joint Municipal Waste Management Strategy in 2009, the Councils' contractor started to pursue the development of an Energy from Waste Plant in accordance with that Strategy. The site at Hartlebury was identified as being the best site available in the two Counties for an EfW plant. WCC's Planning Committee considered the application in March 2011 and decided that they were "minded to grant planning permission". The site at Hartlebury is on a trading estate near the village but is within the "Green Belt" and because of this the application had to be passed to the Secretary of State (SoS) for Communities and Local Government to consider whether he wanted to "Call In" the application. The SoS did "Call In" the application and in 2011 a Planning Inquiry sat to consider the

application. The SoS made his decision in July 2012 granting planning permission to the applicant, Mercia Waste Management. The evidence submitted by the contractor, Worcestershire County Council and the opponents at the Planning Enquiry for the plant at Hartlebury led the Inspector to the view that:

“the capacity of EnviRecover of 200,000 tonnes per annum would leave much to be done in terms of prevention and preparing for reuse and recycling”

And

“Nor do I see the opportunities for anaerobic digestion being diminished by EnviRecover, or sufficient food waste being separated out to the extent that it makes any real indent into the quantity of waste available and suitable for EfW.”

6.2. In granting the Mercia Waste Management planning permission the Secretary of State wrote that:

“there is a compelling and urgent need for the facility as proposed and that there is no other suitable alternative site within Herefordshire and Worcestershire.”

6.3. The issue of the health effects of EfWs was considered at the Planning Inquiry and by the Councils in developing the Joint Waste Strategy. The Councils have followed the authoritative advice on the health effects of energy from waste plants from the Health Protection Agency, their view is:

“After reviewing the latest literature the Agency's general position remains unchanged: Modern, well managed incinerators make only a small contribution to local concentrations of air pollutants. It is possible that such small additions could have an impact on health but such effects, if they exist, are likely to be very small and not detectable.”

6.4. The Councils, have over the last ten years endeavoured to secure capacity at other EfW plants throughout the West Midlands to ensure compliance with the requirement to divert biodegradable waste from landfill. A purchase of a very small amount of capacity has been achieved at Coventry's EfW plant, however the only other capacity that was capable of being secured was either near London or in Kent which clearly involved very substantial costs for transport.

7. Contractual Position

7.1. The Contract was signed in 1998 but the failure of MWM's application for an EfW in Kidderminster meant that the authorities and the Contractor agreed not to terminate the Contract; a “standstill agreement”. The Contract can be terminated and under the “standstill agreement” and any termination would be on the basis of a “no-fault” termination. Once a Variation to the current Contract is signed to deliver the EfW the “standstill agreement” will drop away and the normal terms of the termination elements of the contract will apply.

7.2. An EfW was always seen as part of the original Contract and the plant is effectively the same as was proposed in the original contract but at a different time, in a different place from the originally suggested site. This means that the Plant, if it receives approval would be introduced as a variation to the current contract and will not be a new contract.

- 7.3. It should also be noted that this particular PFI contract was amongst the first Waste PFIs in the country and consequently contains risk profiles that would not appear in more modern waste PFI contracts. For example there are no minimum tonnages for the Councils to provide to the Contractor to deliver to the EfW and the risks associated with a shortfall of tonnage are borne by the contractor not the Councils.
- 7.4. The Councils have been subject to a “procurement challenge” to the European Commission claiming that the Council’s had breached European procurement law. The EC are of the view that there has been no breach.

8. Financial Position

- 8.1. MWM/SWS currently handle approximately 90,000 tonnes per annum on behalf of Herefordshire Council at an annual cost of around £9 million pa. Current performance means that around 60% of the waste and recycling collected is landfilled. The actual cost of landfilling waste is relatively cheap. Landfill is, however, increasingly expensive because landfill tax and a tax accelerator of £8.00 per tonne per annum until 2014/15 when it reaches a price of £80.00 per tonne. At that stage the costs of landfill tax are not clear and the Chancellor has said that the £80.00 per tonne should be seen as a floor, making it probable there will be further increases beyond 2015.
- 8.2. The Councils’ also receive PFI Credits on an annual basis, for Herefordshire this amounts to about £1.4 million per annum over the life of the Contract (to finish in 2023). The PFI is currently part of the Council’s Revenue Support Grant and should the contract be terminated the PFI credits will be lost to the Council.
- 8.3. The two Cabinets agreed on the 13th December 2012 to:

Note, that on-going discussions with Mercia Waste Management Limited (Mercia) in relation to their proposals were continuing and the progress being made to reach a conclusion;

Agree to pursue terms for alternative methods of finance for the EfW plant;

Agree to consider how the commissioning and operation of the EfW Plant could be integrated into the existing arrangements with Mercia, and if there was no satisfactory resolution in respect of this then they agreed to launch a tendering exercise to commence the direct procurement by the 2 Councils of the EfW Plant.

Note that Worcestershire County Council is authorised to procure and commence enabling works up to a maximum capital cost of £1.8m at Hartlebury in order to maintain the programme for the EfW Plant;

To receive a report during the summer of 2013 with proposals for financing and procuring the EfW plant (by variation of the existing PFI contract or fresh procurement) to enable Cabinet to take a final decision; and¹

Note that the decisions were subject to satisfactory negotiation and agreement with Worcestershire County Council of necessary amendments to the current Joint Working Agreement in place between the Councils.

¹ The report to Cabinet due in October will outline recommendations on the preferred financing of a Variation as well as recommendations on the future of the Project.

- 8.4. The current position is that the two Councils are now working through the details of the MWM proposal with the intention of submitting a report to Cabinet later in the year. This report will be the point at which the Councils decide whether or not proceed with the proposals based around satisfying a series of parameters contained in the Appendix 1 to the Cabinet Report on the 13th December 2012
- 8.5. (Link to Cabinet Report of the 13th December 2012 for full text of the report and decisions:
<http://councillors.herefordshire.gov.uk/ieListDocuments.aspx?CId=251&MId=4379&Ver=4>)

Summary of the 2011/12 unvalidated recycling performance for Local Authorities in the West Midlands for the Members Waste Board on 6 July 2012

Unitary Authority	N192 Percentage Household waste sent for Reuse, Recycling or Composting
Shropshire	50.40%
Walsall MBC	46.17%
Solihull MBC	46.07%
Telford and Wrekin Council	43.18%
Wolverhampton MBC	40.85%
Stoke-on-Trent City Council	40.76%
Sandwell MBC	40.75%
Herefordshire Council	40.11%
Coventry City Council	37.18%
Dudley MBC	35.12%
Birmingham City Council	29.50%

Unitary Authority	Household Dry Recycling Rate
Herefordshire Council	30.72%
Walsall MBC	29.77%
Solihull MBC	27.14%
Sandwell MBC	26.17%
Coventry City Council	24.47%
Telford and Wrekin Council	24.38%
Stoke-on-Trent City Council	20.40%
Shropshire	19.74%
Wolverhampton MBC	17.79%
Dudley MBC	17.33%
Birmingham City Council	16.21%

Unitary Authority	Household Composting Rate
Shropshire	30.37%
Wolverhampton MBC	23.07%
Stoke-on-Trent City Council	20.32%
Solihull MBC	18.94%
Telford and Wrekin Council	18.72%
Dudley MBC	17.75%
Walsall MBC	16.33%
Sandwell MBC	14.56%
Birmingham City Council	13.31%
Coventry City Council	12.74%
Herefordshire Council	9.42%

Unitary Authority	Household Waste Collected kg/head (BVPI 84a)
Dudley MBC	478.77
Birmingham City Council	479.22
Coventry City Council	483.56
Sandwell MBC	518.81
Walsall MBC	531.99
Herefordshire Council	535.37
Stoke-on-Trent City Council	542.50
Solihull MBC	544.21
Wolverhampton MBC	566.75
Telford and Wrekin Council	599.14
Shropshire	630.46

Collection Authority	N192 Percentage Household waste sent for Reuse, Recycling or Composting
Staffordshire Moorlands District Council	58.95%
Stratford-on-Avon District Council	57.26%
Lichfield District Council	56.90%
Stafford Borough Council	53.82%
East Staffordshire Borough Council	52.80%
Cannock Chase Council	52.28%
Newcastle-under-Lyme Borough Council	50.25%
South Staffordshire Council	49.98%
Warwick District Council	49.66%
Tamworth Borough Council	49.31%
Rugby Borough Council	48.12%
Wychevon District Council	43.63%
Bromsgrove District Council	41.67%
Worcester City Council	36.25%
Nuneaton and Bedworth Borough Council	36.03%
North Warwickshire Borough Council	35.40%
Malvern Hills District Council	31.27%
Wyre Forest District Council	29.00%
Redditch Borough Council	28.65%

Collection Authority	Household Dry Recycling Rate
Wychevon District Council	32.80%
Worcester City Council	32.58%
Tamworth Borough Council	28.74%
Redditch Borough Council	28.45%
Lichfield District Council	28.05%
Cannock Chase Council	27.71%
Wyre Forest District Council	27.70%
Stratford-on-Avon District Council	27.33%
Malvern Hills District Council	26.44%
Bromsgrove District Council	24.95%
Stafford Borough Council	24.55%
East Staffordshire Borough Council	23.20%
Newcastle-under-Lyme Borough Council	22.49%
Warwick District Council	22.32%
South Staffordshire Council	21.70%
Nuneaton and Bedworth Borough Council	19.21%
Staffordshire Moorlands District Council	18.85%
North Warwickshire Borough Council	13.90%

Collection Authority	Household Composting Rate
Staffordshire Moorlands District Council	40.06%
Stratford-on-Avon District Council	29.93%
East Staffordshire Borough Council	29.48%
Stafford Borough Council	29.26%
Lichfield District Council	28.85%
South Staffordshire Council	28.24%
Newcastle-under-Lyme Borough Council	27.77%
Warwick District Council	27.75%
Cannock Chase Council	24.46%
Rugby Borough Council	23.22%
North Warwickshire Borough Council	21.50%
Tamworth Borough Council	20.58%
Nuneaton and Bedworth Borough Council	16.82%
Bromsgrove District Council	16.51%
Wychevon District Council	10.73%
Malvern Hills District Council	4.84%
Worcester City Council	3.61%
Wyre Forest District Council	2.21%
Redditch Borough Council	0.00%

Collection Authority	Household Waste Collected kg/head (BVPI 84a)
Malvern Hills District Council	375.07
Worcester City Council	404.86
Warwick District Council	434.48
Wychevon District Council	436.94
Redditch Borough Council	439.46
Wyre Forest District Council	443.27
Bromsgrove District Council	475.34
Newcastle-under-Lyme Borough Council	475.88
Nuneaton and Bedworth Borough Council	487.56
Tamworth Borough Council	489.80
Cannock Chase Council	502.16
North Warwickshire Borough Council	508.82
East Staffordshire Borough Council	516.20
South Staffordshire Council	520.54
Lichfield District Council	524.34
Stafford Borough Council	525.05
Rugby Borough Council	537.65
Stratford-on-Avon District Council	542.07
Staffordshire Moorlands District Council	548.91

Disposal Authority	N192 Percentage Household waste sent for Reuse, Recycling or Composting
Staffordshire County Council	53.77%
Warwickshire County Council	50.31%
Worcestershire County Council	43.11%

Disposal Authority	Household Dry Recycling Rate
Worcestershire County Council	29.99%
Staffordshire County Council	26.56%
Warwickshire County Council	23.11%

Disposal Authority	Household Composting Rate
Warwickshire County Council	27.17%
Staffordshire County Council	27.17%
Worcestershire County Council	13.08%

Disposal Authority	Household Waste Collected kg/head (BVPI 84a)
Worcestershire County Council	563.89
Warwickshire County Council	583.89
Staffordshire County Council	592.85

Data taken from WasteDataFlow on 5 July 2012

Data from WasteDataFlow on 20 July 2012. Unvalidated BVPI 84a 2011-12

Herefordshire Waste Performance 1999 to 2013



