

# AGENDA

## Cabinet

Date: **Thursday 13 December 2012**

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Time: **2.00 pm**

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Place: **The Council Chamber, Brockington, 35 Hafod Road,  
Hereford**

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Notes: Please note the **time, date** and **venue** of the meeting.

For any further information please contact:

**Sally Cole, Governance Services**

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If you would like help to understand this document, or would like it in another format or language, please call Sally Cole, Governance Services on (01432) 260249 or e-mail [scole@herefordshire.gov.uk](mailto:scole@herefordshire.gov.uk) in advance of the meeting.

# **Agenda for the Meeting of the Cabinet**

## **Membership**

**Chairman**

**Councillor JG Jarvis**

**Councillor H Bramer  
Councillor RB Hamilton  
Councillor AW Johnson  
Councillor PM Morgan  
Councillor RJ Phillips  
Councillor GJ Powell  
Councillor PD Price**

**AGENDA**

Pages

**HEREFORDSHIRE COUNCIL**

**Notice has been served in accordance with Part 3, Section 9 (Publicity in connection with key decisions) of The Local Authorities (Executive Arrangements (Meetings and Access to Information) (England) Regulations 2012**

<b>Item No</b>	<b>Title</b>	<b>Portfolio Responsibility</b>	<b>Scrutiny Committee</b>	<b>28 Day Notice Given</b>
5	To Consider Future Options for Waste Contract	Cabinet Member Major Contracts	General Overview & Scrutiny	Yes

**1. APOLOGIES FOR ABSENCE**

To receive any apologies for absence.

**2. DECLARATIONS OF INTEREST**

To receive any declarations of interest by Members in respect of items on the Agenda.

**3. MINUTES**

To approve and sign the minutes of the meetings held on 12 and 15 November 2012.

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**4. BUDGET UPDATE 2013/14**

To provide an updated budget position for 2013/14 and confirm the current financial planning assumptions as well as the approach being taken around the Root and Branch process for budget setting.

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**5. TO CONSIDER FUTURE OPTIONS FOR WASTE CONTRACT**

To consider the proposals being made by Mercia Waste Management for the treatment of residual waste.

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## **HEREFORDSHIRE COUNCIL**

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HEREFORDSHIRE COUNCIL

**MINUTES of the meeting of Cabinet held at The Council Chamber, Brockington, 35 Hafod Road, Hereford on Monday 12 November 2012 at 10.00 am**

**Present:** Councillor JG Jarvis (Chairman)

**Councillors:** RB Hamilton, RJ Phillips, GJ Powell and PD Price

**In attendance:** Councillors AM Atkinson, NP Nenadich, P Rone, MAF Hubbard, RI Matthews, A Seldon, ACR Chappell, J Hardwick and AJW Powers

Cabinet stood for a minutes silence in remembrance of Councillor Gordon Lucas.

**41. APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors: H Bramer, Cabinet Member Major Projects, AW Johnson, Cabinet Member Financial Management and PM Morgan, Cabinet Member Health and Wellbeing.

**42. DECLARATIONS OF INTEREST**

3 Variation of Retail Quarter (Old Livestock Market) Development Agreement.  
Councillor JG Jarvis, Personal, Board Member of Hereford Futures.

**43. VARIATION OF RETAIL QUARTER (OLD LIVESTOCK MARKET) DEVELOPMENT AGREEMENT**

The Leader of the Council presented the report of the Director for Places and Communities and invited the Chairman of the General Overview and Scrutiny Committee to address Cabinet.

The Chairman of the General Overview and Scrutiny Committee presented the recommendations of the Committee and stated that in referring to recommendation a) value for money: retail was in decline and therefore Cabinet needed to be confident that the deal before Cabinet represented good value for money. Recommendation b) procurement rules: assurance was sought as to whether the variation constituted a new contract or a variation on the previous contract and therefore complied with European procurement rules. Recommendation c) risk: a clearer strategy was needed in order that risks were clearly understood and who it was that was taking the risk. Recommendation d) paragraph 2.4 Pinsent Mason report – public procurement advice – it was felt this was not clear and that clarification was needed on this point. Recommendation e) commercial confidentiality: where public money was concerned, reasons for confidentiality of documents for the General Overview and Scrutiny Committee must be used carefully and not as a means to not disclose how public money is used.

In response to the comments of the Chairman of the General Overview and Scrutiny Committee the following points were made:

- It was stated Cabinet accepted the comments made in recommendation e) to be as open as possible, however, it was important to be consistent with other local authorities.
- The Director for Places and Communities provided Members with an updated appendix to the report which outlined the risks and where responsibility for the risk lay.
- In referring to value for money, the Chief Officer Finance and Commercial stated that further tests on value for money had been carried out, which indicated that the Council was getting value for money. Further testing was carried out which included the cost of relocating the cattle market, issues around compensation and factoring in a reduced business rate. The indication was for a positive return, therefore due diligence had been carried out.
- In referring to the livestock market it was stated that it was now flourishing and expanding and therefore satisfied that it represented a good return, which represented value for money and could not be bettered.
- In response to a question on the financial impact to the Council if Stanhope walked away from the deal, it was noted that Cabinet would be left with an empty site. Cabinet was also advised that a significant penalty clause to the Council if the cattle market had not been relocated had now fallen away.
- In referring to the Deed of Variation and the £500k the representative from Pinsent Mason stated there was a requirement to be satisfied this was not a grant of state aid, as if this was seen to be the case it would require to be repaid.
- In response to a question if Stanhope had to repay the £500k was there a risk to the Council. The Pinsent Mason representative advised that negotiations had not commenced on the Deed of Variation although the general principles had been and Stanhope had agreed that if the Deed of Variation was challenged there would be no risk to the Council as Stanhope would repay.
- A response to a comment that a legal challenge had been lodged the Leader advised that he was not aware of any challenge being made. It was added that successful challenges to an agreement such as this were extremely rare.
- The Deputy Leader stated he felt it was an acceptable risk to go ahead based on the legal advice provided.
- In response to a question on the second variation and the validity of the contract under European Contract Rules it was stated that the new document sets out the legal and commercial risks in clear a table, which will be regularly revised and updated.

The Leader sought Cabinets assurance that they were satisfied with the advice provided to make a decision. Cabinet confirmed its agreement.

## **RESOLVED**

### **THAT:**

- a) Cabinet, having considered the recommendations made by the General Overview and Scrutiny Committee as set out in this report of Cabinet ratifies its decision taken on 31 October (Ref No.2012.CAB.084) concerning the variation of the Retail Quarter (Old Livestock Market) Development Agreement; and,**
- b) Asks the Monitoring Officer to review the issues of disclosure of commercial confidentiality and report back further.**

The meeting ended at 10.55 am

**CHAIRMAN**



**MINUTES of the meeting of Cabinet held at The Council Chamber, Brockington, 35 Hafod Road, Hereford on Thursday 15 November 2012 at 2.00 pm**

**Present:** Councillor JG Jarvis (Chairman)

Councillors: RB Hamilton, AW Johnson, PM Morgan, RJ Phillips, GJ Powell and PD Price

**In attendance:** Councillors AM Atkinson, NP Nenadich, P Rone, EPJ Harvey, MAF Hubbard, RI Matthews and A Seldon

**44. APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillor H Bramer, Cabinet Member Major Contracts.

**45. DECLARATIONS OF INTEREST**

There were no declarations of interest.

**46. MINUTES**

**RESOLVED:** That the Minutes of the meetings held on 18 and 31 October 2012 be approved as a correct record and signed by the Chairman.

**47. INTEGRATED CORPORATE PERFORMANCE REPORT**

The Cabinet Member Corporate Services presented the report of the Assistant Director People, Policy and Partnerships and made the following points to Cabinet:

- Agreed changes to corporate performance arrangements were approved by Cabinet in July of this year.
- Appendix A to the report provides an overview and refers to progress being made on projects that were agreed to be done in order to achieve the six high level themes in the Joint Corporate Plan.
- Also included is performance against key indicators for operational areas of the Council – customers, employees, finance and directorate service areas. Appendices B to F of the report cover the areas in more detail.
- Satisfaction with the Council through the quality of life survey has increased from 33 to 55%.
- Good progress has been made on the accommodation strategy, which includes the civic hub and Plough Lane refurbishment.
- There has been an unqualified opinion by the auditors on the Council's accounts.
- There has been some difficulty in recruiting commercial and procurement staff. A range of other resourcing options are being used to ensure that the important complex projects do not slip.

- Customer services performance has dipped due to an increased number of calls and staffing absenteeism. Overall this is against an improving picture, which includes avoidable contact being kept at a low 17%.

Cabinet made the following comments:

- It was noted that incidents of domestic violence was still higher than the set target and represented 19.4% of all domestic crime. This was a serious issue particularly for the children involved and how it affected them. Agencies would continue to address the issues and work together.
- Across both directorates there was interest in getting people on bicycles and walking and consultation on the transport plan concluded on 15 November.
- With regard to GCSE results schools had not performed as well as expected, although this was a national issue. Schools would be appealing against exam results as would schools across the country.
- In referring to empty homes, which was raised at the last Council meeting. The Cabinet Member stated the Council had a good record for bringing empty homes back into use. In addition referring to the number of families in temporary accommodation, it was added that officers were working hard to rectify the situation.
- The Cabinet Member for Health and Wellbeing stated that under safeguarding of older people, the delayed discharge of older patients from hospital was low.
- In health and wellbeing it was noted that the take up of personal budgets by those qualifying was now at 50%, which was an increase on the previous year. Being responsible for your own budget allowed people to decide themselves how they used their funding.
- In referring to the recent Ofsted inspection the Cabinet Member stated there would be a report to cabinet as soon as feed back had been received. It was noted that the new chair of the Children's Trust had been appointed.
- In referring to page 21 of the report, delivery plan project exceptions, the Leader stated he did not believe it had been written clearly and advised that the Compulsory Purchase Order (CPO) referred to could be done under regeneration powers. It was hoped that it could be progressed with the use of a CPO.
- A question was raised on the number of staff with less than 1 years service in the People's Services directorate. The director confirmed the number of posts were reducing, but there was also a recruitment campaign in social care as the authority was not always able to retrain and retain staff. Recruitment retention in social care was difficult not only in Hereford but in the whole of the West Midlands and authorities were competing with one another to retain social workers.
- It was noted that the number of fixed term staff in the authority had gone down in number significantly and the number of permanent staff had not decreased that much. In response to a question on staffing costs it was stated that agency staff did not always cost more.
- Reference was made to the number of vacant shops in high town and how the new retail development would affect this.
- Under corporate service it was noted that there would be a reprioritisation of work plans.
- The Leader thanked everyone for their comments and the points made on language and style were noted.

**RESOLVED: That Cabinet noted performance for the period to end of September 2012.**

#### **48. COUNCIL TAX SUPPORT SCHEME AND COUNCIL TAX DISCOUNTS**

The Cabinet Member Corporate Services presented the report of the Chief Officer Finance and Commercial and made the following points:

- The report sought agreement for a Council Tax Support Scheme in the light of the requirements set by the Government and the outcome of local consultation and to determine the level of Council Tax Discount for vacant properties and second homes.
- The Council must provide for a local tax support scheme or it would revert to a default scheme which would cost in excess of the money the authority would now receive in grant funding.
- Cabinet was informed that the government announced a transitional grant scheme after the authority had consulted on its proposals. The authority has opted to take the grant, which means that only two principles consulted on would be used.
- It is proposed to have a scheme for one year and to review the position during that year and to assess whether the grant would continue.
- In order to meet the £1.4m funding reduction it is proposed to use changes to council tax discounts to mitigate the loss of funding from central government. As a result the report also includes proposed changes to discretionary discounts.
- The government has prescribed a number of elements that must be included in the scheme including full protection for pensioners so that their council tax support remains at the same level as their current council tax benefit. This means that additional pressure falls on claimants of working age. It is also expected that the scheme would protect vulnerable claimants and provide incentives for work.
- The council consulted on proposed changes from 30 August to 26 October, this included consultation with the Police and Fire and Rescue Authorities, which showed broad agreement for all except two of the factors.

The following comments were made in discussion:

- It was noted that the response rate to the consultation was disappointing.
- In response to a question it was noted that around 15,000 claimants were of working age.
- It was noted that claims could now be made for second homes.
- It was noted that in order to receive the grant all tax payers were now expected to pay something in the way of council tax.
- In response to a question on the increased number of potential defaults with the new requirements, the Chief Officer Finance and Commercial stated there was currently 5,000 people who did not pay council tax. It was added that the collection rates were likely to reduce, currently the authority has a good collection rate.
- The Leader emphasised this was a one year grant scheme only
- In response to a question Cabinet was advised that 44% of respondents were recipients of council tax benefit.

## **RESOLVED**

### **THAT:**

- a) The Council Tax Transitional Grant be accepted;**
- b) Subject to the above, it be recommended to Council to adopt a new council Tax Support Scheme for 2013/14 based on the adoption of two of the principles that were consulted upon as indicated in paragraph 31 of the report, so that we meet the requirements of the grant; and**

**c) The changes to Council Tax discounts outlined in the report be implemented from 1 April 2013.**

The meeting ended at 3.15 pm

**CHAIRMAN**

<b>MEETING :</b>	<b>CABINET</b>
<b>DATE:</b>	<b>13 DECEMBER 2012</b>
<b>TITLE OF REPORT:</b>	<b>BUDGET UPDATE 2013/14</b>
<b>REPORT BY:</b>	<b>CHIEF OFFICER: FINANCE &amp; COMMERCIAL</b>

### 1. Classification

Open

### 2. Key Decision

This is not a Key Decision.

### 3. Wards Affected

County-wide

### 4. Purpose

To provide an updated budget position for 2013/14 and confirm the current financial planning assumptions as well as the approach being taken around the Root and Branch process for budget setting.

### 5. Recommendation(s)

**THAT CABINET:**

- (a) notes the current position; and
- (b) confirms for budget planning that a council tax increase of 1.9% can be assumed and will be ring fenced for Adult Social Care as part of the budget.

### 6. Key Points Summary

- The Council will set its council tax on 8 March 2013. This must be based on a balanced budget and it cannot budget for a deficit.
- The budget savings are being realised through the "Root and Branch" programme so that we deliver the necessary savings in 2013/14 and beyond. To date £5m has been identified for 2013/14 and work in continuing to identify a further £5m.

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Further information on the subject of this report is available from David Powell, Chief Officer: Finance & Commercial on Tel: (01432) 383519

**Note:** Do not add page numbering

- Like other councils Herefordshire has again been affected by a reduction in government funding as part of the national deficit reduction programme. With funding reduced by a further £5.008m in 2013/14.
- We continue to plan for an increase in council tax and our current assumption is that a 1.9% increase will be set for 2013/14.
- A new and additional council tax freeze grant is on offer for 2013/14 and this would be equivalent to a 1% increase in council tax if we decide to freeze council tax. This grant is not in the Council's base funding.
- Residents have not seen an increase in council tax since 2010/1.
- An extensive public engagement exercise took place in the Your Community Your Say process that is shaping the budget decisions. We are now moving to the next phase.
- The Government intends to announce the provisional local government settlement on 19 December 2012.

## **7. Alternative Options**

- 7.1 There are Alternative Options that centre on increasing council tax by more than our current assumption. This would trigger a referendum, with associated costs.

## **8. Reasons for Recommendations**

- 8.1 The recommendations are to note the current position and also indicate the council tax planning assumptions required in order to set the budget.

## **9. Introduction and Background**

- 9.1 On 19th December the provisional local government settlement will give Herefordshire the first official indication of our government funding for 2013/14. We estimate a further reduction in our funding of £5m.

## **10. Key Considerations**

The following headings set out the areas affecting our financial planning and budget setting. Changes to our planning assumptions agreed in the current medium term financial plan are also outlined.

## Council Tax Referendums

- 10.1 The Localism Act 2011 introduced binding council tax referendums that would be triggered if a council wishes to exceed a certain level of percentage increase in any year. The system started for the setting of the 2012/13 budgets with a rise above 3.5% triggering a referendum for most principal authorities. The new system replaced the former “capping” regime that saw central government determine council tax rise limits. Referendums can be held at any time.
- 10.2 For the 2013/14 council tax setting process the Secretary of State has determined that the threshold for a referendum to be held is when a 2% and above increase is sought by a council. This has led to an immediate change to our financial planning assumptions as our medium term plan agreed by Council in February modelled an assumed 2.5% increase in 2013/14. Every 1% of council tax increase raises approximately £800k and this has an impact of £400k if we limit an increase to just under 2%.

## Council Tax Freeze Grant

- 10.3 The Government has again announced a further council tax freeze grant for 2013/14. The amount on offer is equivalent to 1% of Council Tax and for Herefordshire is worth £800k. This would be payable as an unringfenced grant in 2013/14. The announcement was made by the Chancellor of the Exchequer on 8 October 2012 with a national total of £450m set aside to help freeze council tax. It is a matter for each authority to decide if it accepts the grant.
- 10.4 The grant on offer for 2013/14 is the third such arrangement put in place by government since 2011. The following table outlines the council tax freeze grants since 2011. Herefordshire has accepted both previous grants.

Year	Equivalent Council Tax Increase	Number of Years Available
2011/12	2.5%	4
2012/13	2.5%	1
2013/14	1.0%	2

- 10.5 Our financial planning assumptions are that the 2011/12 grant will be provided for four years. However Government is stating this will now be built into the base funding for councils. The second grant (2012/13) was for one year only and we have not used it for recurrent expenditure with a total of £2.16m received; this was allocated as £1.16m to transformation funding and £1.0m as an in year contingency. This has helped deliver transformation activity through the Root and Branch process with the contingency giving additional capacity to meet the 2012/13 financial pressures.
- 10.6 The council tax freeze grants have eased pressure on Herefordshire’s residents and as a result the council has not increased its council tax since 2010/11. However, it has an impact on our “base” funding because of the loss of funding that would have been built into our budget through permanent increases in council tax. This is particularly challenging given the current pressures on adult social care and the projected additional demand for care services from an ageing population profile.

## Financial Framework for the 2013/14 Budget

10.7 As part of the overall approach to setting the 2013/14 budget the following financial principles and assumptions are currently included (but remain under review):

- (a) The council will seek to raise council tax in 2013/14. The original assumption was an increase of 2.5% but this has been reduced to 1.9% following the Government's announcement in November. It is worth noting that the Medium Term Financial Strategy (MTFS) agreed by council in February 2012 included an assumption of 2.5% in 2013/14. However our planning assumption for 2014/15 and 2015/16 have now been reduced to zero council tax increase. This may need to be revisited but given the government's reduction to the referendum threshold it is a possibility that the new 2% threshold will be lower in future years.
- (b) We have included inflation as a financial pressure in future years. For 2013/14 pay inflation of £579k and non pay inflation of £2.7m is included along with income inflation of £434k.
- (c) Prior year capital decisions are fully funded and current year capital bids will be included depending on Cabinet's decision about any new schemes.
- (d) Revenue pressures in 2013/14 have been recognised to a total value of £5.18m. These are as follows:

	£m
Adult Services Pressures	2.50
Children's Safeguarding	0.65
Commissioning Support	0.40
Corporate Transformation	0.30
Costs to support procurement activity of major contracts	0.40
Local Development Framework legal costs	0.43
Feasibility studies for outer relief road	0.50
<b>TOTAL PRESSURES</b>	<b>5.18m</b>

- (e) There are in addition to these pressures, specific high risks within adult services budgets relating to non-achievement with some cost-reduction schemes carried forward to 2013/14 and beyond (£4.6m); underfunding of demographic growth in previous years (£2.8m) inflationary pressures and high cost provision, particularly for working age adults (c.£3m).
- (f) Reserves: the current year's financial position reported to Cabinet on 18 October indicated an overspend of £2.4m with specific pressure evident in Adult Social Care. Recovery actions are in place to balance the budget but it is prudent to assume we will need to replenish reserves or increase reserves given the financial challenge ahead. As a result a £2m contribution to reserves is included in the 2013/14 budget.
- (g) The Shared Services Partnership (Hoople) will contribute a further £540k of savings in 2013/14. This is in addition to the £981k delivered to date.



- (h) The waste reserve will be increased by £500k in order to prepare for the next stage of the joint arrangement with Worcestershire.

### Local Government Finance Settlement

- 10.8 The local government funding and financial model continues to see significant change. The government is pursuing a higher degree of decentralisation of decisions at the same time as significantly reducing funding. This has meant that we continue to see more local responsibility for decision making and service delivery as government transfers areas such as Public Health to councils from the health service but at the same time our funding for these services is cut on point of transfer.
- 10.9 From 2013 councils will see a new model for funding linking financial revenue to decisions taken to support local employment. On 21 November Local Government Minister, Brandon Lewis, confirmed in a statement that local government will retain a 50% local share of business rates and then keep a 50% share of any growth they generate, subject to a levy. This levy will need to be assessed for its impact on councils. The Government believes it could see the delivery of around an extra £10 billion to the wider economy by 2020 and generate more business rate income for councils to help support frontline services.
- 10.10 Herefordshire has already responded to the abolition of Council Tax Benefit at the end of March 2013. We have consulted on a new “Local Council Tax Reduction Scheme” to deal with the 10% (£1.4m) reduction Government is imposing from April 2013. The new scheme was amended so that the recently announced transitional grant scheme can be accessed by Herefordshire in 2013. The grant is worth £259k to the council and by accepting it and amending the scheme the impact on low income households has been limited. The legislation requires protection for pensioners and incentives for people to find and stay in work. This has been a particular issue for Herefordshire as nearly 50% of claimants are pensioners and this had the potential to increase the impact on working age claimants. Council agreed the new scheme on 23 November but unless the grant is built into our base for 2014/15 we will need to revisit the scheme next year.
- 10.11 The Government will announce the provisional local government finance settlement on 19 December. This is the latest date for the provisional settlement in recent years. It means that all councils continue to use estimates of government funding for planning purposes. Our estimates are based on work carried out by Finance in conjunction with the Society of County Treasurers (SCT) Technical Team. The latest planning assumption for 2013/14 is that our funding from government will reduce by £5.008m. This comes on top of a £3.576m reduction in 2012/13 and an estimated further reduction of £4.654m in 2014/15. Overall this represents a £13.235m reduction over three years from our “base” funding. By comparison our funding rose between 2010/11 and 2011/12 by £2.6m.

### Dedicated Schools Grant (DSG)

- 10.12 Schools are funded by a ring fenced grant (DSG) and the estimated funding for Herefordshire in 2013/14 (expected to be confirmed in December) is as follows:

	£m
Estimated Schools Block Funding	90.7
High Needs Block	12.1
Early Years Block	4.8

<b>TOTAL DSG</b>	<b>107.6</b>
LESS Academy recoupment at source	(38.2)
DSG received by Council	69.4

### **Local Authority Central Services Equivalent Grant (LACSEG)**

10.13 In 2011/12 and 2012/13 Revenue Support Grant (RSG) funding for central education functions was top sliced for schools converting to academies. However, the top slicing was not consistent with the pattern of academies opening in local authority areas and as a result Government was forced to revisit the methodology. From 2013/14 the funding is going to be taken out of RSG and redistributed back to local authorities and academy schools based on pupil numbers. The following indicates the position over the forthcoming two financial years:

	2013/14 £m	2014/15 £m
RSG top slice for all pupils in Herefordshire	-3.678	-3.602
Money to be returned to Council for local authority pupils	2.385	2.102
Funding transferred to Academies	-1.293	-1.500

10.14 The above compares with top slices of £650k (2011/12) and a further £500k in 2012/13 giving a cumulative position of £1.15m of which £235k was subsequently refunded.

10.15 Total budgets for central education functions compared to the indicative £2.385m in 2013/14 grant means that there is a shortfall of £900k of which savings of £500k have so far been identified. This is an additional pressure being faced by the council.

10.16 The Government has also reduced the Early Intervention Grant by £1.7m which directly impacts on improvement services and preventative services for children and families.

### **The Budget and the Root and Branch Process**

10.17 The Root and Branch process is reviewing all services in the council through a systematic approach based on twelve thematic areas and its savings are to enable the council to balance its budget going forward. Each review has been set an indicative 20% savings target that will yield a minimum of £24.1m in savings over the next three years.

10.18 For 2013/14 the current position is that Root and Branch savings are making a contribution of £5m with a further £5m being found to close the "gap". The areas being reviewed include bringing forward further Root and Branch savings, looking at funding levels for external bodies, assessing our inflation assumptions and accelerating our disposal of surplus assets to provide revenue savings.

10.19 We have also reviewed our borrowing costs and likely level of income on our cash deposits. This has produced an additional £772k of savings that has been built into the current budget.

## **2014/15 Onwards**

- 10.20 The Council's financial plan now includes the estimated funding from the new local government funding model. It also currently includes an aspiration not to increase council tax in 2014/15 and 2015/16
- 10.21 The emerging picture is one of considerable financial challenge. After increasing Peoples Services funding by £5.6m in 2014/15 and £5.7m in 2015/16 a gap of over £10m is evident in each year. This will require a fundamental review of the Council's service delivery for future years if we are to deliver a sustainable funding model. The Root and Branch Review Programme which concludes with Herefordshire 2020, will set up the Council's priorities for the next decade.

## **Public Engagement**

- 10.22 The Council carried out a public engagement process called "Your Community Your Say" (YCYS) that built on the annual Quality of Life survey consultation in July 2012. YCYS concluded in October and looked in more detail at the results of the Quality of Life Survey.
- 10.23 By further understanding residents' priorities it seeks to make use of the resources available to deliver services and what public services could be stopped or reduced in order to retain those identified as a priority. This has a direct link to the budget setting process and it is a key element of our approach for setting the budget in 2013/14 and our longer term planning.
- 10.24 The report on the outcome will be delivered in December and lead to the final stage of the process that will use a telephone survey and web based questionnaire. These will cover the budget reductions arising out of the process to help close the budget gap. More details will be included in the report to Cabinet in January 2013.

## **11. Equality and Human Rights**

- 11.1 In demonstrating "due regard" in our decision making process, we will ensure that individual directorates and service areas assess the potential impact of any proposed changes that are as a consequence of budgetary constraints, leading to fairer, transparent and informed decisions being made.

## **12. Community Impact**

- 12.1 The "Your Community Your Say" engagement process has brought forward a better understanding of the impact of our services on the community. This will feature in the final budget setting process. The process will also link with the Council's Corporate Plan agreed at full Council on 23 November 2012.

## **13. Financial Implications**

- 13.1 These are set out in the report.

## **14 Legal Implications**

- 14.1 Local authorities must decide every year how much they are going to raise from council tax. They base their decision on a budget that sets out estimates of what they plan to spend on services. Because they decide on the council tax before the year begins and can't increase it

during the year, they have to consider risks and uncertainties that might force them to spend more on their services than they planned. Allowance is made for these risks by:

- making prudent allowance in the estimates for services; and
- Ensuring that there are adequate reserves to draw on if the service estimates turn out to be insufficient.

14.2 Local government legislation requires an authority's chief finance officer to make a report to the authority when it is considering its budget and council tax. The report must deal with the robustness of the estimates and the adequacy of the reserves allowed for in the budget proposals, so members will have authoritative advice available to them when they make their decisions.

## **15. Risk Management**

15.1 Collection rates for council tax continue to be good and we anticipate hitting out 98.6% target; this needs to be sustained. The budget also includes a level of known and assumed growth in Council Tax base going forward.

15.2 The current financial climate impacts on our borrowing and investment strategies, which support the revenue budget and capital programmes. We continue to monitor this on a daily basis.

15.3 The management of the 2012/13 financial position will have an impact on our 2013/14 budget because of the link to the council's reserves. The Leadership Team has a recovery plan in place to mitigate the risk.

## **16. Consultees**

16.1 Overview and Scrutiny will consider the draft Medium Term Financial Strategy and budget proposals.

16.2 The public will be consulted about specific proposals.

16.3 Herefordshire has carried out a Your Community Your Say (YCYS) engagement programme along with a quantitative Quality of Life survey where we added questions about priorities and which areas/services local communities might like to run themselves IF they were willing and if the opportunity arose. It also included what's important and what needs improving.

16.4 The results of this survey informed the qualitative aspect of the YCYS programme that the Council commissioned. A range of methods were used by the commissioned provider: community workshops, locality events (which were focus groups/deliberative), hard-to-reach groups were contacted using community researchers and community workshops as well as social media. Herefordshire sought to reach as residents as possible by various methods.

## **17. Appendices**

17.1 None

## **18. Background Papers**

18.1 None identified.



<b>MEETING:</b>	<b>CABINET</b>
<b>DATE:</b>	<b>13 DECEMBER 2012</b>
<b>TITLE OF REPORT:</b>	<b>TO CONSIDER FUTURE OPTIONS FOR WASTE CONTRACT</b>
<b>REPORT BY:</b>	<b>HEAD OF SPECIAL PROJECTS</b>

### 1. Classification

Open

### 2. Key Decision

This is a Key Decision because it is likely to result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council's budget for the service or function to which the decision relates:

Notice has been served in accordance with Part 3, Section 9 (Publicity in connection with key decisions) of The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

### 3. Wards Affected

County-wide

### 4. Purpose

To consider the proposals being made by Mercia Waste Management for the treatment of residual waste.

### 5. Recommendation(s)

**THAT: Subject to Worcestershire County Council giving approvals substantially in the same form as those contained in the recommendations of this report**

- (a) **Notes, pursuant to the Cabinet Report of 16<sup>th</sup> February 2012 relating to a variation to the existing waste contract to provide for an Energy from Waste plant at Hartlebury Trading Estate (the EfW Plant), the ongoing discussions with Mercia Waste Management Limited (Mercia) in relation to their proposals and the current status of satisfaction of the Parameters identified in that report;**

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Further information on the subject of this report is available from Andrew Tector, Head of Special Projects on Tel: (01432) 261989

- (b) **Cabinet authorises the Director for Places and Communities in consultation with the Cabinet Member for Major Contracts, the Chief Officer Finance and Commercial and Worcestershire County Council and through the joint governance arrangements between the two authorities to pursue terms for alternative methods of finance for the EfW plant;**
- (c)
- (i) **authorises the Director for Places and Communities in consultation with the Cabinet Member for Major Contracts and Worcestershire County Council and through the joint governance arrangements between the two authorities, to consider how the commissioning and operation of the EfW Plant could be integrated into the existing arrangements with Mercia, and**
- (ii) **if the Director for Places and Communities considers there is no satisfactory resolution in respect of point (i) above then (subject to f) below) he is authorised if he considers it necessary (in consultation with the Cabinet Member for Major Contracts and Worcestershire County Council and through the joint governance arrangements between the two authorities) to launch a tendering exercise to commence the direct procurement by the 2 Councils of the EfW Plant in accordance with paragraph 9.9 below;**
- (d) **Notes that Worcestershire County Council are 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;**
- (e) **Require the Director of Places and Communities to report back 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; and**
- (f) **Notes that Worcestershire County Council is expected to approve similar recommendations and that c ii) is subject to satisfactory negotiation and agreement with Worcestershire County Council of necessary amendments to the current Joint Working Agreement in place between the Councils; and**
- (g) **Requires the Director for Places and Communities to report back to the Cabinet in the report referred to in (e) on the decisions taken by Worcestershire County Council on waste contract management and any implications for Herefordshire Council, .**

## **6. Key Points Summary**

- The Secretary of State for Communities and Local Government granted planning permission for the construction of a 200,000 tonnes per annum Energy from Waste Plant at Hartlebury, Worcestershire (a site in the ownership of Worcestershire County Council) on the 19<sup>th</sup> April 2012.
- The decision of Cabinet of the 16<sup>th</sup> February 2012 required a set of parameters to be met before agreeing to proceed with a variation to the Waste PFI Contract. These parameters



related to Planning, Technical, Financial and Contractual matters.

- The Planning and Technical Parameters have been met or would be before a variation was signed.
- It is believed that the Financial Parameters and in particular Value for Money could be improved by investigating the financing of the project by using alternative methods of finance.
- The Review of Herefordshire and Worcestershire JMWMS Residual Options Appraisal continues to show that EfW with or without CHP is the preferred option and the consent for EfW at Hartlebury strengthens their rankings.
- The current method of residual waste disposal is by landfill at Hill and Moor in Worcestershire; the landfill will be full by 2023 if the two counties continue to landfill at current rates.

## **7. Alternative Options**

7.1 The purpose of this report is to allow Officers to explore alternative options for the financing the EfW at Hartlebury.

## **8. Reasons for Recommendations**

8.1 The recommendations allow the Councils to explore options that potentially deliver better value for money and reducing any adverse effects of programme delay by commencing enabling works at Hartlebury.

## **9. Introduction and Background**

9.1 On the 16<sup>th</sup> February 2012 Cabinet authorised the Director of Places and Communities to enter into negotiations with Mercia to conclude a Variation to provide the EfW Plant in line with certain Parameters set out in four categories as follows: Planning, Financial, Contractual and Technical. Appendix 1 shows the current position in the satisfaction of the parameters as a result of the Councils' on-going confidential commercial negotiations with Mercia.

### **9.2 Planning Parameters**

The Planning Parameters were satisfied when the Secretary of State granted planning consent in summer 2012 following the call-in Planning Inquiry. The consent requires any development on site to commence within 3 years of the grant i.e. by July 2015.

### **9.3 Technical Parameters**

AMEC, the Councils' technical advisers, have provided an opinion that Mercia's proposals for EfW Plant satisfy the Technical Parameters (see Appendix 4).

1. Previous Cabinet reports dealt with the Options Appraisal contained within the Joint Municipal Waste Management Strategy (JMWMS) 2009. The proposals from Mercia are in the context of the JMWMS and this has been subject to detailed consideration in the Planning Inquiry and Options Appraisal which has been conducted as part of the project. The relationship between the JMWMS and Mercia's proposals was dealt with in detail in the Planning Inquiry.

The JMWMS has not become outdated as a result of any material changes in waste treatment technology since its publication as shown by an Options Appraisal refresh that was

commissioned in Autumn 2012. This document, which continues to rank EfW highly (with or without CHP), is attached at Appendix 2.

#### 9.4 Financial Parameters

The Financial Parameters remain the focus of current activities, particularly around Value for Money, which ties in with many of the observations made by some members of the public and objectors in relation to these proposals.

#### 9.5 Financial Parameters – Affordability

The latest draft financial model provided by Mercia for operating the waste disposal services including the EfW plant is subject to commercial confidentiality and it is still subject to on-going negotiation being based wholly on relatively expensive bank debt financing. Because of the potentially expensive bank funding, this model may not be the optimal solution for the Councils. Based on an initial examination of the model and adjusting the Councils' current budget to bring it into line with waste tonnage predictions, the average annual cost for the 2 Councils under current arrangements could be in the region of £32m pa. This compares with an average cost to the 2 Councils of about £38m pa under Mercia's proposals with the EfW Plant. However, this potential increase of about £6m pa equates to an increase of about £36 per tonne in the 'do nothing' scenario continuing to use landfill as the primary means of disposal (Appendix 3 shows the estimated trajectory of landfill tax). Also, if landfill physically continues at the current rate, the void space will become exhausted in 2023 on current estimates when the Councils could be expected to pay rates similar to that proposed by Mercia, with a mark-up, and no controls or capacity guarantees.

#### 9.6 Financial Parameters – Value for Money

As part of developing their proposals, Mercia have undertaken a tendering exercise for the EFW Plant. The Council's Technical Advisors, AMEC, have undertaken due diligence work, including sight of Mercia's confidential data, which has provided reassurance that and have expressed the view that Mercia's process for obtaining have obtained very competitive tender prices for the EfW Plant should not be a bad deal for the Councils (see Appendix 4). The issue that remains is that of Value for Money (VfM) due in the most part to the costs of alternative methods of financing the project. These include:

- a) Bank debt (as proposed by Mercia);
- b) Institutional financing (such as a bond or investment from a pensions provider);
- c) The use of state Guarantee to re-finance the "balloon" that would arise from financing the EfW Plant over its life rather than the shorter life of the existing contract;
- d) Part or full public finance using prudential borrowing;

Cabinet is asked to authorise officers to pursue proposals for alternative methods of finance for the EfW plant.

#### 9.7 PFI Structure

The original PFI contract was awarded a grant to support the additional cost of private sector bank financing (PFI credits). Due to the effects of inflation and other economic factors, the grant only supports about half of the level of debt that would be required by the project going forward. This support has been justified historically by the value of the risk transfer, particularly on balance sheet debt from the public to the private sector, but this has become blurred in recent years.

The Councils will need to be cautious about mixing different sources of finance in terms of the project procurement and the rules associated with PFI. Appropriate advice will be taken on this issue.

#### 9.8 Contractual Parameters

As Mercia's proposals represent a variation to an existing contract that anticipated a similar facility (at a different time and in Kidderminster) the required terms are essentially in place. The main provisions that need to be varied are those which will flow from the satisfaction of all the Parameters.

#### 9.9 Procurement

It is recommended that consideration be given to how the commissioning and operation of the EfW Plant could be integrated into the existing arrangements with Mercia. However in the event that the best blend of finance does not meet existing Contractual Parameters, the Councils may need to seek tenders for the direct procurement of the EfW Plant. Authorisation for these actions is sought.

#### 9.10 Joint Working Agreement

Subject to the agreement of a variation our contract for the procurement of an EfW Plant, Worcestershire County Council and Herefordshire Council will vary the existing Joint Working Agreement so that:

- a. its duration is commensurate with the intended design life of an EfW Plant; and
- b. so that the assets and liabilities of the assets to which the JWA relates can by agreement and/or expert adjudication be distributed equitably at its expiry having agreed to the respective contribution of the Councils over its life.

#### 9.11 Programme

Adverse effects on the programme for the provision of an EfW Plant caused by further negotiations and/or a further tender process should be mitigated by the commencement of enabling works, including planning conditions satisfaction, for which Worcestershire County Council require authorisation. This would be funded by Worcestershire County Council and would be at Worcestershire's risk pending the final decision on the EfW Plant, this risk is worthwhile as the enabling works would further the opportunity to exercise the planning consent and reduce delay.

### **10. Key Considerations**

- 10.1 The report and proposed recommendations are intended to enable the Councils to consider different options for the financing of the EfW Plant to ensure that the authorities secure a proposal that delivers the best possible Value for Money.

### **11. Community Impact**

- 11.1 The proposed plant is sited in Worcestershire; however the proposal enables both Counties to move from their current reliance on the landfilling of residual waste.

### **12. Equality and Human Rights**

- 12.1 The report and its recommendations do not have an impact on Equality or Human Rights.

### **13. Financial Implications**

- 13.1 The purpose of the report is to give Officers the authority to explore other options to finance the development of the EfW at Hartlebury. The Council currently retains KPMG to act as its financial advisors solely to that Herefordshire Council to advise on Value for Money and Affordability.

## **14. Legal Implications**

- 14.1 This report does not commit the Council to any variation to the existing contract and the Councils' will continue to receive Legal Advice from the Project's Legal Advisors, Eversheds.

## **15. Risk Management**

- 15.1 At this stage the recommendations merely allow further options to be explored for the funding of the project. The principle risk at this stage the risks of adverse effects on the programme for the provision of an EfW plant at Hartlebury caused by further negotiations and/or a further tender process. These risks can be mitigated by the commencement of enabling works, including planning conditions satisfaction. The implementation of Recommendation 1(d) is intended to mitigate this risk.

## **16. Consultees**

- 16.1 None

## **17. Appendices**

Appendix 1 – Current status of Parameters

Appendix 2 – Options Appraisal – October 2012

Appendix 3 – Landfill Tax Trajectory

Appendix 4 – AMEC report on Technical Parameters

## **18. Background Papers**

- 18.1 None identified.

<b>Planning Parameters</b>		
<i>Parameter</i>	<i>Status</i>	<i>Commentary</i>
There are no planning conditions which degrade the performance of the plant to such an extent it is not suitable to meet the output specification.		Conditions to Planning Application will have no impact on the performance of the Plant. Parameter Complied with – no further action
There are no planning conditions which render the Variation not value for money for the Councils.		Conditions to Planning Application will have no impact on the Value for Money of the Plant. Parameter Complied with – no further action
<b>Overall Parameter Status</b>		<b>COMPLETE</b>

Financial Parameters		
Parameter	Status	Commentary
1. The Councils are satisfied that the additional cost of the Variation is <b>affordable</b> in relation to:		
a) the Councils' MTFP and relevant reserves; and		The Financial Plans for the two Councils now incorporate the likely increases in costs.
b) the total cost of Waste Contract and the Variation for the life of the Waste Contract to 2023 (or as extended) compared with the inflated financial envelope of what was originally intended to be delivered (Kidderminster); and		.
c) likely costs of ownership and operation beyond the life of the Waste Contract (as extended) whether out-sourced or not (including the amount of any balloon payment to be made on termination/expiry).		This is included with the arrangements made in 1a) above. This has been assessed on a linear amortisation of the debt and capital. In addition, following dialogue with HM Treasury an infrastructure guarantee could be made available to project financiers for any balloon payments, if required.

<p>2. The additional cost of the Variation represents <b>value for money</b> when assessed:</p>		
<p>a) absolutely in terms of the processes used by Mercia to procure competitively the facilities comprised within the Contractor's Proposals; and</p>		<p>This is being undertaken by Amec who have indicated that Mercia's procurement exercise has produced a very competitive outcome. Awaiting a final report from Amec</p>
<p>b) relatively with other similar facilities procured recently;</p>		<p>Early indications are that the procurement exercise has produced prices that are as good or better than recently procured facilities. Further evaluation work to be undertaken to confirm.</p>
<p>c) absolutely in terms of the processes used by Mercia to procure competitively the facilities comprised within the Contractor's Proposals; and</p>		<p>This is being undertaken by Amec who have indicated that Mercia's procurement exercise has produced a very competitive outcome. Report is awaited</p>
<p>d) relatively with other similar facilities procured recently;</p>		<p>This is being undertaken by Amec and Deloitte. Early indications are that the procurement exercise has produced prices that are as good or better than recently procured facilities. Further evaluation work to be undertaken to confirm.</p>
<p>e) in the light of the opportunity cost and other disadvantages of the "do nothing" option having regard to both:</p>		
<p>(i) the effects of an increasing land fill tax</p>		<p>See main report</p>

<p>(ii) the finite capacity of existing landfill and the absence of a planning consent for any other form of residual waste treatment; and</p>		
<p>f) in the light of the opportunity cost of terminating the Waste Contract (in whole or in part) and re-procuring the facilities afresh.</p>		
<p>3. The amendments to the Schedule 6 prices and Payments Mechanism are made on the assumption that capital costs are <b>amortised linearly</b> over the design life of the facilities comprised within the Variation.</p>	<p><b>See 1c) above</b></p>	
<p>4. The <b>Internal Rate of Return (IRR)</b> over the whole life of the Waste Contract shall not exceed the IRR used in the financial model in the original procurement.</p>		
<p>5. DEFRA (WIDP) approve the <b>Variation Business Case</b>.</p>		<p>This can only be submitted to DEFRA when the negotiations are completed.</p>
<p>6. Neither DEFRA nor Audit Commission indicate that they have an objection to the Variation on grounds of value for money.</p>		<p>This can only be signed off by DEFRA and the Audit Commission when the negotiations are completed.</p>



<b>Contractual Parameters</b>		
<i>Parameter</i>	<i>Status</i>	<i>Commentary</i>
1. There are <b>no alterations</b> to the Waste Contract, its structure or financial basis (including models) resulting from the incorporation of the Variation, save for those		
a) necessary to give effect to the Variation; and		A draft Variation Agreement is being considered by legal advisors
b) bringing the Waste Contract into compliance with current and foreseeable legislation; and		In principle agreement over Change in Environmental Legal Requirement and Change in Legal Requirement is under negotiation
c) the net effect of which is to deliver a commercial benefit to the Councils		

<p>2. Legal opinion from Leading Counsel has been obtained confirming that the execution of the Variation by the Councils, in particular in relation to the "balloon" payment, should not be construed as <b>ultra vires</b> the power of the Councils.</p>	<p>Opinion will need to be sought once the Contractual Terms are agreed</p>
<p>3. There is no realistic prospect of a material delay to or cessation of the execution of the Variation as a result of a challenge to how the facility is being procured or operated and the European Commission, having been apprised of all of the facts (e.g. through the issue of a voluntary ex ante transparency notice) relating to how the Counties intend to effect the Variation, has not indicated that it has an intention to challenge UK government on <b>procurement</b> grounds.</p>	<p>Still awaiting indication European Commission's consideration of the current challenge.</p>
<p>4. The period of the Waste Contract is not extended unless such <b>extension</b> produces an economic benefit to the Councils and is in any event for no longer a period than that envisaged by the original EU procurement process.</p>	<p>The Authorities are still negotiating with the Contractor over the length of any extension (between 2023 and 2028)</p>
<p>5. Both DEFRA and the Audit Commission have indicated that they have <b>no objection</b> to the Variation (in its final form) being executed by the Councils.</p>	<p>This can only be signed off by DEFRA and the Audit Commission when the negotiations are completed.</p>

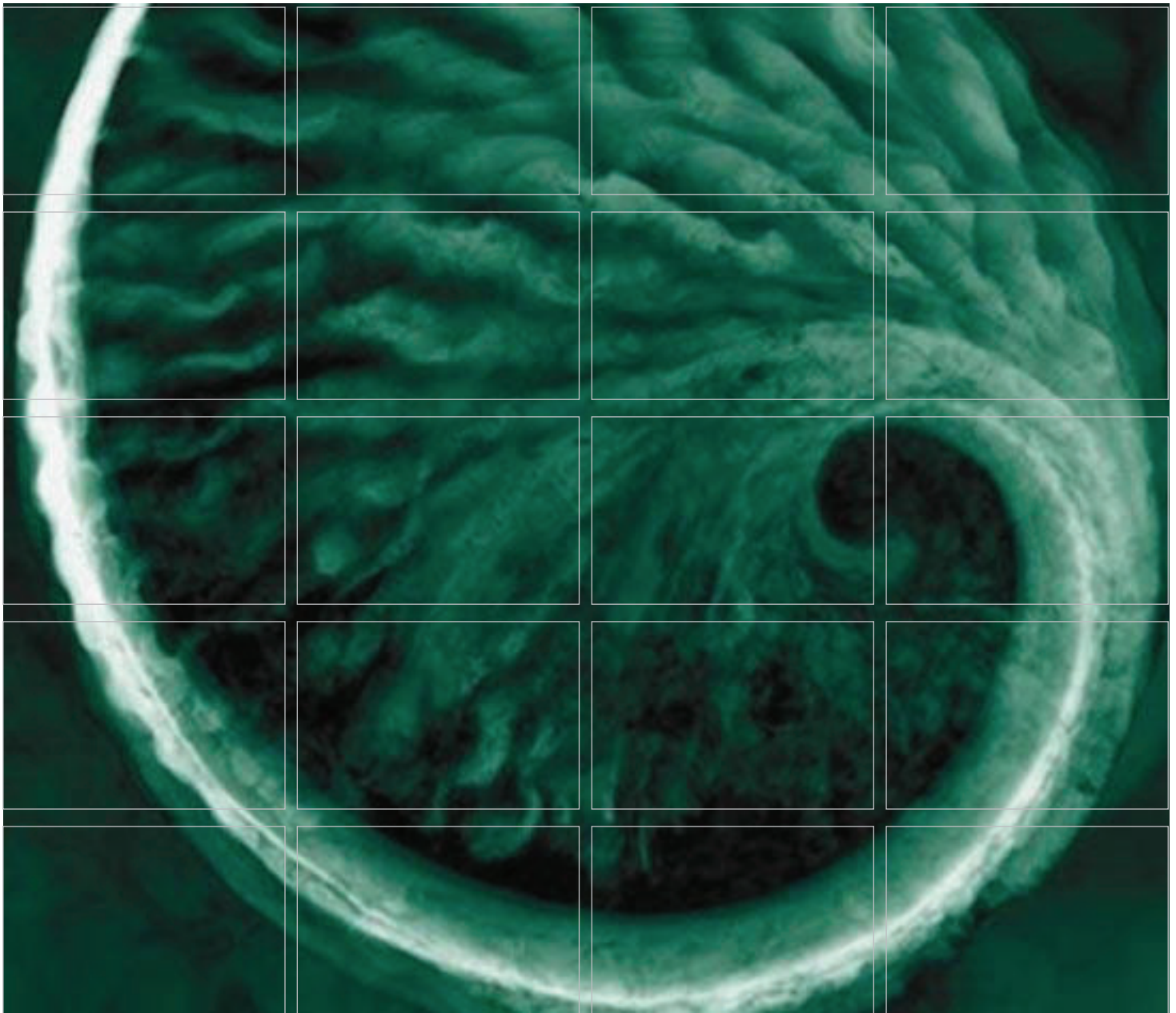
6. Herefordshire Council and this Council have entered into an agreement to extend the **Joint Working Agreement** insofar as it relates to this facility for a period commensurate with the intended life of the facility.

The Councils have agreed the Principles of a new Joint Agreement and have instructed legal advisors to draft a revised Joint Agreement. This revision will also review the Payment Split between the two Councils to ensure VFM is delivered to both authorities

<b>Technical Parameters</b>		
<i>Parameter</i>	<i>Status</i>	<i>Commentary</i>
1. The Reliability, Availability, Maintainability and Safety (RAMS) and <b>Life Cycle Costs</b> (LCC) are such that:		
a) the costs of running the facility are the same or better than those for recently procured similar plants (adjusted for capacity and time); and		These are to be evaluated by the Councils Technical Advisors. They have been reviewed as part of the evaluation of the tenders, further work will be undertaken on the finally selected tender to confirm compliance with the parameters.
b) the costs of running the facility are not deflated during the period up to the end of the period of the Waste Contract at the expense of increased running costs from that point to the end of the design life of the facility.		

<p>2. The <b>return condition</b> of the facilities comprised within the Variation at the expiry of the Waste Contract, shall be such that they;</p>		
<p>a) are in accordance with the specifications pursuant to which they were procured (save for agreed changes); and</p>		<p>These are to be evaluated by the Councils Technical Advisors. They have been reviewed as part of the evaluation of the tenders; further work will be undertaken on the finally selected tender to confirm compliance with the parameters.</p>
<p>b) are in a condition consistent with proper use up to that point in time; and</p>		
<p>c) are capable of being operated for the remainder of their design life; and</p>		
<p>d) are likely to be capable of being re-financed at commercial rates; and</p>		
<p>e) are in a condition which, having regard to the adequacy of any maintenance reserve does not create an operational and/or maintenance burden for the remainder of the design life.</p>		
<p>3. Any <b>prescriptive specification</b> items required by the Counties [such as additional pollution control/de-nox] have been incorporated in the specification for the facility.</p>		<p>No prescriptive restrictions currently required. Complete</p>

<p>4. Any <b>operating restrictions</b> required by the Counties have been incorporated in the operating requirements for the facility.</p>		<p>No operating restrictions currently required. Complete.</p>
<p>5. Any major <b>component warranties</b> required by the Counties have been requested in Mercia's contract documents for the facilities.</p>		<p>These are to be evaluated by the Councils Technical Advisors. They have been reviewed as part of the evaluation of the tenders, further work will be undertaken on the finally selected tender to confirm compliance with the parameters.</p>



# Review of Herefordshire and Worcestershire JMWMS Residual Options Appraisal

Report

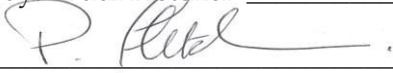
November 2012

# Review of Herefordshire and Worcestershire JMWMS Residual Options Appraisal

Report

November 2012

Prepared by: Natalie Maletas and Hilary Livesey

For and on behalf of Environmental Resources Management
Approved by: Paul Fletcher _____
Signed:  _____
Position: Partner _____
Date: 21 November 2012 _____

This report has been prepared by Environmental Resources Management the trading name of Environmental Resources Management Limited, with all reasonable skill, care and diligence within the terms of the Contract with the client, incorporating our General Terms and Conditions of Business and taking account of the resources devoted to it by agreement with the client.

We disclaim any responsibility to the client and others in respect of any matters outside the scope of the above.

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# **1 REVIEW OF HEREFORDSHIRE AND WORCESTERSHIRE JMWMS RESIDUAL OPTIONS APPRAISAL**

## **1.1 INTRODUCTION**

In 2009, ERM supported Worcestershire County Council (WCC) and Hereford Council (HC) on the review of their Joint Municipal Waste Management Strategy. Part of this work involved undertaking a Residual Waste Options Appraisal, the purpose of which was to help guide and inform future strategic decisions regarding the treatment of residual municipal waste.

Given that three years have now elapsed since the Options Appraisal work was undertaken, WCC and HC would like ERM to reference check key assumptions used within the assessment to ensure their continued validity and appropriateness. However, a full formal reassessment of the appraisal is not appropriate at this time.

The original assessment considered a range of alternative technologies in the option development process. It was necessary within this review therefore to check whether any new technologies had become available since the original assessment was undertaken.

Each of the Social, Financial and Risk Criteria has been reviewed individually, and where any assumptions have changed, the impact on the overall results and conclusions has been evaluated.

The Environmental Criteria have not been revisited at this time. The original assessment of the environmental criteria was completed using WRATE Version 1. In April 2010 WRATE Version 2 was issued. It would be possible to re-run the assessment using the new version of the software. However, although a re-run may change some of the specific output values, any changes to the set of options would be minor and the relative performance of the options would not change. There is therefore no value in carrying out a re-run of the appraisal against environmental criteria.

## **1.2 REVIEW OF OPTION**

As part of the original assessment, options were developed using a two-step process. The first step involved listing the full range of technology options available for the treatment of residual municipal waste. This list has been reviewed to ensure that no new technologies have been identified since the original assessment was undertaken.

The second stage involved developing a short list of options to ensure only those technologies which would be able to deliver the objectives of the Strategy were considered. On reviewing this process, it is considered the exclusion of mass burn incineration and plasma arc technology is still appropriate and that no new technology options have become available for consideration.

### 1.3 *SOCIAL CRITERIA*

#### 1.3.1 *Health*

The method used for assessing impacts on health was to quantify the human toxicity potential of the options using a series of characterisation factors which describe fate, exposure and effects of toxic substances for an infinite time horizon. WRATE is also used to compare the different options against this criterion.

The results showed that the majority of options have a beneficial impact on human health. This is due to the avoided health impacts associated with increased recycling and the offsetting of burning fossil fuels. The results from this assessment are indicative and are based on an impact assessment method from *CML (1999) Problem oriented approach HTP inf. (Huigbregts, 1999 & 2000)*.

Any technologies that were to be procured by the Partnership would need to adhere to strict EA emission standards and as such the impacts highlighted in this assessment are within those standards. In February 2010, the Health Protection Agency published updated advice on the health impacts of emissions from municipal waste incinerators. In it, the Health Protection Agency reviews research undertaken to examine the suggested links between emissions from municipal waste incinerators and effects on health. While it is not possible to rule out adverse health effects from modern, well-regulated municipal waste incinerators with complete certainty, any potential damage to the health of those living close-by is likely to be very small, if detectable. This view is based on detailed assessments of the effects of air pollutants on health and on the fact that modern and well-managed municipal waste incinerators make only a very small contribution to local concentrations of air pollutants. The HPA notes that the Committee on Carcinogenicity of Chemicals in Food, Consumer Products and the Environment has reviewed recent data and has concluded that there is no need to change its previous advice, namely that any potential risk of cancer due to residency near to municipal waste incinerators is exceedingly low and probably not measurable by the most modern techniques. The HPA concludes that since any possible health effects are likely to be very small, if detectable, studies of public health around modern, well-managed municipal waste incinerators are not recommended.

Up to April 2011, the HPA was not aware of any evidence that required a change in its position statement.

However, in January 2012 the HPA issued a statement saying that, while its current position that well-run and regulated modern municipal waste incinerators are not a significant risk to public health remains valid, it recognises that there are public concerns about this issue and so a new study is being carried out to extend the evidence base and to provide further information to the public on this subject. The study began in April 2012, but is not due to report preliminary results until March 2014. Therefore there is no significant new evidence which has emerged since the previous options appraisal work was undertaken by ERM, and so the conclusions at that time remain unchanged.

### **1.3.2**      *Transport*

In our previous report, the assessment of transport distances was based on an assumption about potential locations of facilities, as no exact locations were known at that time. Following an application for a scoping opinion from Worcestershire County Council, we then undertook a sensitivity analysis to show the effect of a known location on the transport assessment. This showed that in all cases where a change in impact is discernible, the impact has increased slightly. However, the percentage change was very small and the ranking of the options was unchanged. Furthermore, the location was Hartlebury Trading Estate, where planning permission has now been granted. Therefore, the conclusions drawn in the original Residual Options Appraisal remain valid.

## **1.4**            *FINANCIAL AND RISK CRITERIA*

### **1.4.1**        *Costs*

The costs in this assessment are not necessarily indicative of actual costs currently being incurred for ongoing contracts but do provide representative costs for comparison of the technologies being considered here for new contracts.

CAPEX and OPEX have been established from a review of publically available sources and by obtaining information directly from operators of existing facilities. There is little new information available on typical capital and operational costs of waste management facilities since the previous report in July 2009, therefore the capex and opex figures remain unchanged from the previous report.

However, new data is available on current gate fees for various types of facilities and landfill tax. These data have been revised from our previous assessment, and the table below gives estimates of the cost of hazardous and non-hazardous landfill.

**Table 1.1 Gate Fees and Landfill Tax**

	Current (£ per tonne)
Landfill gate fee	21 <sup>1</sup>
Hazardous landfill gate fee	156 <sup>2</sup>
EfW gate fee	82 <sup>1</sup>
Landfill tax	64 <sup>1</sup>

Notes

<sup>1</sup> Source: WRAP Gate Fees Report 2012

<sup>2</sup> Source: Assessment of the Options to Improve the Management of Bio-Waste in the European Union, Arcadis et al, November 2009

Each option will have an overall cost to the Partnership. The following table does not provide an accurate projection of the actual charges to the Partnership, but allows over the project lifetime (25 years) the different options to be compared. The costs in Table 1.2 include the costs associated with the disposal of residues from the facilities for each option. There are no additional costs for option G as it is assumed that all costs are incorporated into the gate fee for this facility. The capital cost and operating costs of a Waste Transfer Station with a capacity of 110K tpa is included in option G. Transportation costs and potential income from heat, energy and recycle are not included in these figures.

**Table 1.2 Option Costs (£million)**

Option	CAPEX	OPEX	Landfill costs	Haz landfill costs	Landfill tax	Total	Rank
A	74	101	0	14	6	195	1
B	118	113	0	14	6	251	5
C	65	244	12	0	38	359	7
D	62	229	12	0	38	341	6
E	56	143	8	0	23	230	2
F	56	143	8	0	23	230	2
G	4	227	0	0	0	231	4

#### 1.4.2 Reliability of Delivery

To get financial backing for a waste management facility, there needs to be security for the lender that the technology proposed can work on the scale proposed in the bid. It is often harder to secure financial backing for facilities that have not been proven in the UK, that have not been shown to work at large scale, or which have only been used on feedstock with different characteristics from the intended waste stream.

To assess reliability of delivery, the options appraisal assigned scores on the basis of whether a plant has already been operational at a large or small scale, and in the UK or in Europe.

**Table 1.3** *Points Attributed to Proven Technologies*

<b>Development status</b>	<b>Score</b>
Proven on a large scale in the UK	4
Proven on a large scale in Europe	3
Proven on a small scale in the UK	2
Proven on a small scale in Europe	1

\*A large scale plant is a plant greater than pilot or experimental scale

All of the options assessed are of a reasonably proven nature. Only two options did not score the top score of 4 for being proven on a large scale in the UK at the time the first appraisal was carried out, and these were options E and F (one or two autoclaves). At the time, there was only one autoclave in Rotherham operated by Sterecycle with a capacity of 100,000 tpa, and therefore the technology could not be said to be proven on a large scale in the UK.

The Rotherham facility has now gone into receivership, raising questions about the viability of the technology, therefore the score for the two autoclave options on reliability has been lowered. However, this does not change the ranking of the options.

**Table 1.4** *Option Scores*

<b>Option</b>	<b>Proven Technologies Score</b>	<b>Rank</b>
A	4	1
B	4	1
C	4	1
D	4	1
E	1	6
F	1	6
G	4	1

\*A large scale plant is a plant greater than pilot or experimental scale

### **1.4.3** *Planning Risk*

One of the greatest risks to any waste facility project is planning. The development of this assessment has compared the options in terms of number of sites required for each option. Options therefore fall into three categories; one site options (A, B and E), two site options (C, D and F) and the export option (G).

The two site options are considered to incur the greatest risk. To ensure the JMWMS is successfully delivered, the authorities would need both sites to be

successful through the planning process. For this reason the one site options are considered to have less planning risk associated with them.

Option G, the export option, assumes the designated facility is already established and thus the delivery of this option does not rely on obtaining additional planning permissions. This option however does incur an additional risk in relation to availability of spare capacity out of county.

Planning permission has been granted for an EfW facility which is CHP-enabled at Hartlebury in Worcestershire. Therefore, option A is considered low planning risk. Although the permission is for a CHP-enabled facility, additional planning permission is likely to be required for pipework and connections off site and there this option has been awarded a slightly higher risk.

**Table 1.5** *Planning Risk Rankings*

Option	Description	Planning Risk Ranking
A	One site EfW	1
B	One site CHP	3
C	Two site MBT (on site burning)	5
D	Two site MBT (off site burning)	5
E	One site Autoclave	4
F	Two site Autoclave	5
G	Out of County EfW	1

#### 1.4.4 *Compliance with Policy*

This criterion assesses the ability of each of the options to manage waste in accordance with national waste policy. Government policy seeks to drive the management of waste up the waste hierarchy.

ERM compared the options based on the tonnages of material handled by each of the following management methods:

- the amount of waste landfilled;
- the amount of mass lost during treatment;
- the amount of waste used to generate electricity;
- the amount of waste used to generate heat; and
- the amount of waste recycled.

The score for each option was determined by multiplying the relative tonnages for each management method by a weighting factor to represent the preference for each of these in the waste hierarchy.

The tonnages of waste managed at different levels of the waste hierarchy has not changed for any option, and therefore the assessment for compliance with policy is unchanged from the previous iteration of the options appraisal.

#### **1.4.5**      *Flexibility*

The options were assessed for their flexibility in terms of ability to accept waste with differing compositions arising from seasonal variations, potential changes to packaging material etc, and on their ability to adjust to variations in tonnages of waste throughputs.

This criterion was assessed qualitatively by ERM, using professional judgement based on our knowledge of the different technologies and experience of previous technical options appraisals.

The technologies have not changed to a significantly large degree that would alter the previous assessment of flexibility, therefore the previous rankings on flexibility remain unchanged.

#### **1.4.6**      *End Product Liability*

This criterion considers the risks associated with finding a market for the end products arising from the technologies. Some waste management technologies have greater risks associated with the management of end products because the markets for these materials are unproven or under-developed.

ERM compared the options based upon the tonnages of each material end product arising from the technologies involved in each option. The end product(s) from each technology have been assigned a coefficient based on the risks associated with finding a market for them. These risks have been based on ERM's knowledge and experience of the secondary materials market.

A high liability coefficient has been attached to RDF produced by treatment technologies for combustion off-site because there is still uncertainty about the availability of markets. While some RDF producers have recently secured contracts to supply RDF to customers overseas, there is still market instability in the UK, with cement production continuing to experience low growth, and some restructuring within the cement industry with mergers and plant closures.

The ban on co-disposal of hazardous waste with non-hazardous waste in the UK has severely reduced the number of landfill sites licensed to accept hazardous waste. However, there is a landfill site capable of accepting hazardous material in operation approximately 60 km from the proposed sites. The disposal of hazardous waste to landfill has been ranked as medium

risk, as any problems at this landfill would require significant extra transport to the next nearest hazardous landfill site.

It is assumed that the EfW and EfW+ CHP options (options A&B) would only be developed on sites with suitable and secure outlets for the heat and/or electricity produced and therefore these outputs have not been included in this assessment.

The above assessment of markets for end products means that the end product liability coefficients assigned to the different types of products remain the same as in the previous assessment and therefore the ranking of options is unchanged for this criterion.

## 1.5

### *RESULTS*

The following table shows the rankings for all criteria, updated to reflect the conclusions in the above analysis. This shows that, while the rankings have changed for some individual criteria, this has made only a small change to the average of all the rankings. However, it is worth noting that the overall ranking of the different options has changed slightly. Option B, Energy from Waste with CHP, remains the highest ranking of all the options, but option A, Energy from Waste without CHP is now the second highest ranking. Option E, single autoclave, has slipped into third place. The ranking for all other options is unchanged.

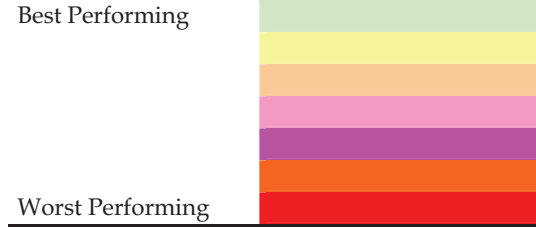


Table 1.6 Total Updated Scores and Ranks

Option	Resource Depletion	Global Warming	Ecotoxicology	Acidification	Eutrophication	Health	Transport	Cost	Reliability	Planning Risk	Compliance with Policy	Flexibility - composition	Flexibility - tonnage	End Product Liability	Average	Rank
A	3	6	7	6	5	4	1	1	1	1	5	1	2	1	3.14	2
B	2	1	6	5	3	3	1	5	1	3	1	1	2	1	2.50	1
C	4	5	1	4	4	5	3	7	1	5	7	6	1	5	4.14	5
D	1	4	4	3	6	6	4	6	1	5	6	6	6	3	4.36	6
E	6	2	2	1	1	1	5	2	6	4	2	4	4	6	3.29	3
F	7	3	3	2	2	2	7	2	6	5	2	4	4	6	3.93	4
G	5	7	5	7	7	7	6	4	1	1	4	1	7	4	4.71	7

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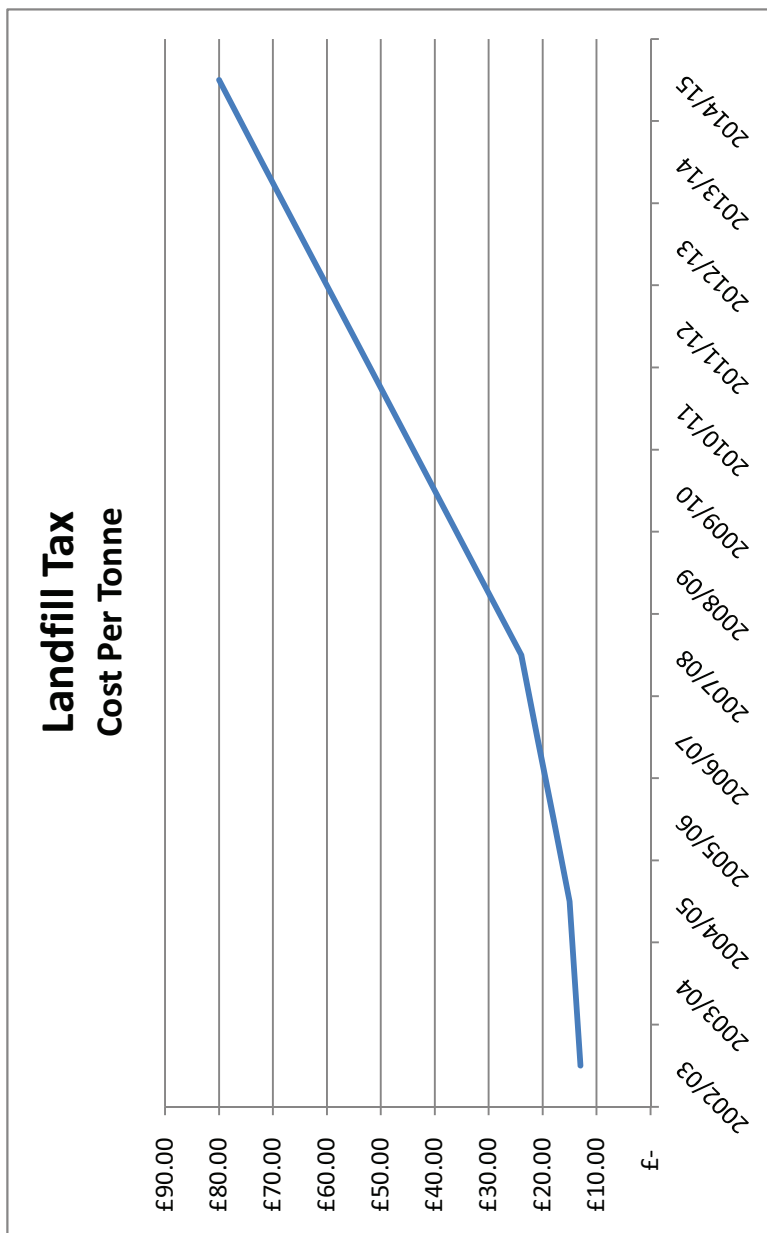
Option A	1 x EFW
Option B	1 x EFW + CHP
Option C	2 x MBT - gasification
Option D	2 x MBT - cement kiln
Option E	1 x Autoclave
Option F	2 x Autoclave
Option G	EFW out of county





Appendix 3

Year	Landfill Tax Cost Per Tonne
2002/03	£ 13.00
2003/04	£ 14.00
2004/05	£ 15.00
2005/06	£ 18.00
2006/07	£ 21.00
2007/08	£ 24.00
2008/09	£ 32.00
2009/10	£ 40.00
2010/11	£ 48.00
2011/12	£ 56.00
2012/13	£ 64.00
2013/14	£ 72.00
2014/15	£ 80.00





# Hereford and Worcestershire Waste PFI: Mercia Waste Management EFW Procurement Review.

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## 1. Introduction

### 1.1 Hereford and Worcestershire Waste PFI

Hereford Council and Worcestershire County Council jointly entered into a long term waste management services contract with Mercia Waste Management (MWM) for the treatment and disposal of municipal and household waste arising within the two counties. In order to deliver the required waste management services the contract anticipated that new waste management infrastructure would be developed within the counties, including the provision of an energy from waste incineration facility at a site within Kidderminster.

With the failure of the proposed development at Kidderminster to gain planning approval alternative treatment options and sites have been investigated. These have resulted in the proposals for an energy from waste incineration facility at Hartlebury. The existing contract between the councils and MWM is for a period of twenty five years, with the facility reverting to the councils on termination. The contract has been active for a period of the order of ten years and therefore has approximately fifteen years remaining before expiry.

Under the terms of the PFI contract, MWM are procuring the EFW directly. The Councils wish to confirm that the procurement is evaluated on an appropriate value for money basis, and have asked AMEC to review the evaluation process undertaken by MWM.

MWM have provided AMEC with a copy of the BAFO technical evaluation report (issue 5) prepared by their technical consultant, Fichtner Consulting Engineers Ltd. Fichtner presented and discussed the findings of their evaluation at a meeting at AMEC's Northwich office on the afternoon of the 6<sup>th</sup> September 2012. The meeting was attended by a representative from the councils, AMEC, Mercia Waste Management and Fichtner Consulting Engineers.

This technical note is intended to record the discussions and conclusions from the above meeting.

## 2. Technical Evaluation

### 2.1 Procurement Competition

Fichtner prepared a detailed technical specification for a new 200,000 tonnes per annum single stream Energy from Waste (EFW) plant at Hartlebury.

MWM engaged Fichtner to run the procurement process as a fair and transparent process. The Fichtner process has been a staged procurement with the following stages:

- (1) Pre-selection and Identification of potential bidders;
- (2) Prequalification;
- (3) Preparation of the tender specification and contract conditions;
- (4) Issue of the tender enquiries;
- (5) Tender clarifications;
- (6) Tender assessment;
- (7) Tender submission clarifications;
- (8) Short listing of the preferred bidders;
- (9) Call for best and final offers (BAFO);
- (10) Tender assessment of BAFO;
- (11) Tender clarifications as appropriate;
- (12) Short listing of the preferred bidders; and,
- (13) Final contract negotiation.

The process is now at stage (11) in the above list, tender clarifications of the BAFO submissions, with three bidders remaining in contention.

Fichtner have apparently only been instructed, by MWM, to undertake a technical assessment of the tender returns. Commercial and legal assessment of the bids is being undertaken separately by MWM.

AMEC has not reviewed the earlier steps of the procurement process, however the overall approach, the companies pre-selected and prequalified, and the detailed technical specification used to obtain quotations, has been, from the evidence presented, an open process and represents a robust methodology from which to select a BAFO shortlist of three organisations suitably qualified to deliver the project's objectives.

### 2.2 BAFO Technical Review

Fichtner presented their technical evaluation report (Mercia Waste Management Envirecover – BAFO Technical Tender Assessment Report, Issue 5, dated 3 September 2012) , which described their analysis of the three bids received at BAFO from the following bidders:

- (1) Fisia Babcock and Volker Fitzpatrick;
- (2) Keppel Seghers; and,
- (3) Von Roll (now Hitachi Zosen Inova AG).

Their detailed evaluation and analysis process considered the overall operation of each proposal, which included an assessment of the operating costs, the maintenance and lifecycle guarantees

offered by each bidder, and compliance with the agreed BAFO technical specification issued by MWM in April 2012.

### **2.2.1 Capital Cost Assessments**

For each key area in the technical specification, Fichtner considered whether there were any deficiencies the bid, including noise, areas for maintenance provision, flue gas parameters, inconel lining of the boiler and island mode operation periods. They then assessed the likely changes required to meet the MWM specification as issued and sought clarification and specification compliance from the bidders.

In the event that, in Fichtner's opinion, the bidder's offer remained deficient, Fichtner then prepared their own cost assessment of those additional cost items required, for full compliance with the technical specification.

These cost assessments were presented as recommended real cost adjustments to the BAFO price from each bidder, and were presented with a view to their inclusion within the commercial assessment of the bids being undertaken separately by MWM.

### **2.2.2 Operational Cost Assessment**

Fichtner examined the performance parameters of each bid, and compared them to the required technical specification guarantees, and on a comparative basis across each bid. This allowed a quantitative comparison of the operational costs between the bids.

The operational elements considered included the guaranteed lifecycle frequency for plant and equipment, the reagent and utility usage in the process, power production (gross and net), and the maintenance costs associated with each bidder's particular facility.

Fichtner then prepared a recommended NPV cost adjustments to the BAFO price from each bidder in order to allow MWM to equalise such costs between each of the bidders' technical offers when undertaking their commercial assessment.

### **2.2.3 Other Technical Factors**

Fichtner confirmed that the process had considered and now fully addressed the following particular elements:

- Ground Conditions – all bidders had reviewed the ground conditions reports and accepted the limitations of the investigations undertaken to date and accepted full ground condition risk for the site; and
- Planning – the proposed solutions offered by all of the bidders were considered to have had some minor deviations from the granted planning permission.

The bidders were also being asked to respond to some additional technical clarifications from Fichtner on an ongoing basis.

## **2.3 Non-Technical Evaluation Issues**

The report and presentation on the technical evaluation undertaken by Fichtner, demonstrated how the evaluation was inclusive of the derivation of an estimated cost-adjusted price supplement of each bid, in order to meet a minimum technical level of performance.

The MWM representative explained how MWM had then considered the level of the security package offered against the specified requirements. This was reported to have included a review of aspects of each bidder's submission such as the level of liquidated damages for delay, liquidated damages for plant performance, and the provision of bonds. It was reported that one of the bidders had yet to provide a satisfactory security package in support of their bid.

The proposed further short listing of bidders and the identification of the preferred bidder will occur following further clarification and will be on the condition that the proposed security packages were adequate. MWM propose to select two bidders for further fine tuning and bid clarification on the basis of the analysis of the commercial offers inclusive of the recommended cost-adjusted price supplements developed by Fichtner.

## 2.4 Next Stages of Procurement

Fichtner intend to continue to engage with the three bidders, to raise additional technical clarifications and to discuss the levels of guarantees offered in the BAFO bid. It is expected that these discussions will result in further improvements to the guarantees offered, and also improve the compliance with the technical specification. MWM are to continue with the commercial assessment of the three bids with a view to progressing negotiations with two bidders whilst holding the third in reserve.

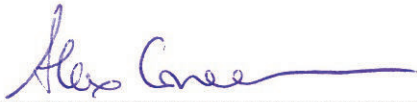
## 3. Conclusions

- The original Fichtner technical specification will procure a high quality advanced EfW facility with high performance characteristics;
- The staged approach to the procurement ensures that there is a wide number of appropriate participants, which are gradually de-selected on technical compliance with the specification;
- There are currently three technical submissions under consideration which are broadly compliant with the requirements of the technical specification;
- Assessing technical compliance and preparing cost adjustment recommendations ensures that the technical specification remains an absolute minimum quality threshold;
- The process followed in developing technical price cost adjustments appears to be sound, equitable and clearly defined;
- The security package as currently described by MWM should ensure that the MWM can let the EPC contract on a commercially viable basis, with appropriate remedies for poor performance under the EPC contract;
- There was no evidence presented to suggest that the current procurement approach will have an intrinsic bias against the councils interests;
- Information on the commercial offer has not, to date, been made available. AMEC has not been able to review any aspects of the commercial offers received by MWM, nor the application of the Fichtner derived price cost adjustments;



- Evidence was not presented on the impact of the EfW facility procurement on the existing PFI contract. AMEC has therefore been unable to consider how the capital and operational costs of the bids received, relates to an amended Unitary Charge payment as governed by the PFI contract.
- Continued scrutiny of the MWM EfW facility procurement is required as commercial aspects of the bids is brought into consideration leading to the short listing of bidders and eventual identification of a preferred bidder.

*Author: Alex Green*



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*Reviewer: Jonathan Bebb*



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