

Title of report: Energy from waste loan update

Meeting: Audit and Governance Committee

Meeting date: Tuesday 12 December 2023

Report by: Head of Strategic Finance (Deputy S151 Officer)

Classification

Open

Decision type

This is not an executive decision

Wards affected

(All Wards);

Purpose

To update the committee on the current status of the energy from waste loan arrangement to enable the committee to fulfil its delegated functions.

Recommendation(s)

That:

- a) **The risks to the council, as joint lender, are confirmed as being reasonable and appropriate having regard to the risks typically assumed by long term senior funders to waste projects in the United Kingdom and best banking practice; and**
- b) **Arrangements for the administration of the loan are reviewed and confirmed as satisfactory.**

Alternative options

1. None; the loan arrangement was contractually agreed in May 2014, no breaches or areas of concern have taken place during the reporting period. This report provides an update on the arrangement to the Audit and Governance Committee in its role as the waste loan governance committee which entails reviewing risks to the lender and monitoring administration of the loan.

Key considerations

2. In 1998, the council, in partnership with Worcestershire County Council, entered into a 25 year contract with Mercia Waste Management Limited (Mercia) for the provision of an integrated waste management system using the Private Finance Initiative. In 2014, a variation to the contract was signed, to build, finance and operate an energy from waste plant in Hartlebury.
3. The councils (the Lenders) provided a total of £163.5 million to Mercia (the Borrower) as a long term loan split across two facilities (Facility A £35.45 million and Facility B £128.05 million). Herefordshire Council provided 24.2% of the loan value £39.57 million.
4. Facility A was fully repaid in December 2022. The repayments for Facility B have been extended for 5 years until January 2029 in line with the extension to the Waste Management Services contract.
5. This report enables the committee to fulfil the functions delegated to it in relation to the governance of the waste loan arrangement; specifically to review the risks to the council as lender and to monitor administration of the loan.
6. Since the last report to the committee in October 2022, the loan arrangement has continued to be repaid in line with expectations and risks to the council are considered to be reasonable and appropriate.

Update to loan balance

7. During the last year, since the previous report to the committee, the following loan repayments have been made:

	Interest £m	Principal £m	Total £m
Loan balance (principal) at October 2022		31.8	
December 2022 repayment	1.0	0.8	1.8
June 2023 repayment	1.0	1.3	2.3
Loan balance (principal) at November 2023		29.7	

Loan Agreement Ratios

8. The ratios are a financial covenant imposed by Lenders (in this case the council and Worcestershire County Council together as Lenders) as a monitoring mechanism to provide early warning of project distress and potential Borrower (in this case Mercia) default on their repayment obligations. The ratios provide a measure of the project's historic and future performance in relation to its ability to service current and upcoming debt liabilities. The ratios are reported every 6 months in June and December.

9. The ratios reported at June 2023 were as follows:

Ratio	Calculation	Reason	Compliance value	Actual value at June 2023
The Historic Annual Debt Service Cover Ratio	Preceding 12 months actual cashflows/ Loan principal and interest repayments over the preceding 12 months	To assess the ability to service current debt obligation over the preceding 12 month period	1.35	1.58
The Projected Annual Debt Service Cover Ratio	Following 12 months actual cashflows/ Loan principal and interest repayments over the next 12 months	To assess the ability to service future debt obligations over the following 12 month period	1.35	2.30
The Loan Life Cover Ratio before distributions	NPV all future cashflows plus available reserve balances/ Loan principal outstanding	To assess the ability to repay the outstanding loan balance from future cash flows over the remaining life of the loan	1.40	7.77

10. The ratio calculations have been supplied by Mercia along with forecasts of future ratio value up until the end of the loan agreement. There are no ratios that are forecast to be under the compliance values.
11. Mercia have supplied a Ratio Compliance Certificate confirming that, as at June 2023, all ratios are within the levels outlines in the Senior Term Loan Facilities Agreement. There are no areas of concern to highlight to the committee. This Certificate is included in Appendix 1.
12. Mercia have supplied a Senior Term Loan Facility Agreement Assurance Statement for Lenders to provide some assurance to the council that loan covenants have been met, and there are no significant issues or risks to future loan repayments. This Statement is included in Appendix 2.

Community impact

13. In accordance with the adopted code of corporate governance, the council must ensure that it has an effective performance management system that facilitates effective and efficient delivery of planned services. Effective financial management, risk management and internal control are important components of this performance management system. The committee's assurance that any risks associated with the loan arrangement have sufficient mitigation actions applied supports adherence to the code.
14. The loan arrangement supports the continued viability and affordability of the contracted waste disposal arrangement.

Environmental Impact

15. Herefordshire Council provides and purchases a wide range of services for the people of Herefordshire. Together with partner organisations in the private, public and voluntary sectors we share a strong commitment to improving our environmental sustainability, achieving carbon neutrality and to protect and enhance Herefordshire's outstanding natural environment.
16. This is an update on an existing loan arrangement and will, in isolation, have minimal environmental impacts. However, consideration to minimise waste and resource use in line with the Council's Environmental Policy is managed as part of the overall waste collection and disposal service provision.

Equality duty

17. Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to –

- a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
18. The public sector equality duty (specific duty) requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying 'due regard' in our decision making in the design of policies and in the delivery of services. As this is an update on an existing loan arrangement we do not believe that it will have an impact on our equality duty.

Resource implications

19. There are no financial implications arising from the recommendations in this report. The loan arrangement is being repaid as expected, the implications of the agreed loan arrangements are reflected in the council's medium term financial strategy and treasury management strategy as agreed by Council in February 2023.

Legal implications

20. The terms and arrangements for this loan agreement are set out in the senior term loan facilities agreement. There are no specific legal implications arising from this report. The function of the committee is set out in the constitution under 3.5.13. This report relates to functions (a) to review risks as lender and (b) to monitor the administration of the loan.

Risk management

21. Attached at Appendix 3 is the joint risk register with Worcestershire County Council.

Consultees

22. None.

Appendices

Appendix 1 – Ratio Compliance Certificate

Appendix 2 – Senior Term Loan Facility Agreement Assurance Statement for Lenders

Appendix 3 – Joint Risk Register

Background papers

None identified.

Report Reviewers Used for appraising this report:

Governance	Jen Preece	Date 04/12/2023
Finance		Date
Legal		Date
Communications	Luenne Featherstone	Date 04/12/2023
Equality Duty		Date
Procurement		Date
Risk		Date
Approved by		
	Claire Porter	Date 04/12/2023