ENVIRONMENT OVERVIEW AND SCRUTINY COMMITTEE

MINUTES of a meeting of the Environment Overview and Scrutiny Committee held on Monday 10th September, 2012 at the Cabinet Suite - Shire Hall, Gloucester.

PRESENT:

Cllr Tony Blackburn
Cllr Basil Booth
Cllr John Cordwell (Lead Member)
Cllr Bill Crowther

Cllr Tony Hicks
Cllr Fiona McKenzie (Chair)
Cllr Martin Quaile
Cllr Brian Robinson

Substitutes:

Cllr Graham Leslie Morgan

Officers in attendance: Jo Bolton, Andrea Clarke, David Dale, Ian Mawdsley, Nigel Riglar Jo Walker and Christine Wray,

Apologies: Cllr Graham Leslie Morgan

34 MINUTES OF THE PREVIOUS MEETING - 17 JULY 2012

34.1 The minutes were approved and signed by the Chairman as a correct record.

35 ACTION SHEET - 17 JULY 2012

35.1 The chairman confirmed that it was the job of the Overview and Scrutiny Management Committee to monitor task group recommendations and the report of the Severn Estuary Task Group would in future be received by that committee. She agreed to raise members’ comments and concerns on the Environment Agency’s response to her letter at the next meeting of the Overview and Scrutiny Management Committee.

ACTION: Fiona McKenzie.

35.2 Cllr Blackburn requested that he and Cllr Booth receive a copy of the response to the Environment Agency’s letter once complete.

ACTION: Andrea Clarke.

36 RESIDUAL WASTE

36.1 Councillors Martin Quaile, Basil Booth, and Dr Cordwell declared an interest in relation to the item on the Residual Waste Contract, as a result of them being members of the Planning Committee.
36.2 Dr Cordwell declared an interest in respect of his membership to the Campaign to Protect Rural England.

36.2 As Chair of the Planning Committee, Cllr Quaile stated that he would take no part in the proceedings on this item.

36.3 Those committee members who were also Planning Committee members voiced their concerns over taking part in the scrutiny debate, when they would also be making a decision on the planning application at a future Planning Committee meeting. In response, Christine Wray the Assistant Director of Law and Administration, clarified that it was up to the individual member to decide on whether they took part in the scrutiny debate. However, the decision they would make at Planning Committee should be done with an open mind, on the information put forward at that meeting. She advised that if a member did decide to participate, they should not make comments on any matters relating to the planning implications, so as to ensure that they did not jeopardise their decision on the planning application.

36.4 Jo Walker, Strategic Finance Director and Ian Mawdsley, Project Lead Residual Waste, gave a presentation on the awarding of the Residual Waste Contract. (A copy of the slides can be found in the minute book).

36.5 The committee was informed that the procurement of the residual waste contract was shaped by the Gloucestershire Joint Municipal Waste Management Strategy 2007 (JMWMS). This was a proactive strategy, (signed up to by the six district councils and the county council), which looked at the whole municipal waste stream and had the waste hierarchy at its core.

36.6 Residual waste tonnage requirements forecasts were made based on a number of assumptions and were reviewed regularly as part of the procurement process to ensure that they were realistic. Depending on the assumptions made the current waste tonnage forecasts could vary between 108,000 and 154,000 tonnes to be dealt with by the plant in 2027/28 and 112,000 tonnes to 170,000 tonnes in 2039/40.

36.7 Some members expressed concern that the tonnages predicted through the modelling were not sufficient to warrant the size of the proposed facility. There was some feeling that the proposed size brought into question whether the facility was planned as a solution to Gloucestershire’s waste or as a merchant facility for commercial and industrial waste.

36.8 The Strategic Director of Finance indicated that she was satisfied that the forecasts were as robust as they could be. In addition, the committee was informed that the inspector’s report from the Waste Core Strategy independent examination had indicated that the council’s view of the future municipal waste scenario was ‘in general terms likely to be of the right order’.

36.9 The committee was informed that the contract had been designed to be flexible and capable of adapting to the range of tonnages which had been
forecast over the life of the contract. UBB would use any remaining capacity to treat commercial and industrial waste (C&I), and this would include some of Gloucestershire’s C&I waste which was currently being disposed of in landfill.

36.10 The Project Lead for Residual Waste informed the committee that the residual waste contract was for a period of 25 years from the date of commencement in 2016. The contract was based on the SoPC4/Defra contract, the template of which was available for viewing on the Defra website. It was agreed that the committee would be forwarded a link to the website. ACTION: Ian Mawdsley/Andrea Clarke.

36.11 It was reported that the contractor would be taking on the risks associated with the design and construction of the facility, any latent defects that occurred in service, and electricity volume. The contractor would also be responsible for the decontamination of the site and the decommissioning of the facility. The council would take on the risk of having insufficient waste to provide by committing to a base tonnage. A number of risks would be shared between the council and the contractor, including planning approval and changes in legislation.

36.12 UBB submitted its planning application in January 2012. The Planning Authority would be considering the application in the context of the Waste Core Strategy, and would only grant planning permission if the facility was considered appropriate.

36.13 The committee was advised that the planning determination and procurement were two entirely separate processes, with the Cabinet taking decisions on the procurement process and the Planning Committee determining the planning application.

36.14 Members were informed that Energy from Waste (EfW) technology was widely and safely used in many European countries, and was increasingly being used in the UK. UBB had submitted an environmental permit application to the Environment Agency. The Environment Agency would consider the permit in the context of the Waste Incineration Directive, and would only issue a permit if the facility was considered safe.

36.15 It was reported that the Health Protection Agency had considered studies examining adverse health effects around incinerators and was not aware of any consistent or convincing evidence of a link with adverse health outcomes.

36.16 In response to a question, the Project Lead for Residual Waste confirmed that should the Environment Agency request a modification to the design which required a different treatment then the responsibility might fall on the council to pay the costs incurred, if it was not due to negligence on behalf of the bidder.

36.17 The Strategic Finance Director outlined the benefits of the proposed solution:
- Environmentally sustainable – CO2 reduction, recovers value from waste.
- Renewable Energy – Enough electricity to power 25,000 homes.
- Potential to provide heat to both commercial and domestic users, (this was currently being discussed with UBB).
- Value for money – Up to £190m saving on landfill and energy prices
- Creation of local jobs -300 jobs in construction and 40 in operation.

36.18 One member who represented the North Stroud division, where the proposed facility was to be situated at Javelin Park, commented that the consultation process for local people, on the possible health/environmental impacts had been inadequate. In response, the Strategic Finance Director reported that consultation could be tracked back as far 2006/07 in relation to the JMWMS, UBB had also held a series of public meetings and exhibitions on the proposed facility.

36.19 In response to a question as to whether local residents and businesses would be compensated, if they were adversely affected by the proposed residual waste plant, it was clarified that that the figure of £13m was the proposed contribution to the residual waste contract and not for this purpose. The potential impact of the proposed facility on local residents and the environment was a matter for the Planning Committee and UBB to consider, and was a separate process.

36.20 In response to concerns that electricity production by the facility could be inefficient if it was not used locally, it was reported that the facility would generate around 116,000 MWhr of electricity per annum and supplying this to the grid would have no impact on efficiency. The energy was sufficient to power around 25,000 homes and there was opportunity for the energy to be used to supply Gloucestershire’s schools, hospitals and councils.

36.21 The proposed facility would also be capable of providing renewable heat energy. The council was working towards identifying a network of suitable end users. This had to be done first, before this element of the project could be developed, as the council would be taking on the credit risks to the consumers.

36.22 The chairman expressed her frustration in response to indications from the officers that providing renewable heat energy was, in general, much more difficult to progress. The Project Lead Residual Waste suggested that until planning permission was granted it was unlikely that any progress would be made beyond exploratory discussions with UBB.

36.23 Concerns were raised by some members in relation to the use of an exempt annex in the report. With the waste to energy plant being viewed as a highly contentious issue in the local community, some members felt strongly that all discussions should be in the public domain. Those members felt that discussions in private go against the principals of democracy and that private
discussions did nothing to answer questions raised by members of the public or allay any concerns they might have.

36.24 In response, the committee was informed that as contract negotiations were still on-going, the principles of commercial confidentiality had to be observed during the committee’s consideration of the contract. Under the Local Government Act (Access to Information) the committee had a duty to pass a resolution to exclude the public from a meeting during an item of business whenever it was likely that if members of the public were present there would be a disclosure of exempt information.

36.25 The chairman was mindful that the committee should take account of the legal advice given and proposed that the committee vote on whether the meeting should go into exempt session to consider the exempt annex. On being put to the vote it was agreed that the meeting would proceed into exempt session.

(Cllr Bill Crowther requested that his vote against going into exempt session be recorded in the minutes).

36.26 The committee therefore resolved:

That in accordance with Section 100 A (4) of the Local Government Act 1972 the public be excluded from the meeting because it was likely that if members of the public were present there would be disclosure to them of exempt information as defined in paragraph 3 of Part 1 of Schedule 12 A to the Act and the public interest in withholding the information outweighed the public interest in disclosing the information to the public.

36.27 The committee was informed of the potential savings from the residual waste solution compared with the scenario that sought to rely on long term landfill as a disposal option. It was confirmed that continuing to landfill was financially unsustainable and the residual waste solution was the most financial advantageous option for the council.

36.28 The committee was informed that the overall cost of funding had increased since the selection of the preferred bidder. Given the uncertainty in financial markets which had increased the cost of borrowing, officers had explored the opportunity to make a contribution.

36.29 A Strategic Waste Reverse had been established to allow for the purchase of Landfill Allowance Trading Scheme (LATs) certificates, in the period before the facility was in service. However, following the government’s ‘Waste Policy Review in England’ it was announced that LATs would end after the 2012/2013 scheme year. As a result £13 million was now available as contribution to the project left over from the Strategic Waste Reserve.

36.30 It was being proposed that the £13 million be used a lump sum payment to the contractor. Therefore lowering the cost of borrowing from the banks, and
reducing the overall cost of the project to the council, without distorting the risk profile.

36.31 There was concern amongst some members that a delay in planning determination would cause a significant financial increase on the cost of the project. In response, the Strategic Finance Director endeavoured to reassure members that despite the potential increase to the cost of the project through a planning approval delay, the project would still remain value for money when compared to the cost of continuing to landfill.

36.32 Members acknowledged that there would be a significant cost to the council, if planning approval could not ultimately be obtained by UBB, following a series of appeals. Some members felt that this would place Planning Committee members in a difficult position, and questioned how Planning Committee members could make a decision on the application without being concerned about the cost to the council.

36.33 Some members also had strong concerns that despite the project not yet having received planning permission, the decision for Cabinet on 12 September 2012 was to close down, and sign the contract with UBB. It was felt that as Planning Committee meetings were scheduled within the council meeting calendar the contract could be delayed until after the planning decision had been made.

36.34 The committee was reminded that planning and procurement were separate processes. Members were informed that the decision for Cabinet to close down and sign the contract should not be delayed in order to protect the council financially and for the project cost to be finalised (on interest rates, exchange rates and bank margins).

36.35 Whilst members acknowledged officers advice on the reasons why the decision to sign the contract was being taken at this juncture, it was proposed that the committee recommend to Cabinet that it consider not to award the contract until the Planning Committee had made its decision with regard to planning permission.

36.36 On being put to vote, it was agreed that a recommendation would be made to Cabinet to consider not awarding the Residual Waste Contract to UBB until after the Planning Committee had considered the issue and made its decision with regard to planning permission.

36.37 At this juncture the meeting adjourned, and then reconvened after a short break in open session.

37 HIGHWAYS PROCUREMENT

37.1 Nigel Riglar, Commissioning Director, Communities and Infrastructure, gave a presentation providing the committee with an update on the highways contract
procurement process, prior to the Cabinet decision on 12 September. (A copy of the slides can be found in the minute book).

37.2 The committee was informed that Cabinet were being asked to approve the undertaking of a compliant competitive tender process, with the aim of awarding a 5 year contract to a single supplier, for the provision of Highways and Transportation services across Gloucestershire. This included options for the council to extend to a maximum of 11 years.

37.3 The council was currently operating a managed services contact for the provision of a number of its highways and transportation services. The contact was procured 7 years ago and had 19 months left to run on its term. The current contract would therefore expire in March 2014 with no option for a further extension.

37.4 Cabinet would also be asked to approve the extension of the current street lighting contract by one year to bring it in line with the highways procurement, to ensure continuity of service during any transition.

37.5 It was reported that the budget for Highways in 2012/13 was estimated at £31.5m funded from £13.8 revenue and £17.7m capital. The anticipated value of the new highways contract was estimated at between £130-450m per annum based on the contract duration and available funding.

37.6 The strategic context for the Highways and Transportation was set out in the Local Transport Plan 3, and the Transport Asset Management Plan, and had been subject to significant consultation.

37.7 The committee was informed that the current contract had served the council well providing it with a high degree of flexibility. Whilst the existing contract was more focussed on integrated transport and capital improvement, the new contract was being procured under a very different financial environment. As a result, the council needed to reconsider how best to balance increasing customer expectations and declining resource availability and certainty.

37.8 The committee was informed of the commissioning outcomes:

- Delivering the Strategic Asset Management Plan with less resources, requiring smarter and more targeted investment;

- Delivery of local impact, improved engagement with communities, targeting resources for maximum impact and fixing first time, in one visit wherever possible.

- A flexible contract that accommodated resource decline and continually drives efficiencies, cost reductions and value for money.

37.9 It was reported that a variety of options for the contract delivery model were assessed, including in-house provision, Joint Venture, Private Finance.
37.10 Initiative and the use of frameworks. Following evaluation and approval the preferred option was the council/single service provider with strong efficiency and performance management focus.

37.11 Members questioned whether one large contractor was the best way forward, and put forward the view that further consideration should be given to using locally based smaller contractors, as they could be beneficial in terms of community knowledge and engagement.

37.12 The committee was informed that the council was already experienced in using a single service provider, and using multiple smaller contractors would be resource intensive and unaffordable within the current economic reality. It was also explained that within the procurement process supporting the local economy would be a factor that bidders would be expected to demonstrate.

37.13 One member reported that he was aware that people within the local community were concerned about some of the road maintenance and repair work that had been carried out. He felt that the new contract negotiations would provide an opportunity for consideration to be given to placing more emphasis on improving the immediate aftercare following completion of works.

37.14 One member expressed his desire for the improvements that had come forward from the current contract, specifically the Fix First Time (to be carried forward into the new contract). In response, members were reassured that this work, and the Big Community Offer, were significant drivers within the procurement process.

37.15 Members were concerned about the length of the contract (potentially 11 years), in particular how this could offer the council sufficient flexibility and deliver the required outcomes. The committee was informed that a significant amount of market testing had been undertaken and the feedback had demonstrated that the market supported this approach. It was also emphasised that robust performance monitoring would be embedded within the contract.

37.16 In response to one member’s concerns over the use of schedule of rates as part of the council/single service provider option, the committee was informed that the key issue was drawing experience from the workings of the current contract, and using this to inform the approach to the new contract. Members were also reminded that the new contract was being procured in a very different financial environment to the current one.

37.17 The committee was informed that in accordance with the current timeline, Cabinet would be asked to approve the awarding of contract in July/August 2013. The committee expressed disappointment that the timeline did not include reference to scrutiny and asked that this be addressed. It was subsequently agreed that scrutiny engagement would be built into the timeline at the relevant stages.

**ACTION:** Nigel Riglar.
37.18 In recognition of members’ reservations as to whether this was still the best way forward for the council, the committee was clear that this process should continue to be closely scrutinised, as the procurement progressed.

38 QTR1 PERFORMANCE AND BUDGET MONITORING REPORT

38.1 The committee received the report which provided an overview of performance against the Council’s Environment objectives, as set out in the 2011-14 Council Strategy ‘Meeting the Challenge’ and Strategic Commissioning Plan, and against approved revenue and capital budgets.

38.2 The committee noted the current position which was that performance and budget was broadly where it was expected to be at the end of the first quarter.

38.3 It was questioned whether the Overview and Scrutiny Management Committee was the proper body to best scrutinise the Grow Gloucestershire Economic Stimulus package. The committee requested a briefing on the issue and it was hoped that the detail of this briefing would give some clarity as to which scrutiny body should undertake to do the more detailed work on the issue.

**ACTION: Nigel Riglar**

39 COMMITTEE REPORT

39.1 The committee agreed to delegate this report to the Chairman.

**CHAIRMAN**

Meeting concluded at 12:45pm