



Residual Waste Working Group

10am-12pm Tuesday 5th November 2013
Members Room - Shire Hall

AGENDA

1. **Apologies**
2. **Minutes**
- 3 **The waste challenge: Gloucestershire**

Tony Childs, Waste Services Manager, Joint Waste Team
Steve Read, Head of the Joint Waste Team

4. **Considering arrangements for future meetings**

Future meeting dates:

- **Monday 2nd Dec, 10am-12pm:** meeting room 2
- **Tuesday 7th Jan, 10am-12pm:** members room
- **Monday 3rd March, 10am-12pm:** meeting room 2
- **Tuesday 1st April, 10am-12pm:** meeting room 1
- **Friday 2nd May, 10am-12pm:** meeting room 1
- **Tuesday 3rd June, 10am-12pm:** meeting room 1
- **Tuesday 1st July, 10am-12pm:** meeting room 1
- **Tuesday 5th Aug, 10am-12pm:** meeting room 1

Membership: Chairman David Jenkins, Cllr Tim Harman, Cllr Sarah Lunnon, Cllr Tracy Millard, Cllr Patrick Molyneux, Cllr Brian Oosthuysen, Cllr Alan Preest, Cllr Simon Wheeler, Cllr Bill Whelan

Officers: Duncan Jordan, Lisa Pritchard, Christine Wray, Sidgorée Nelson

Notes: Residual Waste Working Group 1st October 2013

1. Apologies

Attendance

Cllr Tim Harman	P	Cllr Sarah Lunnon	P
Cllr Tracy Millard	P	Cllr Patrick Molyneux	P
Cllr Brian Oosthuysen	P	Cllr Alan Preest	P
Cllr Simon Wheeler	A	Cllr Bill Whelan	P
Ind Chair David Jenkins	P	Duncan Jordan (officer)	P
Lisa Pritchard (officer)	P*	Christine Wray (officer)	P
Steve Read (officer)	P	Tony Childs (officer)	P
Sidgorée Nelson (officer)	P	Rachel Ferris (officer)	P

P = present A = apologies/absent * Present for items 1-3 only

2. Minutes – these were approved at the meeting.

- 2.1 At 3.3, alternative text of ‘has not been’ replaced ‘cannot be’.
- 2.2 The Chair invited members who had attended the RWM waste exhibition in Birmingham to comment on their experiences for the benefit of the group. Feedback was positive, and it was felt that this had been a useful experience due to the wide range of exhibitors showcasing different waste solutions.

3. Report on the consequences in respect of the residual waste contract should the planning appeal succeed or fail

- 3.1 At their previous meeting, the waste working group had asked for clarification on the legal position of the waste contract should Urbaser Balfour Beatty’s (UBB) planning appeal succeed, or fail.
- 3.2 The resulting report outlined the nature of the contract, explaining that it is based on a standard Defra template for PFI Contracts. The contract clearly sets out the obligations on both the Council and the contractor to obtain a satisfactory planning permission and under what circumstances the contract could be terminated
- 3.3 Members were told that as stipulated within the contract, if the planning appeal is successful, UBB is required to start work on the site within a ‘reasonable period’. In essence, the contract will continue under its current remit. In these circumstances, the work of the residual waste working group would no longer be needed, as a fallback strategy would not be required.
- 3.4 If the planning appeal is unsuccessful, there are two potential outcomes.
- 1) If there is still a reasonable prospect of obtaining planning permission, the Secretary of State’s decision can be challenged via Judicial Review or under section 288 of the Town & County Planning Act. At this point the contract would

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remain in place, but there could still be a need for the working group to continue its work as UBB pursues this option.

- 2) If there are no reasonable prospects of obtaining planning permission:
 - a) the Council can request that UBB submit a revised project plan. In this circumstance, the contract remains in place. There could still be a need for the working group to produce a fallback strategy.
 - b) the council and/or UBB could terminate the contract. In these circumstances there would be a clear need for the working group to produce a fallback strategy.

- 3.5 Members then explored each possible outcome in detail, starting with the possibility of a revised project plan being submitted. Officers were asked about what kinds of changes could be made within a revised project plan without breaking EU procurement law. It was explained that to avoid a legal challenge to the residual waste contract, any changes made in the revised project plan must not be seen to be 'material'; this would rule out any change in technology from energy from waste.
- 3.6 One member wondered if it would be possible within the terms of the residual waste contract to agree a new project plan with UBB using a different technology. It was suggested that it could be cost-effective to pay any resulting penalties to former bidders for the waste contract should they object, if this would mean selecting a more economical technology.
- 3.7 The group was advised by Christine Wray, Head of Legal Services that this would not be possible, as any move to alter the terms of the contract in a material way would be in breach of EU procurement law. Members were reminded by the Chairman that their role is to produce a fallback strategy should the planning appeal fail, not to consider how the current contract could be terminated.
- 3.8 Following debate over what is possible within the contract, it was suggested that further discussion be facilitated outside the meeting for those interested.

ACTION – Duncan Jordan/Lisa Pritchard

- 3.7 Lastly, looking at the possibility of the contract being terminated, members sought to understand whom within the council would determine if there was no prospect of achieving planning permission, and ultimately if the contract should be terminated. It was explained that this was likely to be a Cabinet decision.

4. The waste challenge: legislation and policy

- 4.1 The Chair then introduced Steve Read, Head of Service for the Joint Waste Team (JWT) to present on the waste challenge we face today, and the

legislation and policy that governs our actions. He began by explaining the County Council's various waste management arrangements, including how the Gloucestershire Waste Partnership (GWP), Joint Waste Committee (JWC) and Joint Waste Team (JWT) work.

GWP, JWC & JWT

- 4.2 The GWP is a long established forum between all of the councils in Gloucestershire. While it was intended that the partnership might eventually evolve into one with delegated powers to collect and dispose of waste across Gloucestershire, agreement could only be reached between the County Council, Cheltenham Borough Council, Cotswold District Council and Forest of Dean District Council.
- 4.3 These four councils formed the JWC in April 2013, which aims to achieve a more consistent county-wide waste service and financial savings. While it does have certain delegated powers, it has to seek permission if it wants to take an action that would have a financial impact on any council within the partnership. It is supported by the JWT, a combined team of officers from all four authorities that supports the committee and carries out its instructions. The County Council acts as administering authority to the committee and supports it through the JWT.

The valorisation of waste

- 4.4 Waste management began in the UK as a market function performed for profit because a value could be derived from virtually any waste product. These arrangements mirror quite closely the waste management market in developing countries today with their unregulated nature and cheap, poorly paid labour force. It was only towards the end of the 19th century that waste management became a municipal function, and for most of its municipal history, both waste collection and disposal has been a district/city function. The separation of these duties and therefore the creation of Waste Collection Authorities and Waste Disposal Authorities was a 1980s development.
- 4.5 Members learned that methods of waste management have evolved slowly, reflecting the attitudes of governments and the wider populous. With each generation, contexts, circumstances and needs have changed alongside our knowledge of the environmental impact of disposal practices. The 1940s is an example of such a change, as it saw a big increase in the recycling of previously disposed of materials due to the war drive inspiring people to be mindful of the value within their waste. The 1960s saw another, as environmental awareness grew and attitudes among a vocal minority evolved. Consumerism prevailed in the 1970s/80s, with landfill continuing unabated, though the 80s did see a turning point, as government finally recognised the need to be mindful of the effects of emissions, including landfill on the planet.

The 1999 EU Landfill Directive and its effects

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- 4.6 Members were informed that in 1999 the EU Landfill Directive was passed with the aim of preventing and reducing the negative effects of landfill. Though as members had recognised, there are some advantages to using landfill as a method of waste disposal, (primarily its relative cheapness and its elasticity as it can be scaled up and down as tonnages change); disadvantages can be measured through the effects of leaching, methane emissions and other environmental impacts. Responding to this, the directive set goals to reduce bio-degradable waste to landfill to 50% of 1995 levels by 2009, and to 35% by 2016. The UK has been granted a derogation extending the latter to 2020.
- 4.7 The UK Government's response to the directive came in two main policies: the steady increase of landfill tax; and the Landfill Allowance & Trading Scheme, which from 2005 allowed councils to sell any surplus in their permitted tonnage to other councils in deficit. Members learned that the scheme has had a limited impact on reducing landfill over its years of operation, and that it is due to come to an end this financial year. In contrast, landfill tax, which has been rising above inflation for many years, (set to reach £80 per tonne of waste in 2014 from a price of £10 per tonne in 1999), has been very effective, by making it more economically attractive for councils and commercial waste producers to invest in recycling and alternative waste treatment technologies. This has contributed to a reduction in the amount of waste to landfill and an increase in recycling and reuse since the mid 1990s.
- 4.8 The makeup of the waste stream was an interest to members, who wanted to know how this might have changed following the 1999 directive. Officers explained that for many councils residual waste has reduced as recycling and reuse has risen, with increased garden waste collection (a statutory duty when it is presented), an influential factor in this rise. For some, increased garden waste collection has been deliberately encouraged, as it counts positively towards the recycling rate. Others, concerned by how free garden waste collection increases arisings and drives up costs, have introduced charges for collecting garden waste, as all in Gloucestershire currently do.

Recycling and reuse and the closed loop

- 4.9 Officers stated that today's recycling/reuse challenge is one to get as much usable material as possible out of the waste stream, and to persuade householders to help. A key factor in achieving this is realising an economic value from waste materials, thus making reuse economical to councils and attractive to businesses working in the industry. One way to do this, illustrated by the recycling of waste paper into newsprint, is to increase profits through finding ways to use recycled materials to save on energy costs, and thus production costs. However, as highlighted to members, this is effectively subsidised by councils, who don't recover the true cost of collecting recyclable materials through sale of the material.
- 4.10 Summing up today's waste challenge, officers noted that the economic and environmental goal is to derive value from the waste stream. This is possible when waste is rightly seen as a resource to be used, and the environment rightly seen as something that deserves as much protection as we can give it.

Members were told that in the UK we are trending towards what is called a 'closed loop' or 'circular economy' model: taking material from consumers, treating it in some fashion, and returning it to manufacturers to be used again.

EU vs UK performance

- 4.11 Comparing EU and UK performance in achieving reduction in waste to landfill, members were told that there are several reasons for the UK lagging behind: we have historically had more space for landfill and so less of an impetus to explore alternatives; we introduced a landfill tax much later than most other EU countries; we have fewer developed district heating schemes; and we have not introduced a 'pay as you throw principle' as many have done throughout Europe. On this last point, as a country our main method of encouraging separation of waste by householders has been via fortnightly waste collections. This is a relatively recent development discouraged by the current government, despite the positive impact it has had in encouraging people to divert waste away from landfill, and the good customer satisfaction rates that most authorities employing fortnightly collections maintain.

Waste (England and Wales) Regulations 2011

- 4.12 To conclude the presentation, members were provided with a breakdown of the Government's 2011 Waste Review; a paper intended to 'show the way' on waste management for the next several years. Amongst other things, the review encouraged councils to: support weekly waste collections; investigate opportunities to derive energy from waste where possible; do more to recover energy from packaging; and be open to different technologies though the government is supportive of anaerobic digestion where appropriate. The reaction of waste professionals to the review has been mixed, with some appreciating it for its market led, 'get on and do it' nature, while others have been disappointed by what they call its lack of clear direction and ambition.
- 4.13 Following the conclusion of the presentation, the Chair asked for a copy of the slides used to be circulated with the minutes of the meeting.

ACTION – Sidgorée Nelson

- 4.14 Members requested further information on the detail of a contract between UBB and an authority in East Anglia for an anaerobic digestion facility.

ACTION – Duncan Jordan

- 4.15 For the next meeting of the residual waste working group, which will cover how the waste challenge as described has been met in Gloucestershire, members requested that comparisons be made between the County Council and near neighbours. One member also keen for clarification on if waste recovery has to adhere to the proximity principle.

ACTION – Tony Childs

5. Considering arrangement for future meetings

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5.1 The dates of future meetings were shared with members who were asked to check their availability and flag any clashes with Democratic Services.

ACTION – all members

END