



Waste Strategy –Funding and Affordability

SUMMARY

- 1.1 This report is a follow on from previous reports submitted in September 2005 and December 2005 outlining the proposed procurement strategy and funding strategy for dealing with household waste arising in the City.
- 1.2 Included with this report are documents outlining the proposed scope of the process to procure future waste treatment facilities, an Outline Business Case, demonstrating the need for the project and an analysis of the long term financial implications of waste management for the Council which includes an affordability analysis.
- 1.3 There is a request for approval to start the procurement process by advertising the contract in the European Journal (OJEU).
- 1.4 This report also requests approval for the possibility of extending the existing household waste disposal contract to cover a short interim period between the new contract coming into operation and the end of the existing contract with Waste Recycling Group.
- 1.5 The report also considers the structure of the contract for future waste treatment facilities and the need for a formal relationship between the City and County Councils. Members should note that a similar report is being presented to the County Council on 9 May 2006
- 1.6 Subject to any issues raised at the meeting, I support the following recommendations.

RECOMMENDATIONS

- 2.1 To approve in principle the proposed scope of the contract for future waste treatment facilities, including treatment of waste, transport of residues, disposal of recyclable fractions extracted from the residual waste and the management of the Household Waste Recycling Centre (HWRC) at Raynesway.
- 2.2 To approve the Outline Business Case and in particular the affordability analysis and take into account the demands of the waste service when setting future budgets.
- 2.3 To approve the placing of an advertisement in OJEU to start the formal procurement process.

- 2.4 To waive existing Contract Procedure Rules, and agree to extend existing waste disposal contracts if this should prove to be desirable and subject to the joint agreement of the Cabinet Member for Environment and the Corporate Director, Environmental Services.
- 2.5 To agree to the development of an agreement with the County Council for the procurement process and the long term joint management of the contract.
- 2.6 To agree to set aside £250,000 from the modernisation fund as an initial fund for the Council's contribution to the costs of procurement of a new contract in partnership with the County Council.

REASON FOR RECOMMENDATIONS

- 3. To enable the Council to put in place suitable arrangements to deal with residual waste in the City, meet its Landfill Allowance targets and minimise the future costs of waste management.



DERBY CITY COUNCIL

COUNCIL CABINET 25 APRIL 2006

Report of the Corporate Director, Environmental Services and the
Corporate Director, Resources

Waste Strategy –Funding and Affordability

SUPPORTING INFORMATION

- 1.1 The Council currently disposes of about 80 000 tonnes of household waste every year, at a cost – including managing the Raynesway transfer station - of around £4m.
- 1.2 On 6 September 2005, Cabinet approved the procurement of a waste treatment plant sited in or near Derby and to work closely with the County Council on the procurement. It also approved delegated powers to a Project Board set up jointly by the Councils to progress the procurement strategy, appoint advisers and agree the sharing of costs between the Councils. The Project Board is now operating and has approved the appointment of legal, technical and financial advisers as follows:

Legal:	Eversheds
Technical:	Enviros
Financial:	Deloitte
- 1.3 A further report on 20 December 2005 approved the use of Prudential Borrowing as the preferred funding method, subject to the Outline Business Case, OBC, demonstrating affordability. This report sets out the results of the OBC and suggests that the procurement process should now begin.
- 1.4 A scoping report which sets out the parameters of the procurement is attached as Appendix 2 to this report.
- 1.5 The OBC and OJEU notice will be made available to members through the CMIS system. Certain items in the OBC are commercially sensitive at this time and have been omitted from the report. A further report will be brought to Cabinet as soon as possible and when the sensitive issues have been resolved.

2 Background and drivers for change

- 2.1 The net cost of disposing of Derby's household waste to landfill is forecast to rise as a result of a number of factors from a current level of about £4.0m in 2006/2007 to £6.7m in 2008/09 and £10.4m in 2020/21. The existing contract for landfilling the waste comes to an end in March 2008 although it may be possible to extend this contract for one further year. This disposal contract needs to be replaced with a new long term agreement for the treatment and disposal of household waste.
- 2.2 The government has provided the council with Landfill Allowances which effectively limit the amount of biodegradable waste that can be placed in a landfill. Additional allowances can be purchased from other authorities that have a surplus of allowances and similarly the Council will be able to sell any surplus allowances when a suitable treatment plant is in operation.
- 2.3 Landfill Allowances, known as LATS, are currently trading at a value of £20 per tonne. The council will have a surplus of allowances for the next few years due to the implementation of the Rethink Rubbish scheme and the collection of green waste in separate bins. The introduction of food waste and cardboard into the composting bins over the coming months will divert additional waste away from landfill and contribute to the small surplus of Allowances that the City will generate.

There is likely to be a national shortage of allowances for 2009/10 as no carrying over of allowances will be allowed for that "target" year. The government has stated that it will impose penalty costs of £150 per tonne on those authorities that have insufficient allowances to cover the amount of biodegradable waste they are depositing in landfill. The council is likely to have a deficit of allowances for 2009/10 and could therefore be subject to these penalties.

- 2.4 Council is forecast to have allowances to sell for the years up to and including 2008/09 and depending upon market conditions could generate enough income to cover the government's penalty costs for 2009/10 when the Council is forecast to have a shortfall. If a suitable treatment plant is procured it is anticipated that it will be available to treat the waste from 2010 and then the council will have a surplus of allowances until about 2016.

3 Scoping Report

- 3.1 The scoping report is attached at Appendix 2 to this report. The scope of the project to procure future waste treatment facilities needs to be carefully defined. This prevents any misunderstandings between the two partner authorities, the consultants and any other body involved in the project. The scoping report will also be sent to the potential contractors so that they can fully understand what the two authorities are trying to do and how we expect the contractor to respond to our needs. It is anticipated that the procurement will be via two procurements, the first for a facility in or near the city, which will take all of the city's residual waste as well as some of that from the County Council. The second is likely to be in the north of the county and constructed at a later date.

- 3.2 The scope may change as the contractors advise the authorities of their preferred contractual structure. The OJEU notice has been structured in four lots to allow some flexibility in the letting of the final contracts to obtain the best overall value for money. At the present time the preferred project will encompass all waste services other than collection so that the successful contractor can deal with the waste in the most effective way. This would also have the advantage that the contractor would be able to have a significant input into the procurement of a second treatment plant in the north of the County at some time in the future when the County Council decide to procure an additional facility.
- 3.3 The first procurement may not provide a total solution to the treatment problem and it is possible that the product from the first plant could have other uses. In the short to medium term the products from the treatment process will be used as far as possible or land filled. The material placed in land fill will meet the requirements of the LATS scheme but will not necessarily be the best long term solution.
- 3.4 The second procurement, in which the Council will also take part, is seen as providing a second plant, similar to the first plant constructed in the south of the county, but will also include an additional piece of equipment to deal with the products coming from both the first and second plants. This will then avoid the need for significant amounts of landfill.
- 3.5 It is possible that the existing disposal contract with WRG will need to be extended in the short-term until the new contractor builds the first new plant to treat the residual waste. There is only a limited amount of time between the potential award of the treatment contract and the expiry of the existing contract with WRG. It therefore may be prudent to extend the existing contract with WRG so that continuity of service is maintained and the contractor has adequate time to provide facilities to handle the waste.
- 3.6 Members will note that Item 6 in the Scoping Report discusses a twin track procurement process. This concept has been introduced so that the contract can be split into various 'lots'. This provision has also been included in the OJEU notice that invites contractors to tender for the work.
- 3.7 The scope has been extended to include the management of the Raynesway Household Waste Recycling Centre, HWRC. It is considered that a major waste management company would have the expertise to manage this site and by including the management in the overall waste contract it avoids the Council having to advertise a separate contract for the work.
- 3.8 The division of the contract into lots would also enable the HWRC service to be excluded and awarded separately if the main contractor is not interested in the work and specialist operating firms expressed significant interest in this part of the project.

4 Outline Business Case

- 4.1 The outline business case, OBC is a fundamental document, which provides the Councils with the financial justification for carrying out a project. The OBC for this project is available to Members on CMIS.

- 4.2 The consultants employed to advise both Councils on this project have produced an OBC which details their assumed pattern of costs in the future under two scenarios: do nothing – that is continue to landfill residual waste and improve recycling as already planned, and the reference project – where an assumed outcome of a joint procurement is that contractors would propose a treatment plant to reduce the level of waste for disposal by a considerable proportion before, at least initially, landfilling the remaining residual waste. A second phase plant will be considered at a later date that might be able to use the outputs from the plant in a more productive way.
- 4.3 A more detailed report on the financial conclusions of the OBC is set out in a report in the confidential part of the agenda. This details the assumptions made in the modelling and the possible impact on the Council of each option.
- 4.4 The overall conclusion is that the reference project should be value for money for the Council as long as the assumptions hold true. There will still be a need, however, for considerable additional resources to be directed into waste disposal over the next few years under any of the options available to the Council.

5 OJEU Notice

- 5.1 The proposed advertisement to be submitted to the European Journal is available to members. The notice initiates the formal start of the project and provides the contractors with the necessary questionnaires and information for them to prepare their submissions to become a selected tenderer.
- 5.2 The contractors will be supplied with a 'contractors pack' which contains the following documents: Scope of Project, Pre-Qualification Questionnaire, PQQ, and Intention to Submit Outline Proposals, ISOP. The PQQ will enable the contractors to show that they have sufficient expertise and financial standing to carry out the contract, while the ISOP requests the contractors to outline their methods of dealing with the waste and meeting our needs.
- 5.3 At this stage of the tender process there is no requirement for potential contractors to price any of their proposals. The ISOP is testing the contractors understanding of the project and the types of solutions that can be offered to the Councils.

6 Relationship between County and City Councils

- 6.1 It has been agreed between the City and County Councils that it is in the joint interest of both Councils for the waste contract to be procured jointly. This agreement between the two Councils needs to be formalised so that each authority clearly understands its obligations under the waste contract. The only agreements existing at the present time are either verbal or through notes in various minutes of meetings.

- 6.2 It will be necessary for a Section 101 Agreement to be prepared detailing the total responsibilities of each authority, the way in which the long-term contract will be managed, the management of the finance each authority puts into the contract, the apportionment of landfill allowances and any income or expenditure in relation to these allowances, and how variations to the contract required by each individual authority are to be dealt with. The contract is likely to last for a period of between 20 and 30 years during which time the factors affecting the contract are likely to change. The agreement therefore needs to have agreed procedures in place for the management of these changes and for the resolution of any disputes.
- 6.3 The Councils are likely to incur significant costs of procurement for this project. It is proposed that the Council sets aside £250,000 at this stage as a fund to meet procurement costs incurred over the next two financial years as the project is progressed.
- 6.4 As the procurement process develops and documents are finalised further reports will be brought to cabinet for appropriate decisions.

OTHER OPTIONS CONSIDERED

- 7 Advice has been received that the council could be subject to a challenge under EU law if the contract is not advertised in accordance with EU law. No other alternatives are available for the disposal of household waste.

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Background papers:	Cabinet Report 6 September 2005 Item 8, Cabinet Report 20 December 2005 Item 6. Outline Business Case, OJEU notice. Confidential report on agenda.
List of appendices:	Appendix 1 – Implications Appendix 2 – Scoping report

IMPLICATIONS

Financial

- 1.1 The financial implications are set out in more detail in the confidential report on this agenda.
- 1.2 The overall conclusion is that the net cost of waste disposal will rise substantially over the next few years with any proposed solution, but that the procurement of a treatment facility in partnership with the County Council offers a prospect of a materially lower overall net cost than continuing to send the bulk of waste to landfill without treatment.

Legal

- 2.1 The Council has a duty to dispose of collected waste and must make appropriate arrangements to deal with the material. The contract that will be procured as a result of this process will enable the Council to meet its legal obligations.
- 2.2 The existing contract with WRG has already been extended once. This new possible extension is acceptable provided that it can be shown that it is only an interim measure until the main disposal contract comes online at an early date.
- 2.3 The Project Board has appointed external legal advisers for the project, as indicated above.

Personnel

3. No additional staff are needed to carry out the procurement or the management of the contract. Professional advisors have been engaged to advise on the procurement process.

Equalities impact

4. The contract will deal with waste from all parts of the city.

Corporate objectives and priorities for change

5. The proposal predominantly comes under the Council's Objective **of a healthy environment**.

**Derbyshire County Council and Derby City Council
Waste Management Project**

Scope of Project

Draft 13 March 2006

1. Introduction

- 1.1 Derbyshire County Council and Derby City Council (“the Councils”) have agreed to work in partnership to procure jointly waste management contracts.
- 1.2 The purpose of this briefing note is to define the scope of the waste management contracts which will be procured by the Councils.
- 1.3 The project scope has been agreed by the project team, in consultation with its advisors, and will form the basis of the projects which will be advertised through the OJEU process.

2. Project Objectives

- 2.1 The Councils propose to enter into a contract with a partner who will work with the Councils to implement their waste management strategy. In particular, the Councils propose to procure the following services:
 - Treatment of residual waste, including management of treatment products;
 - Provision of delivery points for the Waste Collection Authorities for the receipt of residual waste, bulky waste, clinical wastes and any other materials collected by them ;
 - Transport of waste from delivery points to:
 - Treatment facility(s);
 - Landfill or other disposal point(s).
 - Operation of Household Waste Recycling Centres (HWRCs), including transportation, marketing, management and disposal of all wastes derived from HWRCs (recyclables, green waste, residual waste) including the handling of “ad hoc” and hazardous waste;
 - Disposal of residual waste, not subject to treatment, and residues from waste treatment.
- 2.2 Collection and management of source-segregated dry recyclables is undertaken by the Waste Collection Authorities who may wish to work with the successful contractor to offer best value to their residents.
- 2.3 In-vessel composting services for mixed organic waste delivered directly by Waste Collection Authorities is being separately procured, and falls outside the scope of this project.

Procurement Strategy

3. The Councils have determined that waste treatment services will be delivered through a two-stage procurement process:

First stage:

- The first treatment facility will be delivered not later than April 2010 in order to assist the Councils to manage their LATS risks in the short to medium term.
- The first treatment facility will deliver compliance with Landfill Allowances up to approximately 2014.
- The first treatment facility will not be required to manage all of the residual waste from the Councils' areas.
- The first treatment facility may not achieve a permanent solution for managing any products from the treatment process.
- The first treatment facility will manage residual waste from Derby City and the south of Derbyshire.

Second stage:

- The second treatment facility will deliver compliance with long-term Landfill Allowances. This could be achieved through a combination of treating residual waste from the remainder of the Councils' areas, and providing a permanent solution for managing products from the first treatment facility.

- 3.1 The Councils have provisionally agreed that the capital costs for the first project (up to £50 million) can be raised by prudential borrowing. This project would thus comprise a Design, Build, Operate and Maintain (DBOM) contract.

4. Constraints

- 4.1 The existing contracts covering the services which will be procured are due to expire as follows:-

Derby City Council

- The existing waste disposal contract expires at the end of February 2008;
- The existing HWRC management contract expires at the end of February 2008.
- The existing contract for the treatment and disposal of fridges expires at the end of March 2007 although this need will be overtaken by the implementation of the WEEE Directive (Waste Electrical and Electronic Equipment Directive).

- The existing contract for the disposal of clinical waste expires at the end of March 2010.

Derbyshire County Council

- The existing waste disposal contract expires at the end of March 2008;
 - The existing HWRC management contract in respect of the Glossop site expires at the end of March 2008;
 - The existing HWRC management contracts for all other sites expire in 2010.
 - The existing contract for the treatment and disposal of fridges expires at the end of March 2007 although this need will be overtaken by the implementation of the WEEE Directive.
 - The existing contract for the disposal of clinical waste expires at the end of March 2010.
- 4.2 The Glossop facility comprises a joint HWRC site and transfer station. There is thus a link between these services at this site.
- 4.3 The County Council is in the process of procuring composting facilities at Buxton and Chesterfield:
- The Buxton facility will offer an HWRC and transfer station as well as a composting facility, all of which will be managed by the composting contractor for a period of about 15 years.
- 4.4 There is only one transfer station covering Derby City and the south of Derbyshire. This facility (at Raynesway) is owned by the County Council but leased to WRG on a long-term basis. The contract may require a new facility to be provided in order to service this area. The facility will also need to be able to handle gully waste.
- 4.5 Based on the project timetable, the earliest likely date of award for the first treatment contract is the end of 2007.
- 4.6 In the current waste market, as confirmed in the soft market testing, bidders with landfill have a preference for landfill services to be included within the contract, whereas technology providers with no access to landfill prefer it not to be. Due to the existing limited appetite for waste projects, it is considered that bids should be sought on a basis which could attract both types of organisation.
- 4.7 Residual waste from the north of the County will need to be disposed of up until the second treatment plant is built.
- 4.8 There are a number of commercial and practical synergies between waste treatment and disposal services. It will therefore be more practical to integrate

all the services into one contract. In the event of the contract being split then additional attention will need to be paid to

- The decisions to be made regarding the waste to be treated and the wastes to be disposed of;
- The transfer of waste from delivery points to treatment or disposal facilities;
- The disposal of residues from any treatment process;
- The commercial incentivisation of the separate service providers and the continuity of service.

5. 5 Strategic Partnering

- 5.1 There is significant potential for a large number of services to be delivered by a single contractor.
- 5.2 The Councils are keen to ensure close co-operative working arrangements between themselves and their contractor, including “early contractor involvement” in the development of new facilities and services.
- 5.3 In addition, the Councils want to deliver a second treatment facility in order to implement the remaining strands of their waste management strategy, and recognise that there are likely to be synergies between the various phases of waste treatment.
- 5.4 These elements will be wrapped together through a strategic partnering agreement which:
- Defines the framework within which the parties will work together in partnership;
 - Establishes a mechanism through which the strategic partner conceives and designs the second treatment project;
 - Allows the Councils to procure this second treatment project through a new contract with the strategic partner.
- 5.5 The Councils propose that the provision of the services is provided through a long-term strategic partnership agreement, defining the methods through which the parties will work together to implement the waste management strategy, achieving agreed outputs and developing new facilities which may be required.
- 5.6 There are risks associated with such a provision:
- Although now widely used in other sectors, this is a relatively innovative approach in the waste industry. There is thus a risk that the Councils are not confident that there is a strong “cultural fit” with the contractor in which case the Councils would not wish to be bound to enter into a strategic partner agreement;

- A single contract for the whole services may suppress bidding appetite from those companies who are not able to offer landfill.
 - If the award of the contract is delayed for any reason, there will be a need for the Councils to make interim arrangements for waste disposal services;
- 5.7 These issues will be addressed through a twin-track procurement process in which the Councils give themselves the option of more than one contract with different contractors to deliver various elements of the service, as set out in the following sections.
- 6. 6 Twin-track procurement process**
- 6.1 The intention of a twin-track contract process is to provide the Councils with the flexibility of issuing either:
- one “all-encompassing” Main Contract covering waste reception, transfer, treatment, disposal, HWRC management, treatment and disposal of fridges, clinical waste and any other waste streams that arise in the future such as WEEE; or,
 - several contracts, whereby waste disposal and handling services would be removed from the main contract and form the basis of separate contracts.
- 6.2 This process will provide bidders with the option of tendering for the Main Contract including or excluding disposal or for a disposal only contract. Further details of the coverage of the OJEU notice is detailed below.
- 6.3 The ISOP stage of the procurement process will then be used to assess the preferred approach:
- If there are a number of strong bids for the Main Contract including disposal then the procurement process will move forward based on provision of all services through a strategic partnership structure.
 - If there are ongoing concerns regarding timescales and/or competition, the twin-track procurement process would continue.
- 6.4 This arrangement will provide the flexibility to ensure that there is a waste disposal contractor appointed should the “all-encompassing” Main Contractor either fail to deliver or is delayed in delivering the treatment facility.
- 6.5 If separate contracts are procured, this may result in potential interface problems between contractors which would need to be defined in the context of the specific services offered by each contractor.

7. Residual Waste Treatment

- 7.1 To ensure that the Councils are able to procure a residual waste treatment facility that is aligned to the needs of the south of the County for the first stage project, key data covering the parameters of treatment need to be defined. This includes:
- Specification of feedstock (quantity and composition);
 - Dates the diversion of BMW targets take effect;
 - Performance of the facility in relation to BMW diversion;
 - Capacity of facility in tonnes per annum;
 - Tonnage input from the City and County
 - When the facility needs to be operational from;
 - Production of and markets for end products as a result of the treatment process;
 - Geographic divide of the County to provide feedstock to the treatment plants in the south (and north) of the county.
- 7.2 The logistics of moving waste around the county will not be known until sites for the treatment facility and disposal arrangements are proposed.
- 7.3 The Main Contract is likely to be of long duration. However, funding by the Councils may provide the potential for shorter contract durations, and subsequent award of operating contracts.
- 7.4 The Councils require cost-effective recycling of waste from the Residual Waste stream. This is best achieved through specifying a modest level of recycling in the specification (5%) with the cost-benefits of recycling higher quantities addressed through evaluation criteria.

8. Household Waste Recycling Centres

- 8.1 It has been recommended that the HWRC service should be included in the treatment contract.
- 8.2 The inclusion of HWRC's demonstrates the importance of the overall recycling ambitions in the Joint Municipal Waste Management Strategy (JMWMS)
- 8.3 The inclusion of the HWRC's in the main contract would enable the performance of the HWRC's to be integrated into the overall performance of the main contract, thus allowing appropriate levels of performance incentives to be included.
- 8.4 The County Council is proposing to develop a combined transfer station, HWRC and composting facility in Buxton. It is likely that the operation of this facility, including transportation of wastes for treatment/disposal, will be undertaken by the composting contractor. This will introduce complexities into interface arrangements which will need to be addressed in both contracts.

- 8.5 The County Council is also proposing to develop additional transfer stations and/or HWRCs in South Derbyshire, Matlock, Bolsover and Clay Cross. Development of these facilities will be undertaken separately by the Council. Initial operation (up to 2010) will be undertaken by third party contractors. Operation of these facilities post 2010 will be delivered through this project. The County Council will need to ensure that it carefully specifies the precise nature of the facilities it will develop in order that bidders can price the scope of the operation and assume performance risk.

9. Disposal

- 9.1 If a separate waste disposal contract is procured, this needs to cover a wide range of potential scenarios:
- Interim services, resulting from a delay to the procurement process;
 - Waste disposal in advance of the first treatment facility becoming operational;
 - Disposal of residues from the first (and subsequent) treatment facility(s);
 - Disposal of waste not sent for treatment at the first facility (eg from the north of the county);
 - Disposal of residues from HWRCs.
- 9.2 The Disposal contract could have a duration ranging from a few months (for interim services) to 30 years, if disposing of residues from the treatment facilities, and the OJEU Contract Notice needs to be sufficiently flexible to accommodate these potential variances.
- 9.3 The ISOP stage will be carefully designed to identify, if any, the scope of services which would need to be delivered through a separate disposal contract (whilst maintaining appropriate competition in the main contract). A decision will then need to be made about the scope of disposal services included in the ITN documentation.
- 9.4 The ISOP evaluation may lead to the disposal services not being progressed, with all services included in the main contract, and the OJEU Contract Notice must provide the flexibility for this. In this scenario, the disposal procurement process should be suspended rather than abandoned, as this then could be reactivated if an interim disposal contract is required.