

## **Wiltshire Council**

### **Cabinet**

**15 February 2011**

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**Subject: Municipal Waste Disposal (Landfill Diversion Contract)  
– Part I**

**Cabinet Member: Councillor Toby Sturgis - Waste, Property and Environment**

**Key Decision: Yes**

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#### **Executive Summary**

Since autumn 2004 Wiltshire Council has been working to secure arrangements for the diversion from landfill of 100,000 tonnes of municipal solid waste each year. A significant step towards achievement of this was taken in March 2007 with the signing of the contract with Hills Minerals and Waste Limited (now Hills Waste Solutions Limited) for the delivery of 50,000 tonnes of waste each year to the Lakeside Energy from Waste plant at Colnbrook. Construction of this plant was certified complete in January 2010 and regular deliveries of the Council's waste to the plant have resulted in the diversion of 50,000 tonnes of Wiltshire's waste from landfill during the first year of operation of the contract.

During this period negotiations have continued with Hills on the proposed contract for the construction of a mechanical biological treatment (MBT) plant at Westbury to produce at least 20,000 tonnes of solid recovered fuel from 60,000 tonnes of the Council's waste each year. Hills have purchased a site and obtained planning permission and an environmental permit for the plant.

This report seeks confirmation of the authority given by Cabinet on 23 March 2010 for approval for the award of this contract, subject to important caveats, for an operational period of 25 years. The report explains that this confirmation is sought because of possible changes in waste management policy and legislation. A revised business case is presented which addresses these potential changes. This contract would make a considerable contribution to the achievement of the Council's key outcome of, by 2014, reducing the amount of waste sent to landfill to 25% of its municipal solid waste.

## **Proposal**

That the Cabinet confirms its decision made at the meeting held on 23 March 2010 to:

- (i) Authorise the Service Director Waste Management to conclude negotiation of the proposed contract with Hills Waste Solutions Limited on terms to be approved by the Leader of the Cabinet in consultation with the Cabinet Member for Waste, Property and Environment and the Cabinet Member for Finance, Performance and Risk after receiving advice from the Solicitor to the Council, the Chief Finance Officer and the Director of Neighbourhood and Planning; and
- (ii) Authorise the Chief Executive to complete the certification requirements of the Local Government (Contracts) Act 1997 in respect of the proposed contract (including the direct agreement with the funders) subject to its award in accordance with its proposal set out in paragraph (i) above.

## **Reason for Proposal**

The Council could incur substantial additional costs if the targets for diversion of waste from landfill are not achieved. Proposing the signing of the contract with Hills for the delivery of 60,000 tonnes each year of MSW to the proposed MBT plant at Westbury and the subsequent delivery of at least 20,000 tonnes each year of SRF to an energy recovery plant reduces this risk.

**Mark Boden**  
**Corporate Director Neighbourhood and Planning**

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### **Purpose of Report**

1. To:
  - (i) update Cabinet on progress with negotiations with the preferred tenderer;
  - (ii) seek confirmation of the approval to award a contract to the preferred tenderer subject to completion of any outstanding detail of the contract documentation to the satisfaction of the Council;
  - (iii) seek confirmation of the approval to authorise the Chief Executive to complete the certification requirements of the Local Government (Contracts) Act 1997 in respect of the above contract.

### **Background**

2. At its meeting on 19 November 2004 Wiltshire County Council Cabinet resolved to seek tenders for the diversion from landfill of 100,000 tonnes of residual Municipal Solid Waste (MSW) and approved the evaluation model for the tender process.
3. Following a competitive tendering exercise, in July 2005, Wiltshire County Council Cabinet appointed the contractors who submitted Tender B (Hills/Entsorga) and Tender C (Hills/Lakeside) as preferred bidders, authorising officers to continue to negotiate with those tenderers.
4. At its meeting on 12 July 2005, Wiltshire County Council considered a presentation and report and resolved:

*To confirm that, subject to the whole life cost of the contract not exceeding the projected cost of landfilling the same amount of waste to be treated under the contract over the duration of the proposed contract period, as set out in Appendix 1 to the report, the financial implications*

*arising from the award of this contract would be consistent with Budget and Policy Framework of the Council.*

5. At the reconvened meeting held on 23 November 2005 Wiltshire County Council Cabinet resolved:
  - (i) *To confirm that, subject to final confirmation of price and completion of contracts to the satisfaction of the County Council, it is minded to award two contracts based upon the Hills/Lakeside tender (50,000 tonnes annually) and Hills/Entsorga tender (60,000 tonnes annually) for a 25 year term;*
  - (ii) *To authorise the Leader of the County Council and Cabinet Member for Planning and Waste to approve the signing of contracts, after advice from the County Solicitor, County Treasurer and Director of Environmental Services, subject to no significant change in costs and risks to the County Council.*
6. Negotiations continued with the tenderers who in turn progressed negotiations with their proposed sub-contractors, suppliers and funders. The contract with Hills for the delivery of 50,000 tonnes of waste annually to the Lakeside Energy from Waste plant at Colnbrook was signed on 29 March 2007. Construction and testing of this plant was certified complete by an Independent Certifier on 14 January 2010 and regular deliveries to the plant of the Council's MSW have ensured that 50,000 tonnes of waste have been diverted from landfill during the first operational year of the contract.
7. In the intervening period negotiations have continued with Hills on the proposed contract for the construction of a mechanical biological treatment plant (MBT plant) at Westbury to produce a solid recovered fuel (SRF) from the Council's MSW. Planning permission for the plant was granted by Wiltshire County Council's Regulatory Committee at a meeting held on 18 March 2009.
8. At its meeting on 23 March 2010 Cabinet resolved to
  - (i) *Authorise the Service Director Waste Management to conclude negotiation of the proposed contract with Hills Waste Solutions Limited on terms to be approved by the Leader of the Cabinet in consultation with the Cabinet Member for Waste, Property and Environment and the Cabinet Member for Finance, Performance and Risk after receiving advice from the Solicitor to the Council, the Chief Finance Officer and the Director of Neighbourhood and Planning; and*
  - (ii) *Authorise the Chief Executive to complete the certification requirements of the Local Government (Contracts) Act 1997 in respect of the proposed contract (including the direct agreement with the funders) subject to its award in accordance with its proposal set out in paragraph (i) above.*

## Main Considerations for the Council

9. The Department for Environment, Food and Rural Affairs (Defra) has agreed with the European Commission that the UK's approach to meeting the targets to reduce the amount of biodegradable municipal waste sent to landfill should be changed. A much larger proportion of commercial and industrial waste is now included in the definition of municipal waste which previously only applied to waste managed by local authorities. The change will not mean that any additional waste is sent to landfill and it is not anticipated that the revised approach will alter the current responsibilities and arrangements for managing this waste.
10. The Council's strategy to divert waste from landfill has been based in part on the need to avoid incurring fines under the Landfill Allowance Trading Scheme (LATS). The scheme applies to municipal waste managed by waste disposal authorities but does not apply to the newly defined stream of municipal waste which comprises commercial and industrial waste managed by the private sector. Landfill Tax is payable on all such waste regardless of whether it is managed by the public or private sector.
11. In March 2010 Defra commenced a consultation on meeting EU Landfill Diversion Targets which included the following question:  
  
*'Do you consider that LATS is an effective policy to assist England meet its share of the UK landfill diversion target in*
  - a) 2013
  - b) 2020?'
12. This suggests that government may be considering an alternative approach to ensure that there are financial incentives for all producers of municipal waste to divert this waste from landfill, so that the UK meets its EU landfill diversion targets. It remains the case that investment to divert waste from landfill is absolutely essential to meet these targets, irrespective of whether this is driven by LATS or not. Defra have stated that there will be no statement on this until the initial findings of the current waste policy review are published in May 2011. However Defra have referred to moving towards a zero waste economy which implies the ongoing commitment to using landfill as the option of last resort for disposing of waste.
13. At present Landfill Tax has been set at £56 per tonne from 1 April 2011 and will rise by £8 per tonne per annum until it reaches £80 per tonne in 2014. Government has put a floor under this figure until 2020. HM Treasury is reviewing taxation in advance of government setting the budget within the context of its ambition to be the greenest government.
14. The proposed contract provides for 60,000 tonnes annually of residual MSW to be delivered, predominantly from west and north Wiltshire, to the new MBT plant to be constructed on the Northacre Industrial Park, Westbury. The plant will be built by Interserve Project Services Ltd and the process plant provider will be EntSORGA Italia SRL (EntSORGA). The SRF produced by the MBT plant

will be delivered to a Remondis energy from waste plant in Germany or the Netherlands in accordance with a sub-contract with a contract period of 5 years, with a right to extend for another 5 years by mutual agreement. The MBT plant will be operated and maintained by Hills who will also provide landfill capacity for any outputs from the MBT plant which cannot be recycled or used as a fuel.

15. The fundamental performance objective for this contract is the achievement of the annual SRF target of at least 20,000 tonnes. The Council's technical advisors, SKM Enviro, have used the Environment Agency's Waste and Resources Assessment Tool for the Environment (WRATE) to carry out an assessment of the ability of the proposed MBT plant to produce the required quantity of SRF with a composition that meets the SRF specification set out in the proposed sub-contract with Remondis.
16. The composition of the MSW that SKM Enviro used for this assessment comprises average values of the quantity of different materials within the waste (such as paper and card) calculated from a number of waste composition surveys carried out between 2005 and 2009 on waste arising in west Wiltshire. The composition requirements for inclusion in the contract definitions have been agreed and are sufficiently wide for the Council to be confident that the SRF target can be achieved and exceeded.
17. The WRATE model projects that the proposed MBT plant is capable of producing in excess of 30,000 tonnes of SRF each year based on 60,000 tonnes of MSW which meet the composition requirements proposed for the contract being delivered to the plant. The annual SRF target is 20,000 tonnes and Hills are obliged to deliver any quantity of SRF produced to Remondis. There is no maximum quantity of SRF stated in the sub-contract so it is feasible that the target would be exceeded by more than 10,000 tonnes of SRF each year.
18. In addition to the risk of changes in taxation the waste management legislation from the EU continues to pursue the themes of banning the landfilling of particular waste streams or not permitting the landfilling of untreated wastes. Either of these approaches would result in increased future waste management costs for the Council.

### **Environmental and Climate Change Considerations**

19. Mechanical biological treatment with energy recovery was identified as a best practicable environmental option in the adopted Regional Waste Strategy and as one of the appropriate secondary recovery methods in the Wiltshire Joint Municipal Waste Management Strategy. It is not possible to quantify the environmental impact of the proposal to export the SRF to Germany. Clearly the miles that the SRF would travel increase considerably from the original proposal to deliver the SRF to the Lafarge cement works in Westbury. However the proposal does enable the Council to divert waste from landfill and therefore reduces the production of methane, a potent greenhouse gas, which is 23 times as damaging a greenhouse gas as carbon dioxide.

20. The energy from waste plant which will treat the SRF will generate electricity and heat which would also compensate for the miles travelled. The Council's objective would be to move to a more sustainable solution so the proposed sub-contract for export of SRF is for a period of 5 years. This would give the Council time to work with Hills prior to the expiry of the proposed sub-contract to provide an alternative outlet for the fuel which would reduce the distance over which the SRF would be transported. Consistent production of SRF from plants in the UK should encourage the development of plants using SRF to generate energy within the UK.
21. The calculation of the Council's carbon footprint does not include the carbon equivalent of emissions associated with waste disposal. As part of the review of waste policy Defra are considering a change from tonnage based targets to a system based on carbon which would allow waste to be incorporated into the Council's carbon management plan.

### **Equalities Impact of the Proposal**

22. No specific recommendations or implications in respect of equalities have been identified as arising from this report.

### **Risk Assessment**

23. The financial modelling which has been carried out suggests that the do nothing option is likely to be the most expensive course of action. However, this position cannot be confirmed until government publish their review of waste strategy and set out their future proposals for LATS and Landfill Tax. The do nothing option takes account of the diversion that is being achieved through recycling and delivery of waste to the Lakeside EfW plant. However, failure to award the contract and deliver the MBT plant could result in additional costs being incurred by the Council because it is not possible to predict with any degree of certainty the long term costs of landfilling waste and the legality of landfilling certain wastes.
24. Landfill Tax is now subject to an £8 per year escalator until it reaches £80 per tonne in 2013-14. Beyond that date the Council faces the risk of further escalation if central government decides to bring the tax up to the level applied in some EU countries. The government is also continuing discussions about banning more materials from landfill.
25. Projections of waste growth and assumptions about landfill gate fee, Landfill Tax and inflation are based on current information. The situation beyond 2013-14, although unclear, may be more stringent and is likely to result in an upward rather than a downward trend in the costs of landfilling waste. The Council could also face more pressure for development of new landfill sites in Wiltshire if the amount of waste being landfilled is not further reduced.

## **Financial Implications**

26. Information on the financial implications of awarding this contract is included in the report on Part 2 of the agenda.

## **Legal Implications**

27. Information on the legal implications of awarding this contract is included in the report on Part 2 of the agenda.

## **Options Considered**

28. The options open to the Council at this stage are:
- (i) To cease negotiations;
  - (ii) To conclude negotiations and, subject to satisfactory completion of the outstanding details of the contract documents, approve the signing of contracts.

## **Conclusion**

29. The Council could incur substantial additional costs if the targets for diversion of waste from landfill are not achieved. Proposing the signing of the contract with Hills for the delivery of 60,000 tonnes each year of MSW to the proposed MBT plant at Westbury and the subsequent delivery of at least 20,000 tonnes each year of SRF to an energy recovery plant reduces this risk.

**Mark Boden**  
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## **Background Papers**

The following unpublished documents have been relied on in the preparation of this Report: None