

MINUTES of the meeting of the **ENVIRONMENT & TRANSPORT SELECT COMMITTEE** held at 2.00 pm on 18 May 2015 at Ashcombe Suite, County Hall, Kingston upon Thames, Surrey KT1 2DN.

These minutes are subject to confirmation by the Committee at its next meeting.

Elected Members:

- * Mr David Harmer (Chairman)
- * Mr Mike Bennison (Vice-Chairman)
- Mrs Nikki Barton
- Mrs Natalie Bramhall
- * Mr Mark Brett-Warburton
- * Mr Stephen Cooksey
- Mrs Pat Frost
- Mr David Goodwin
- * Mr Ken Gulati
- Mr Peter Hickman
- * Mr George Johnson
- * Mr Adrian Page
- * Mr Michael Sydney
- * Mr Richard Wilson
- Mrs Victoria Young
- * Mr Colin Kemp
- * Rachael I. Lake

31/15 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS [Item 1]

Apologies were received from Nikki Barton, Natalie Bramhall, Pat Frost, Peter Hickman, David Goodwin and Victoria Young.

- Colin Kemp and Rachael Lake substituted for Natalie Bramhall and Pat Frost.
- Ian Beardsmore substituted for David Goodwin.

32/15 DECLARATIONS OF INTEREST [Item 2]

There were none.

33/15 CALL- IN OF CABINET DECISION: AMENDMENT TO WASTE CONTRACT TO DELIVER THE WASTE STRATEGY [Item 3]

Declarations of interest: None.

Witnesses:

Witnesses invited by call-in Members:

Brian Catt
Peter Crews

Jonathan Essex
Peter Francis
Malcolm Robertson

Members and officers in attendance:

Mike Goodman, Cabinet Member for Environment and Planning
Trevor Pugh, Strategic Director for Environment and Infrastructure
Sheila Little, Director of Finance
Ann Charlton, Director of Legal and Democratic Services
Tony Orzieri, Finance Manager
Richard Parkinson, Waste Operations Group Manager
Nick Prior, Deloitte
Simon Martin, Mott MacDonald

Key points raised during the discussion:

Call In

1. Stephen Cooksey and Ian Beardsmore introduced the grounds for Call in.
2. Concern was raised by the Call In Members about Condition 6 and 7 of Resolution 1 of the July 2013 Cabinet decision, which dealt with value for money and DEFRA requirements, as set out in pages 7 – 11 of the agenda pack.
3. Attention was brought to Resolution 2 of the Cabinet report, where it was stated that the assessment of the Director of Finance was that the cost of proceeding with the Waste Strategy, including the Eco Park, met the value for money criterion and was the most affordable option available to the Council. An explanation was requested on the increased cost of proceeding with the waste strategy from £74m to £91m
4. The Call In Members drew attention to page 18 of the agenda pack, where two options were detailed. It was considered that given the increased cost of delivering the waste strategy as planned, other options should be explored.

Witnesses

The witnesses were called up to speak. A summary of their key points can be found below. A full version of their representations can be found on the webcast of the meeting: http://www.surreycc.public-i.tv/core/portal/webcast_interactive/176868

Peter Crews:

1. The main challenge was around the value for money assessment.
2. Mr Crews felt that the Deloitte value for money assessment did not take into account qualitative consequences, such as possible failure of the plant.

3. It was Mr Crews' view that the Cabinet had been misled, as they were only presented with present net value and not actual cash value.
4. Mr Crews referred to the costs being quoted without estimates or prediction intervals (i.e. +/- £10m).
5. The assessment provided by Mott MacDonald was, in Mr Crews' opinion, not fit for purpose based on the lack of options analysis and comparative work.

Peter Francis:

1. The decision subject to the Call In was taken on 28 April 2015. Mr Francis referred to the report of the Leader on the Council's budget and the reference to the great importance placed on climate change and reducing carbon emissions.
2. Mr Francis stated that gasifier technology had been shown to be very inefficient and contrary to the waste strategy.
3. The application for the Eco Park had not presented an R1 (Energy Recovery) calculation.
4. Support was given to the Call In Members suggestion that alternative options should be explored.
5. Mr Francis claimed that the Eco Park, as presented, would not be eligible to receive ROCs (Renewable Obligations Certificates).
6. Mr Francis referred to DEFRA guidance, that did not allow accreditation unless technology combined heat generation and power. However, it was noted that there was no plan for combined heat and energy technology at the Eco Park site and therefore it would not achieve accreditation.
7. Mr Francis put forward the question of whether the plant was an incinerator or a gasification plant.

Brian Catt:

1. Mr Catt explained his concern that the proposal for the Eco Park was an 'untried experiment'.
2. The modification to the technology proposed was untested and may not work.
3. Mr Catt felt that the quantitative report had failed to show that the Eco Park option was better value than other alternatives.
4. It was reported by Mr Catt that the Mott MacDonald report stated that waste would be moved up the waste hierarchy as a result of this plant – however, this was misleading as the Eco Park site would be waste disposal and therefore would not move waste up the hierarchy.
5. Officers had said that the £79m DEFRA grant was at risk, however, Mr Catt felt there were other options for

use of the DEFRA grant if a conclusion was reached to discontinue with the Eco Park plans.

6. Mr Catt stated that the site could not be considered a gasifier as there would be no gas output.

Malcolm Robertson:

1. Mr Robertson explained that he was primarily concerned about local safety as a result of the Eco Park proposal. He spoke about the importance of protecting the lives of families in the local area.
2. Spelthorne was already an area where air quality limits were breached. Government, including Local Government, was being called upon to put forward plans to reduce emissions.
3. Mr Robertson challenged whether the proposed Eco Park would represent value for money: He drew attention to the costing set out in the Cabinet report that showed the option 1 (to build the Eco park) worked out as more costly than other options. As a result, Mr Robertson considered that value for money had not adequately been considered by the Director of Finance.
4. Mr Robertson referred to the qualitative assessment carried out by Mott MacDonald and commented that it linked to an old waste strategy – he argued that this meant it was not fit for purpose.
5. Mr Robertson clarified that he was looking to the Committee to scrutinise the value for money conclusion – however, he felt that the report did not demonstrate value for money as the whole contract would be £2m dearer than early termination of the contract.

Jonathan Essex:

1. Mr Essex asked that the Committee use the meeting to challenge the value for money conclusion.
2. He felt that there needed to be more transparency and scrutiny of the risks outlined in the report.
3. Mr Essex asked that more consideration be given to maintenance cost and sensitivity of prices fluctuations over time.
4. He requested clarification on how the proposal supported the waste strategy. There were questions around why the Council was not quantifying recycling rates going up, even though it planned for an increase.
5. Mr Essex challenged the decision made by Cabinet emphasising the scale of the risk. In particular, he drew attention to higher landfill tax rates and higher gate fees.

Cabinet Member and officer responses:

Mike Goodman, Cabinet Member for Environment & Planning:

1. The Cabinet Member introduced Council's response to representations made by witnesses.
2. It was noted that the Eco Park had been considered as part of a long standing Waste Strategy proposal. Since 2013 several reports had been considered by Cabinet, Planning & Regulatory Committee and had been subject to scrutiny by the Environment & Transport Select Committee and the Environment Agency.
3. On 23 July 2013 Cabinet approved a contract variation, subject to 7 conditions. These conditions had now been met, as set out in the report.
4. Expanding on the information in the report regarding Condition 6 (confirmation by the Director of Finance that the final cost represents value for money, is the lowest cost option and is affordable within the council's medium term financial plan), the Cabinet Member explained that reports had been commissioned from Mott MacDonald and Deloitte. There had been unavoidable delays since October 2013, which had led to the cost of the project increasing. However, the Cabinet Member remained satisfied by the value for money conclusion.
5. The Cabinet Member commented on the questions raised by witnesses on public health. He assured Members and witnesses that the Council takes public health very seriously and he drew the Committee's attention the extensive modelling on air quality, referred to on page 14 of the agenda pack.

Trevor Pugh, Strategic Director for Environment & Infrastructure.

1. The Strategic Director referred to previous decisions made by the Council, including a new approach to waste management which was adopted in 2010.
2. Part of this approach included the Eco Park – A site that would produce renewable energy from food waste and waste that cannot be recycled, through an anaerobic digestion facility and a gasifier.
3. The Strategic Director cited decisions made between 2011 and 2013 that endorsed the Eco Park proposal and referred to a thorough options analysis and value for money assessment.

Sheila Little, Director of Finance

1. The Director of Finance introduced Deloitte, who had been employed to carry out a detailed financial assessment. This had included a number of risk assessments and where assumptions had been made these were validated by the Council's specialist advisors.

2. It was clarified that costs were expressed in their present value terms in line with best practice. Deloitte confirmed that the methodology around net present value was consistent across the public and private sector.
3. The proposals within the Waste Strategy had been tested in terms of value for money to the public purse and affordability to Surrey County Council. A sensitivity assessment had also been undertaken.
4. In terms of risk, it was clarified that the Eco Park option accounted to £1.9m more than the option to terminate the waste contract. The difference between the options was 0.17% of the Total NPV and therefore immaterial.
5. The Director of Finance introduced Mott MacDonald, who had undertaken a detailed technical review. It was clarified that DEFRA had confirmed that the continuation of waste grants would only be guaranteed under the Eco Park plan.
6. The Director of Finance had, therefore, concluded that the option to continue with the waste contract, including the Eco Park, was the most affordable option.

Following introductions from the key witnesses, the Chairman asked Members to question any points of clarification.

1. Members queried what design improvements had been made. The Strategic Director for Environment & Infrastructure explained that a change had been made from batch oxidation to a different technology. This had been a result of a review during the tendering process which produced a better option after the company providing batch oxidation technology went into administration.
2. Mott MacDonald confirmed that following the technical assessment there were no concerns about the feasibility of the plant.
3. The Director of Legal & Democratic Services advised that the DEFRA grants were linked to capital investment. DEFRA had confirmed that delivery of the Eco Park project was key to receipt of the grants.
4. The Strategic Director for Environment & Infrastructure restated that a detailed options analysis had been undertaken which led to the conclusion that the Eco Park was the best option.
5. It was clarified that the increase in cost since October 2013 was due to operational costs such as changes in the market, the price of sub contractors and insurance costs.
6. It was noted by Members that the plant would not qualify for ROCs (Renewable Obligation Certificates) Members asked whether this was the case, it would make a large difference to the value for money conclusion. The

Director of Finance confirmed that if the scheme did not qualify for ROCs it would not alter the overall conclusion. SITA had until March 2018 to obtain ROCs. It was confirmed that the Council would not begin paying until an acceptance test had been passed. Therefore the majority of the risk around technology and performance was on SITA. The Council was protected against the failure of technology.

7. During the witness statements it had been stated that this would be the first plant in the world using this particular technology. Officers clarified that the Eco Park site would include both an anaerobic digester facility and a gasification unit. SITA had been to visit a gasification plant in the United States as part of their research. It was; however, correct to say that the Eco Park would be the first gasification plant that burns refuse for fuels. Other sites, such as the one in the US, use different types of fuels such as paper sludge.
8. Upon questioning, the Cabinet Member confirmed that the Cabinet had been privy to all information available to the Committee today, as well as additional information over the previous years in order to lead them to make their decision.

George Johnson left the committee at 3.48pm for 5 minutes.

Colin Kemp left the Committee at 3.50pm for 5 minutes.

9. Deloitte confirmed that the methodology adopted in the value for money assessment was consistent with the Treasury Green Book.
10. It was clarified that there was no exact reference project for the Eco Park plant, and that this was not required. However, there was confidence from Deloitte that the Council had looked at a realistic range of options and the two presented to Cabinet were the only two that were feasible.

The Chairman directed Members to the conditions set out on pages 6 to 11, and consideration was given to whether each of these conditions had been met.

It was agreed that based on the evidence presented conditions 1 – 5 of Resolution 1 had been met. A wider debate on condition 6 and 7 was then opened.

Condition 6: Confirmation by the Chief Finance Officer (now Director of Finance) that the final cost represents value for money, is the lowest cost option and is affordable within the council's medium term financial plan:

1. The Call In Members made representations based on the grounds that this condition had not been met.

There was particular concern about the untried technology. Members were satisfied that the two technologies worked independently, however, requested evidence that they would work when combined. The Chairman of the Committee responded on this point. He explained he had been involved in this project since 2008 and had the same concerns regarding the untried technology. However, he had carried out research and spoken with officers in great detail about the financial risk involved. Through these conversations he had become satisfied that the financial risks had been adequately mitigated, as the cost in the event of technology failure would not fall on the County Council, but on SITA.

2. Members queried what would happen if the technology failed after the contract with SITA had ended and concluded that this would be maintenance, rather than technical problem as any key technological issues would happen earlier rather than later.
3. A number of Members thanked the witnesses for their statements and the emails and information that had been circulated ahead of the meeting.
4. A vote was taken, and not carried, to refer the decision back to Cabinet on the basis of Condition 6 not being met.

Condition 7: confirmation by the Strategic Director for Environment and Infrastructure that the contract variation meets DEFRA's requirements

1. It was accepted that Condition 7 of Resolution 1 had been met.

- **The Chairman drew attention to Resolution 2, and a vote was taken and not carried, to refer the decision back to Cabinet.**

Before closing the meeting, the Chairman thanked the witnesses and noted that the public's views had been listened to and would be considered as the process toward the building of the Eco Park proceeded.

Actions/further information to be provided:

None.

Recommendations:

That the Committee, having reviewed the decision of the Cabinet regarding the amendment to the waste contract, does not wish to refer the decision back to Cabinet for reconsideration.

Select Committee next steps:

Items regarding the Waste Contract will continue to be scrutinised by the Economic Prosperity, Environment & Highways Board.

34/15 DATE OF NEXT MEETING [Item 4]

The next meeting will be held on 11 June 2015 at 10.30am in the Ashcombe, County Hall.

Meeting ended at: 4.25 pm

Chairman