

SURREY COUNTY COUNCIL**CABINET****DATE: 24 JUNE 2014****REPORT OF: MR MIKE GOODMAN, CABINET MEMBER FOR ENVIRONMENT AND PLANNING****LEAD OFFICER: TREVOR PUGH, STRATEGIC DIRECTOR – ENVIRONMENT & INFRASTRUCTURE****SUBJECT: PROGRESS ON THE DELIVERY OF THE COUNCIL'S WASTE STRATEGY, INCLUDING THE ECO PARK****SUMMARY OF ISSUE:**

This report sets out progress with the delivery of the council's waste strategy, including the Eco Park, since the Cabinet meeting on 30 October 2013.

The council and SITA entered into a contract variation following that Cabinet meeting and the construction contractor has commenced site preparation and detailed design work for the Eco Park.

Cabinet recognised in October 2013 that it would be necessary for SITA to secure a number of regulatory consents before work on the Eco Park could begin in earnest. Cabinet approved contractual mechanisms to take this into account.

Those contractual mechanisms provide for the work on the Eco Park to proceed in two phases. The first phase comprises design work, site preparation works and placing orders for long lead items. The second phase is the main construction phase. In October 2013 it was anticipated that phase one would be completed by the end of March 2014 and phase two would commence at the beginning of July 2014 at which point it was thought that all the necessary consents would have been obtained.

Since October 2013, a potential land dispute has been satisfactorily resolved and consent has been given to divert a public footpath, necessary for the development. Final confirmation from government is still however required in respect of the variation to the planning consent and the environmental permit variation is still awaited from the Environment Agency.

Progress on obtaining these consents has been slower than was anticipated in October 2013, meaning that phase two of the Eco Park development will not commence in July 2014 as originally thought. Therefore in accordance with the recommendations set out in the minutes of that meeting, a further report detailing progress with the development of the Eco Park is being presented to Cabinet.

RECOMMENDATIONS:

It is recommended that:

1. Cabinet notes the progress made since the last report in October 2013.
2. Cabinet agrees to continue with the delivery of the Eco Park Phase 1, as outlined in paragraph 5, limiting the commitment of expenditure until the necessary remaining consents are obtained.

3. The Strategic Director of Environment and Infrastructure, Director of Finance and Director of Legal and Democratic services, in consultation with the Leader and Cabinet Member for Environment and Planning, continue to monitor progress and report back to Cabinet in the event of material changes to the risks and assumptions set out in this report and the October 2013 report and in particular if the remaining outstanding consents are not obtained by the end of October 2014.

REASON FOR RECOMMENDATIONS:

The recommendations are necessary to maintain proper authority to proceed with the delivery of the Eco Park.

DETAILS:

Reason for report to Cabinet

1. On 30 October 2013 the Cabinet agreed to amend the Waste Contract to deliver an updated Waste Strategy. Since then, the supply chain has been secured and there has been some good progress with design work and with obtaining some of the necessary consents for the development of the Eco Park. However some issues remain outstanding, which means that progress with the development of the Eco Park has been slower than anticipated. The purpose of this report is to update the Cabinet on progress with the development and to make the Cabinet aware of material changes to the risks and assumptions set out in the 30 October 2013 Cabinet report.
2. The necessary consents for the development comprise the diversion of a public footpath together with a varied planning consent and modified environmental permit. Further issues that were raised within the October 2013 Cabinet report included the retention of the supply chain, relationships with Defra and the National Audit Office's review of Defra's handling of waste PFI projects. In addition it was reported verbally to Cabinet members that resolution of a land dispute was required to enable the development to proceed.

Update since Cabinet on 30 October 2013

3. This section of the report sets out progress with the matters described within the 30 October 2013 Cabinet Report

Contract Signature and progress by the construction contractor

4. Following the Cabinet decision on 30 October 2013, the council and SITA immediately entered into a contract variation to deliver the council's waste strategy, including the Eco Park. SITA then entered into an Engineering Procurement and Construction (EPC) Contract with their preferred supplier M+W Group.
5. SITA gave M+W a 'Notice to Proceed' with phase one of the works on 31 October 2013. This was consistent with the contractual mechanisms approved by Cabinet. Phase one of the works comprises detailed design, early site works and advanced procurement of long lead-in items. Phase two includes the main build out of the Eco Park facility. This two stage process was designed to

minimise the council's exposure to cost risk as the second Notice to Proceed would only be given once all the necessary permissions had been secured.

6. The detailed analysis within the 30 October 2013 Cabinet report was based on an assumption that all works within the Phase one of the of development, as detailed above, would be completed within the period 1 November 2013 until 31 March 2014 and that there would then be a 3 month delay until the second phase of works commenced on 1 July 2014.
7. The detailed design works have been undertaken by M+W but SITA and the council have agreed that M+W will not proceed with further site preparation works or advanced procurement until the necessary permissions have been received. The advantage to this approach is that it further reduces the council's expenditure at risk.
8. If, by 1 November 2014, the necessary variations to the planning consent and environmental permit have been issued and the requisite period for judicial review has passed without challenge, then it would be the intention for officers to use the authority previously delegated to them by Cabinet to proceed with the development of the Eco Park. If however, it appears to officers that these conditions will not have been met by 1 November 2014, then a further progress report will be brought to Cabinet by November 2014

Supply Chain risk

9. A significant concern at the time of the last report to Cabinet was the retention of the supply chain of contractors to develop the Eco Park. This supply chain has now been secured with the signing of the EPC contract; however there is a continued risk that further delay will lead to disengagement of sub-contractors. In addition there are contractual mechanisms that allow M+W the opportunity to re price their contract in the event that phase two of the works does not commence before further significant delays.

Land dispute

10. Since the report to Cabinet in October 2013 the council has successfully resolved a legal issue regarding a claim brought by a trespasser on part of the existing Charlton Lane waste management facility.

Footpath Diversion

11. The Leader of the Council raised concerns at the highest level of central Government about the time and cost incurred by this process.
12. A second Public Inquiry took place at the end of January 2014 and on 19 March 2014, the Planning Inspector confirmed the footpath diversion order, necessary for the development of the Eco Park. No challenge has been made to this decision within the statutory time period.

National Audit Office Report

13. Since the Cabinet met on 30 October 2013, the National Audit Office (NAO) has undertaken a review of Defra's handling of PFI projects with particular reference to the Norfolk, Hereford and Worcester and Surrey PFI projects. The NAO have made it clear that this is a report into Defra's role in overseeing PFI

projects and is not an investigation into how the council manages contracts or assesses value for money. Officers do not anticipate that this will have any material effect on the council's waste strategy, including development of the Eco Park. The report is due to be published on 17 June 2014 and is being discussed at the Parliamentary Public Accounts Committee on 25 June 2014.

Defra

14. Officers continue to keep Defra informed of progress through agreed channels. Defra have confirmed approval of the council's variation business case and continue to provide strong support for the delivery of the council's waste management strategy, including the Eco Park.

Planning

15. The planning consent to make permanent the existing operation of the site has now been implemented with the construction of access improvements and the erection of an acoustic fence at the perimeter of the site. This secures the permanent availability of this strategic site for waste management purposes. Without this new consent, waste management activities at the site would have had to have ceased in 2016.
16. On 17 March 2014, Surrey County Council's Planning and Regulatory Committee approved an amendment to the existing planning consent which was required as a result of a change in gasification technology supplier and the further refinement of the design by the EPC contractor. As is normal with any application on a site within the green belt, the matter was referred to the Secretary of State for Communities and Local Government so he can decide whether to 'call in' the application for his own determination. The referral was made on 19 March 2014.
17. In the normal course of events, the Secretary of State would have 21 days to decide whether or not to call in the application, however on 25 March 2014, the National Planning Casework Unit, acting on behalf of the Secretary of State wrote to the County Planning Authority to instruct them not to issue the planning consent and to advise that the Secretary of State would need more than 21 days to reach a decision.

Environmental Permit

18. At the time of writing the Cabinet report in October 2013, it was anticipated that SITA's application for a modification to the existing Environmental Permit would be determined by February 2014, however progress has been slower than expected and a permit is now not expected to be issued until July 2014 at the earliest.

Earlswood Waste Transfer Station development

19. Since the Cabinet report on 30 October 2013, Planning consent has been obtained for the development of a new Waste Transfer Station at Earlswood. This proposal has been developed in close cooperation with Reigate & Banstead Borough Council and represents Surrey County Council's most significant single infrastructure development to date. A building contractor has been appointed following a competitive tendering process and work commenced on site on 27 May 2014. The construction costs have increased

from those anticipated in the financial model from £3.2 million to £4.9 million and the impact of these additional costs have been included within the financial assessment undertaken as part of this report. The cost of building this infrastructure and the Eco Park is spread over the remaining life of the SITA contract

Current Issues

Regulation Uncertainty

20. At their meeting on 30 October 2013, Cabinet recognised the need to manage the risk of incurring abortive costs. The two- phase 'Notice to Proceed' process ensured that progress with the development of the Eco Park would be aligned with securing the necessary consents free of the risk of judicial review.
21. At the time of writing this report, neither of the required variations to the planning consent or environmental permit has been secured. Once secured the period in which an application can be made to judicially review these decisions is 6 weeks after date of issue for the planning consent and 12 weeks after the date of issue for the environmental permit.

Impact of regulation uncertainty on timescales

22. As has been stated earlier in this report, the financial assessment within the 30 October 2013 Cabinet report was based on an anticipated start date for phase 2 of the development of 1 July 2014. It was expected that all the necessary permissions would have been secured by this date, enabling work to proceed.
23. At the meeting on 30 October 2013, Cabinet recognised that there was a degree of uncertainty about when the necessary permissions would be secured and that there was a risk of further delay. The main consequence of delay is that the costs of the development will increase. There are a number of reasons for this.
 - a. Costs of keeping the supply chain engaged during the delay period
 - b. Inflation applied to Capital items purchased at a later date.
 - c. Need to recover costs over a reduced concession period.
 - d. In addition changes to foreign exchange rate hedging profiles will have the effect of either increasing or decreasing costs depending on movements in Pound sterling to Euro and US Dollar exchange rates.
 - e. The financial assessment and the value for money and affordability implications are set out in the Financial and Value for Money section.

Options Analysis

24. In July 2013, Cabinet considered whether to proceed with the delivery of the council's waste strategy, including the development of the Eco Park, through a contract variation with SITA or to terminate the contract with SITA and re-procure waste management services. In October 2013, Cabinet agreed to proceed with a contract variation to deliver the Eco Park taking an approach

that would minimise spend until the necessary permissions were achieved. As set out in the Financial and Value for Money Implications Section below, the fundamental position set out in the October 2013 Cabinet report, remains the same. The variation of the Waste Contract to deliver the council's waste strategy continues to represent best overall value to the public and is the most affordable solution for the council.

CONSULTATION:

25. There has been extensive consultation on the Eco Park in the past and details of this can be found in the 25 June 2013 and 30 October 2013 Cabinet reports.

RISK MANAGEMENT AND IMPLICATIONS:

26. The risk management implications remain unchanged from the Cabinet report of 30 October 2013. The recommended solution to deliver the waste strategy through a contract variation continues to represent the lowest risk option available to the council.

FINANCIAL AND VALUE FOR MONEY IMPLICATIONS:

27. In order to assess the costs of an extended delay, officers have worked with SITA and the council's financial advisor, Deloitte to model the cost impact of a delay to the commencement of Phase 2 of the Eco Park development until 1 November 2014. This information is required to assess the effect on the value for money analysis, which was presented to Cabinet on 30 October 2013.
28. The value for money analysis within the 30 October 2013 Cabinet report considered both quantitative and qualitative aspects of the proceeding with the contract variation to deliver the council's waste strategy. Based on financial analysis alone, there was no material difference between proceeding with the contract variation or delivering the council's waste strategy through alternative third party arrangements. However, when taking into account other significant qualitative value factors relating to legislative, strategic, contractual and economic areas, it was considered that the delivery of the council's waste strategy through a contract variation represented the best overall value to the public and was the most affordable option for the council..
29. The financial analysis undertaken as part of this report indicates that a delay in commencement of phase 2 of the Eco Park development will not have an impact on the marginal position that was reported to Cabinet on 30 October 2013. The qualitative analysis set out in that report, remains up to date and valid. Therefore proceeding with the delivery of the council's waste strategy through the contract variation with SITA, including development of the Eco Park, continues to represent best overall value to the public and is the most affordable option for the council.

A further report, detailing the impacts of any additional delay will be brought to Cabinet by November 2014.

Section 151 Officer Commentary

30. The Section 151 officer confirms that, on the basis of latest cost estimates provided by Sita and advice received from the Council's external financial

advisors Deloitte, there is no material change to the position reported to Cabinet on 30 October 2013, i.e. that based solely on financial analysis there is no material difference between the option to construct the Eco Park and the option to dispose of waste through third party facilities. However when taking into account other significant legislative, strategic, contractual and economic factors referred to in paragraph 28, the option to proceed with the development of the Eco Park represents best overall value to the public. In addition, when taking into account the Waste Infrastructure Grant, the option to proceed with the Eco Park clearly represents the best value to the Council. Attention is drawn to additional risks associated with delay which were also reported to Cabinet in October 2013 as part of the confidential annex to the report.

31. Once the outstanding consents have been secured, a further detailed financial appraisal will need to be undertaken before proceeding with the Eco Park development.

Legal Implications – Monitoring Officer

32. The legal implications of the council's options were set out in detail in the report to Cabinet of 30 October 2013. Since that report a number of legal issues have been resolved positively, such as the claim made by a former unauthorised occupier of part of the site and no new significant legal risks have been identified.

Equalities and Diversity

33. This report confirms that there has been no change to the Equalities and diversity implications described in the 30 October Cabinet report, which has been replicated below.
34. An Equality Impact Assessment (EIA) – stage 1: initial screening – was completed for the purposes of the contract variation and was reviewed and approved by the Environment & Infrastructure Directorate Equalities and Diversity Group. The summary of key impacts and actions is copied below. The full EIA was attached to the report on the waste contract variation to the 23 July 2013 Cabinet.
35. The main potential impact arises from residents use of the community recycling centre and in particular residents with reduced mobility. The decision to proceed with the Eco Park will not materially change how the community recycling centre is operated. The operation of the community recycling centre was subject to a previous EIA in March 2009. This EIA has been reviewed and remains valid. Continued monitoring of customer feedback has not identified any particular issue relating to service users with protected characteristics.
36. The screening stage concluded that it was not necessary to carry out a full EIA given the minor potential impacts and actions already in place as stated in the paragraph above.

Climate change/carbon emissions implications

37. This report confirms that the climate change and carbon emissions implications remain the same as described in the 30 October 2013 Cabinet report and have been replicated below.

38. The proposed Eco Park waste management processes, including the new fluidised bed gasification system, anaerobic digestion facility and materials bulking facility, offers an alternative to sending up to 95,000 tonnes of Surrey's waste to landfill.
39. The net benefit to mitigating climate change, of the new system, compared to the 'landfill' scenario is a reduction in emissions of approximately 20,800 tonnes of CO₂ equiv per year.
40. The site will export over 27,700,000kWh to the national grid, which is enough to power 8,400 houses. Over two thirds of this (the electricity produced from the biodegradable element of the waste treated at the Eco Park) qualifies as renewable energy under current regulations.
41. The carbon reduction and electricity generation information is based on a detailed assessment using prudent assumptions relating to the fuels used to generate national grid electricity. This assessment shows that recovery of energy from waste processed at the Eco Park represents a beneficial solution compared to sending waste to landfill.
42. The main climate change mitigation benefits of the new gasification system, compared to a landfill scenario are from reduced methane emissions which would arise from degradation of waste in landfill, as well as additional benefits from metals recycling.
43. The main climate change mitigation benefits of the new gasification system compared to the previously approved technology are a reduction in oil fuel demand to operate the gasification plant and increased recycling of materials. Even though the new process uses electricity to segregate out recyclable materials, that electricity demand is more than outweighed by the benefits from recycling and from a reduced usage of light fuel oil.
44. The new gasification system results in more process wastes (rejects from pre-treatment and air pollution control residues) than the previously approved technology, but this minor disadvantage is outweighed by the other benefits of reduced carbon emissions from energy consumption and increased recycling by pre-treatment.

Other Implications:

45. The potential implications for the following council priorities and policy areas have been considered. Where the impact is potentially significant a summary of the issues is set out in detail below.

Area assessed:	Direct Implications:
Public Health	Public health implications are not considered significant for this report. These matters were referred to in the report to the 25 June 2013 Cabinet and will be considered as part of the regulatory permissions related to the Eco Park.

WHAT HAPPENS NEXT:

46. SITA is instructed to continue with the delivery of the Eco Park Phase 1, as outlined in paragraph 5, minimising the commitment of expenditure until the necessary remaining consents are obtained
47. The Strategic Director of Environment and Infrastructure, Director of Finance and Director of Legal and Democratic services, in consultation with the Leader and Cabinet Member for Environment and Planning, continue to monitor progress and report back to Cabinet in the event of material changes to the risks and assumptions set out in this report and the October 2013 report and in particular if the remaining outstanding consents are not obtained by the end of October 2014.

Contact Officer:

Ian Boast, Assistant Director for Environment. Tel: 020 8541 9479

Consulted:

There has been a comprehensive consultation process by the Waste Disposal Authority as described in the 25 June 2013 Cabinet report and which included:

(Note: this does not relate to the County Planning Authority consultation as part of the planning application as this was a separate process.)

- Constituency MP and other Local MPs
- All local Residents Associations (Charlton Village RA; Shepperton RA)
- Spelthorne Local Committee, which includes local councillors and county councillors
- Spelthorne Borough Council relevant officers (e.g. Chief Executive, Deputy Chief Executive, Director for Environment)
- Over 10,000 local residents
- Elmbridge Borough Council
- Neighbours to the Charlton Lane site
- SCC Cabinet

Consulted on report to Cabinet:

- Leader
- Cabinet Member for Environment and Planning
- Chief Executive
- Strategic Directors-
 - Environment and Infrastructure
 - Business Services
- Chief Finance Officer
- Monitoring Officer

Informed:

All relevant stakeholders informed.

Sources/background papers:

- Cabinet Reports:– 2 February 2010 – 14 March 2011 – 26 March 2013 – 25 June 2013 - 30 October 2013
- A Plan for Waste Management: www.surreywastepartnership.org.uk/theplan
- Consultation details and analysis:
www.surreywastepartnership.org.uk/consultation
- Mott MacDonald technical advisors report – Technology Review August 2012
- Mott MacDonald Technical Due Diligence – M&W proposal June 2013

Annexes: None
