

APPENDIX 1**SURREY COUNTY COUNCIL****CABINET****DATE: 28 APRIL 2015****REPORT OF: MR MIKE GOODMAN, CABINET MEMBER FOR ENVIRONMENT AND PLANNING****LEAD OFFICER: MR TREVOR PUGH, STRATEGIC DIRECTOR FOR ENVIRONMENT AND INFRASTRUCTURE****SUBJECT: AMENDMENT TO WASTE CONTRACT TO DELIVER THE WASTE STRATEGY****SUMMARY OF ISSUE:**

In July 2013 Cabinet agreed to vary the waste contract to deliver the Eco Park, once seven conditions were met.

In October 2013, Cabinet agreed to the terms of the contract variation and the contract was subsequently varied. Conditions relating to necessary regulatory approvals, continued support from DEFRA, and final value for money and affordability assessments remained outstanding.

All conditions have now been met, as outlined in this report.

Delays and new conditions in the planning process have resulted in increased costs. However, this has not materially affected the overall assessment of value for money and affordability.

This Cabinet report addresses this issue and seeks unconditional approval to commit to construction of the Eco Park.

RECOMMENDATIONS:

It is recommended that Cabinet:

1. Notes that all the necessary preconditions identified in the Cabinet report of 23 July 2013, as outlined in paragraphs 3 - 34 of this report, have now been met.
2. Notes that the assessment of the Director of Finance is that the cost of proceeding with the Waste Strategy, including the Eco Park, meets the value for money criterion and is the most affordable option available to the council.
3. Agrees that the council proceeds to issue the second Notice To Proceed (NTP2) in accordance with the contractual processes approved by Cabinet on 30 October 2013.
4. Notes that the corporate revenue budget refresh in July 2015 will take into account the budgetary effect of delivering the Waste Strategy, including the Eco Park.

5. Requests that the Strategic Director of Environment and Infrastructure puts in place the governance arrangements described in Annex 2, provides quarterly reports to the Cabinet Member for Environment and Planning and reports to Cabinet at key milestones by agreement between the Cabinet Member for Environment and Planning and the Leader of the Council.

REASON FOR RECOMMENDATIONS:

To authorise development of the Eco Park, an essential part of the Waste Strategy and a priority for the council.

DETAILS

Background

1. In July 2013, Cabinet approved a recommendation that "the Waste Contract be varied to reflect the changes necessary to deliver our Waste Strategy, including the Eco Park, subject to relevant conditions being met."
2. This report describes how each of the seven conditions identified has now been met and the actions which need to follow to implement the decision.

Fulfilment of conditions

3. **Condition 1:** Confirmation by the Director of Legal and Democratic Services that the contract documents prepared for signature are consistent with the terms which relate to the recommendations in this report and with the requirements of the EU Public Procurement Regulations.

This condition was met in October 2013 by SCC and SITA entering into a contract variation, following confidential advice to Cabinet from the Director of Legal and Democratic Services.

4. **Condition 2:** Approval to divert the footpath to the north of the Eco Park.

This condition was met on 19 March 2014. A second Public Inquiry into the footpath diversion took place at the end of January 2014 and, on 19 March 2014, the Planning Inspector confirmed the footpath diversion order.

5. **Condition 3:** Variation of the planning permission to reflect the replacement of the gasification technology provider at the Eco Park, and other minor design changes.

This condition was met on 24 September 2014 when SCC's Planning and Regulatory Committee approved the variation.

6. **Condition 4:** Confirmation of amendment to the environmental permit to reflect the replacement of the gasification technology provider at the Eco Park.

This condition was met on 29 October 2014 when the Environment Agency issued the variation to the environmental permit.

7. **Condition 5:** Fulfilment of outstanding planning conditions.

This condition was met on 13 March 2015 when the pre commencement conditions were approved by SCC's Planning and Regulatory Committee. These were subsequently implemented by SITA Surrey.

8. **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.

This condition has been met as a detailed assessment by the Director of Finance completed in April 2015, based on advice from the council's external financial advisor, Deloitte, has demonstrated the variation to the Waste Contract to deliver the Waste Strategy (including the Eco Park) represents the best value for money for the residents of Surrey. When taken together with an assessment of qualitative factors, it represents overall value for money for the public sector. It is a sound basis from which further service improvements and potential cost savings will be delivered. Proceeding with this option also represents the most affordable solution to the council.

9. The April 2015 financial assessment is based on final costs and timescales and used a consistent methodology to that undertaken in October 2013 which reached the same overall conclusion.
10. The April 2015 qualitative assessment is based on advice from the council's technical advisors, Mott McDonald, who have provided a report to the council on the qualitative value for money benefits which derive from varying the Waste Contract to deliver the Waste Strategy (including the Eco Park). These benefits relate to strategic, contractual, economic and environmental factors, as described below.

- **Strategic benefits**

11. The Waste Strategy is based on recycling and composting as much waste as feasible, anaerobic digestion of food wastes and gasification of the residual wastes.
12. Surrey's Joint Municipal Waste Management Strategy, adopted by the county council in March 2015 retains a target to achieve 70% recycling and composting by 2019/20. This achievement will make Surrey County Council a leading authority in this respect.
13. All existing waste management and treatment options have a residue. It is possible to send this residual waste to landfill but there are environmental and materials benefits in diverting the material to produce power and potentially useful outputs.
14. The development of the Eco Park will provide the option to use technologies that enable bottom ash materials to be recycled and diverted from landfill. This not only allows Surrey to lead the way in integrated waste management but also extracts additional benefits and added value from the contract.

- **Contractual benefits**

15. The contract that Surrey has with SITA is a mature one which has been in operation since 1999. In working with SITA, the council is contracting with one of the largest waste management contractors in Europe who has a proven track

record of technology delivery. In progressing through the existing contract, the council can progress without further procurement as the contract is already in operation.

16. Within the main project agreement there is an existing performance management framework which is already in operation. As part of this arrangement SITA and Surrey have signed up to the Treasury Operational Savings Initiative, which works to identify additional savings within contracts. This has been possible due to the mature relationship between the parties and could be more difficult with a new contractor.
17. Business Continuity is important in waste management and having the project operating under a main contract allows for best practice processes to develop and maintain a capability to plan for and respond to incidents and business interruptions. This enables business operations to continue and ensure minimal disruptions to any operations within the contract that SITA undertakes. Business Continuity Management is a requirement enabling systems to be constantly updated and improved to meet changing client needs and provide the foundation for monitoring and evaluating strategies and the ability to manage unexpected events.
18. The provision of a plant with a 25-year operational period will have a minimum of 17 years of life left at the end of the contract with SITA. This would allow Surrey County Council to procure an Operations and Maintenance (O&M) contract for the operation of this plant, and a simpler contractual structure to process the remaining waste.
19. Having the Engineering Procurement Construction (EPC) contract within the existing waste management contract provides additional contractual protection to the council. Should the option to progress a new contract be developed outside of the one currently provided by SITA there is a potential for the security of the existing contract to be lost and there would be uncertainty with respect to the new contractor and their ability to deliver.

- **Economic and Environmental benefits**

20. Charlton Lane is a named site in the Surrey Waste Plan which was adopted by Surrey County Council in 2009 for the provision of Civic Amenity Sites (Policy WD1), Recycling Storage and Transfer of Waste, Materials Recovery and Processing Facility (Policy WD2) and Thermal Treatment (Policy WD5). The proposed Eco Park will use the site for waste management purposes and is therefore supported by the Surrey Waste Plan as well as the Surrey's Joint Municipal Waste Management Strategy. The Eco Park uses technologies to maximise recycling in the County. The Anaerobic Digestion (AD) facility will allow food waste to be used to produce renewable power and a useable product. The digestate potentially benefits farmers and land users by producing a soil improver to approved standards (BSI PAS 110).
21. BSI PAS 110 covers all AD systems that accept source-segregated biowastes. It specifies three key factors, controls on input materials and the management system for the process of anaerobic digestion and associated technologies, minimum quality of whole digestate, separated fibre and separated liquor and information that is required to be supplied to the digestate recipient
22. The digestate has proven benefits such as improved water retention and reduction in the use of inorganic fertilisers. This helps the council to achieve its

vision statement which states that “by 2026 the environment will be protected and enhanced for future generations.”

23. The Eco Park will deliver benefits to the local economy in terms of the construction and operation of the facilities. In addition to the economic premium given during construction, the facility is predicted to bring 42 permanent jobs to Surrey. This is in addition to an estimated 300 jobs which will be created during the construction phase. If waste is exported out of the County and no new facilities are constructed then the economic and employment benefits would be lost.
24. Through the use of mechanical treatment and AD the requirement for residual waste treatment is minimised, as the process will provide additional recycling and composting opportunities, which will result in a smaller scale combustion technology than conventional combustion. This ensures that the option corresponds with the waste hierarchy and minimises impacts such as the footprint of the plant required.
25. The AD process allows food waste to be used to produce biogas, which can be combusted to generate heat and power. The electricity can be used to power the plant and be exported to the national grid.
26. The bio-degradable element of waste qualifies as renewable energy and is therefore eligible for government related grants, e.g. Renewable Obligation Certificates (ROCs) or Contracts for Difference (CfDs). CfDs will gradually replace ROCs as the government incentive for this type of project and after 31 March 2017 ROCs will no longer be available to new applicants. Continuing the existing contract with SITA therefore may allow the site to be eligible for ROCs rather than CfDs. Although the level of financial support provided by CfDs would be equivalent to that provided by ROCs; as ROCs are well established and understood using this would reduce the risk associated with the novelty of a new system. There is also the potential benefit for the use of heat generated by the plant.

With regard to ROCs, SITA have recently received Preliminary Accreditation for the Fuel Measurement and Sampling procedures for the gasification plant from the industry regulator, OFGEM. It also remains the case that a key acceptance test of the plant will be the demonstration of its capability to generate a synthesis gas of sufficient quality to meet the standard set by OFGEM. In addition, once accreditation is obtained, further contractual arrangements with SITA will address the continued management of electricity and ROCs.

27. By treating waste in a multi-purpose Eco Park, this provides a significant reduction in waste transportation on the final tonnage of material being transported, the haulage of material is reduced and fewer vehicles will use the road system, which is already congested within Surrey and the surrounding counties. It is anticipated that the operation of the Eco Park will result in a reduction of weekday HGV movements of over 40% (160 HGVs) compared to the current operation and a slight reduction at weekends compared with the current operation.
28. Development of the Eco Park will enable Surrey County Council to be more self-sufficient with respect to its waste management services, rather than delivering all of the residual waste to an out-of-county solution. Use of an existing out-of-county solution does not provide any new development, or the associated employment and environmental benefits.

29. There is a reduced tonnage of residual waste requiring treatment (approximately 60,000tpa), which means that most conventional thermal treatment technologies would be too large to economically treat Surrey's waste alone. Using gasification allows a technology which is designed to treat smaller tonnages of waste without the need to import material from surrounding authorities.
30. In conclusion, the option to vary the waste contract to deliver the Waste Strategy, including the Eco Park, continues to represent best value to the public based on a qualitative assessment.
31. **Condition 7:** confirmation by the Strategic Director for Environment and Infrastructure that the contract variation meets DEFRA's requirements:
32. This condition has now been met. On 8 October 2013, following an agreement with the council to re-profile Waste Infrastructure Grant, DEFRA agreed to continue to support the council's waste contract, subject to it continuing to work closely with DEFRA and the demonstration of value for money. The value for money condition has been demonstrated by the fulfilment of condition 6.
33. In relation to working closely with DEFRA, council officers have continued to keep DEFRA fully informed therefore this condition is met provided that the final cost of entering into NTP 2 represents value for money. At a meeting with senior council officers on 25 March 2015, DEFRA confirmed that it would require evidence of value for money, but that the weightings to be applied between the quantitative and the qualitative elements of that assessment were a matter for the Council and that further approvals from DEFRA were not required provided that the approach to the assessment remained as previously accepted by DEFRA and that Cabinet accepted the new assessment of the Director of Finance.
34. It is also important that Cabinet is assured that ongoing arrangements which demonstrate that the council will continue to work closely with DEFRA are in place, consistent with the conditions of the agreement. Annex 2 describes the arrangements that will support the continuing strategic, delivery, and operational governance of the overall waste programme. The Strategic Director will set up the governance processes and report progress to the Cabinet Member for Environment and Planning on a quarterly basis. The Strategic Director will report to Cabinet at key milestones, by agreement with the Cabinet Member, Leader of the Council, and Select Committee Chairman.

Service assessment by Assistant Director for Environment

35. Delivering the Waste Strategy, including the Eco Park, as recommended in this report, remains the preference from a service perspective for three significant reasons:
 - It complies with the Waste Strategy approved by this council in March 2015.
 - It represents the lowest risk to business continuity for a highly visible and statutory service.
 - It provides an immediate and sound base from which to develop waste services in Surrey, in collaboration with Surrey district and borough councils.

Commercial assessment by the Head of Procurement and Commissioning

36. From a commercial perspective there are two key considerations which support the delivery of the Waste Strategy, including the Eco Park, as recommended in this report:
- The cost of the recommended solution has been procured through a competitive process and subject to negotiation. SCC officers have worked alongside SITA UK to clarify and challenge bids from subcontractors. Therefore the cost is comparatively certain and reasons for increases in costs are understood.
 - There is less exposure to price increases in the key cost area of disposing of residual waste, either through energy from waste or landfill solutions.

Actions required to deliver the Waste Strategy, including the Eco Park

37. The contract variation, approved in October 2013, included mechanisms called Notice to Proceed (NTP) 1 and 2 relating to the Eco Park. These mechanisms ensured that the council's cost exposure was limited until all conditions were met.
38. NTP 1 allowed for preparatory works relating to site access, detailed design and advanced procurement works to commence, in anticipation of approvals, in order to remove avoidable delays in the commencement of construction works and operation of the Eco Park.
39. NTP 2 approves the construction of the Eco Park, and would not be entered into until all conditions identified in the Cabinet report of 23rd July 2013 have been met. In order to proceed with the Waste Strategy, including the Eco Park, it is necessary for Cabinet to approve that council proceeds to issue Notice To Proceed 2.

CONSULTATION:

40. Prior to the Cabinet decision in July 2013, a comprehensive range of communications and stakeholder engagement took place. These are set out in the 25 June and 23 July 2013 Cabinet reports.
41. Whilst the planning and environmental permit applications were being determined, communications from the Waste Disposal Authority principally involved:
- Written updates to local stakeholders (the MP, borough councillors, residents associations and community liaison group members).
 - Meetings of the Charlton Lane Community Liaison Group (CLG).
 - In addition, the SITA Surrey and SCC websites have been kept updated with key information.
42. The Community Liaison Group continues to meet regularly (on 11 occasions since July 2013). Its members include representatives of three local residents

associations, councillors and local residents. Minutes of the CLG are published on the SITA Surrey website.

43. Ahead of tree clearance works at the Eco Park site earlier this year, SITA Surrey wrote to residents living to the immediate area to give them information about the works, the anticipated impact and how to contact SITA in the event of any queries. Local stakeholders and the CLG were also informed of the works.
44. Following the public engagement activities carried out by SITA Surrey and SCC in early summer 2013, there have been periods of statutory consultation on the Eco Park planning and permit variations, which are necessarily independent processes:
 - The County Planning Authority consulted on the Section 73 planning application in autumn 2013 (copies of key planning application documents were made available on the SITA Surrey website during this period).
 - The Environment Agency carried out consultation on SITA's application to vary the environmental permit between 19 December 2013 and 3 February 2014, and on a draft permit and decision document from 24 July to 4 September 2014. In both instances, documents were either made available on the SITA Surrey website or links were provided to consultation documents on the Agency's website.
 - Extensive consultation was carried out by the Planning Inspector as part of the Public Inquiry into the footpath diversion in January 2014.

RISK MANAGEMENT AND IMPLICATIONS:

45. The risk management implications of this report are significant. Technology risks have been mitigated by selection criteria and strong due diligence and will be regulated by the Environment Agency through the management of the environmental permit. Legal, financial and commercial risks are summarised in this report. The recommended solution to enter into contract variation to deliver the Waste Strategy including the Eco Park represents the lowest risk option available to the council, from a contractual and operational perspective.

FINANCIAL AND VALUE FOR MONEY IMPLICATIONS:

46. Officers have worked with the council's financial advisor Deloitte, and technical advisor Mott MacDonald, to update the value for money assessment reported to Cabinet on 30 October 2013. A summary of the updated assessment is included at Annex 1.
47. The value for money analysis within 30 October 2013 Cabinet report considered both quantitative and qualitative aspects of 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 factors, it was considered that the delivery of the council's Waste Strategy through a contract variation represented the best overall value to the public. When taking into account future Waste Infrastructure Grant which would be received by the council, the contract variation was also the most affordable option for the council.

48. Subsequent delays due to regulatory approvals have resulted in changes to costs and other factors, requiring the value for money assessment to be updated. Officers have continued to work with SITA and specialist advisors, following Deloitte advice and applying a methodology which is consistent with previous assessments. Deloitte's final report confirms that the position remains unchanged i.e. that there remains no material difference between options in financial terms. The qualitative analysis set out in previous reports 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 for money to the public sector and is the most affordable option to the council taking into account future Waste Infrastructure Grant.

Section 151 Officer Commentary

49. The Section 151 Officer confirms that, on the basis of costs 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 proceed with the Waste Strategy, including constructing the Eco Park, and the option to dispose of waste through third party facilities. When taking into account other significant legislative, strategic, contractual and economic factors the option to proceed with the Waste Strategy represents best overall value for money to the public sector.
50. The Section 151 Officer confirms that all material risks and implications are considered and explained elsewhere within this report and have been taken into account in completing the financial assessment.
51. In addition, when taking into account the Waste Infrastructure Grant, the option to proceed with the Eco Park represents the best value to the council. The impact of proceeding with the Waste Strategy on the Medium Term Financial Plan (MTFP) 2015-20 will be influenced by a number of factors, including the County Council's action plans and ability to make future savings, and will be reported to Cabinet as part of the wider MTFP refresh in July 2015.

Legal Implications – Monitoring Officer

52. The council's waste disposal functions are carried out in accordance with the Environmental Protection Act 1990 and it has a longstanding waste disposal project agreement ("the waste contract") with SITA to deliver that function, including the provision of waste infrastructure.
53. The ability to give SITA Notice NTP2 is a mechanism contained within the provisions of the waste contract.
54. Cabinet should have in mind its fiduciary duty to Surrey taxpayers and be satisfied that the proceeding to develop the Eco Park remains a prudent and reasonable decision, adopting an evidenced-based approach.

Equalities and Diversity

55. The Equality and Diversity implications as set out in 23 July 2013 Cabinet report have been reviewed. For the purposes of the Equalities Impact

Assessment (EIA), the key characteristics of what is being proposed (The development of an Eco Park) remain the same as they were when the EIA was undertaken in May 2013. There has also been no material change to the council's guidance on EIA, and no new information has arisen which would alter the findings of the original EIA. It is therefore confirmed that there are no significant changes and the EIA remains valid.

56. The Equality Impact Assessment will remain under review and will be updated if necessary if any additional impacts are identified during the delivery phase of the project following any decision by the Cabinet to implement the recommendations in this report.

Public Health implications:

57. Like all waste treatment facilities within Europe, the gasification and anaerobic digestion processing facilities at the Eco Park will have to comply with stringent emissions standards set by EU directives for the protection of health and the environment.
58. Extensive modelling was undertaken for the air quality assessment submitted as part of the planning and permit processes; this took into account existing background air quality both across Spelthorne borough and at points close to site, and the Air Quality Management Area. This demonstrated that the impact of emissions would be negligible.
59. Specific limits for emissions from the Eco Park are prescribed within its environmental permit and in certain instances these are more stringent requirements on the Eco Park than required by the European Union, to account for current air quality levels in Spelthorne. In granting a permit for the Eco Park, the Environment Agency, the body responsible for regulating the Eco Park, noted:

'the permit will ensure a high level of protection is provided for the environment and human health.'

This conclusion is consistent with the advice from Public Health England. The council will continue to follow the advice of Public Health England with regard to protecting the health of local residents.

60. Emissions from the Eco Park will be monitored and the monitoring data reviewed by the Environment Agency to ensure that it complies with the environmental permit.

Climate change/carbon emissions implications

61. The climate change and carbon emissions analysis as set out in the October 2013 report to Cabinet has been reviewed. There have been no significant changes to the parameters that were used in the original analysis, including the volume of waste input, waste composition, parasitic load, planned operating hours, efficiency of the plant, types and mass of wastes produced. Therefore the implications as described in that report remain valid.
62. The net benefit to mitigating climate change is a reduction in emissions of approximately 20,800 tonnes of CO₂equiv per year compared with landfill.

63. The site will be neutral in energy cost terms and 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.

WHAT HAPPENS NEXT:

64. Following approval, issue Notice To Proceed 2 in accordance with waste contract procedures, to commence construction of the Eco Park. The Eco Park is planned to commence operation in April 2017.
65. Establish governance arrangements discussed in Annex 2.
66. Take into account the budgetary effect of delivering the Waste Strategy, including the Eco Park in the budget refresh in July 2015.

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Informed:

All relevant stakeholders informed.

Sources / background papers:

Surrey County Council Cabinet Reports:

- 23 July 2013
- 30 October 2013
- 24 June 2014 (including the EIA which remains appropriate)
- 25 November 2014
- 24 February 2015 (including Joint Municipal Waste Management Strategy Revision 2, 2015)

Surrey Waste Plan 2009

Annexes:

- Annex 1: Financial Assessment
- Annex 2: Governance Arrangements

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