

SURREY COUNTY COUNCIL**CABINET****DATE:** 24 NOVEMBER 2020**REPORT OF:** MR TIM OLIVER, LEADER OF THE COUNCIL**LEAD OFFICER:** KATIE STEWART, EXECUTIVE DIRECTOR, ENVIRONMENT, TRANSPORT AND INFRASTRUCTURE**SUBJECT:** UPDATE – WASTE PFI CONTRACT**ORGANISATION STRATEGY PRIORITY AREA:** Enabling A Greener Future**SUMMARY OF ISSUE:**

Surrey County Council's waste management contractor, Suez, is currently in the process of building an Eco Park at Charlton Lane in Shepperton. The Eco Park comprises a recyclable bulking facility, an anaerobic digestion plant and a gasification plant.

This report updates on the latest progress in respect of the delivery of the Eco Park, and a review which has been undertaken of the Council's contractual position. There is a Part 2 report for this item that provides detail which contains information which is exempt from Access to Information requirements by virtue of paragraph 3 – Information relating to the financial or business affairs of any particular person.

RECOMMENDATIONS:

It is recommended that Cabinet:

1. note the contents of this report and that a review of the current waste PFI contract has been undertaken.

REASON FOR RECOMMENDATIONS:

Given the Council's statutory responsibility as a Waste Disposal Authority, its waste PFI contract plays a critical role in the authority delivering a sustainable approach to managing waste on behalf of the county. Whilst the provision of a number of the services in the contract are on track, the delays to the delivery of the Anaerobic Digester (AD) and the gasifier have prompted the Council to review its contractual position and to explore what remedies it may have in the resolution of the issues arising.

DETAILS:

1. The Council's waste PFI contract provides for the delivery a number of services that support the Council's statutory responsibility as a waste disposal authority. That contract also provides for the delivery of several facilities for processing waste at its Eco Park in Shepperton. These facilities include a

recyclable bulking facility which has been completed, as well as an Anaerobic Digester and gasifier which have not yet been delivered. In fact, the construction programme for the AD and gasifier has been significantly delayed.

2. Council officers have been closely monitoring the delivery of the contract, and as part of that, the construction programme for the facilities at the Eco Park, engaging on a regular basis with Suez and their sub-contractor, M & W, who are constructing the facilities. This engagement has been undertaken alongside the Independent Certifier, who is appointed to provide assurance to the key stakeholders that the works identified in the PFI contract are being completed in accordance with the standards, specification and schedule as provided within the contract documents.
3. Given the now significant delays in the delivery of both the AD and the gasifier, the Cabinet Member for Environment and Climate Change and the Leader, with the Executive Director for Environment Transport and Infrastructure, recently commissioned a review of the contract with the Council's legal and financial advisers with the specific aim of identifying what remedies are available to resolve the issues arising from the delays experienced on both of these facilities. Discussions continue with Suez on this matter. The contents of that review are commercial in confidence as it relates to the contract, and are therefore contained in a Part 2 report on this agenda.

CONSULTATION:

4. Residents in the area have been engaged at points over the programme for constructing the Eco Park through a Resident Liaison Forum.

RISK MANAGEMENT AND IMPLICATIONS:

5. As with any contract delivering large scale infrastructure of the nature that is envisaged at the Eco Park, there are a number of risks associated with its achievement. Critical to the management of these risks is robust monitoring of contract milestones and taking action where such milestones are missed. The report considered at Part 2 sets out a review of the contract in light of expected milestones and identifies actions for the Council to take in protecting its interests accordingly.

Financial and Value for Money Implications

6. The ongoing delay in completion of the Eco Park has a number of financial consequences for the Council. The Council will not start to pay for the AD and gasifier until those facilities are completed and have passed acceptance testing.
7. The Council receives Waste Infrastructure Grant worth a total of £205m over the life of the contract, of which £63m is yet to be received. The level of this grant has been reprofiled due to concerns associated with the delay to the Eco Park; however, the grant is expected to be reinstated if the Eco Park infrastructure is delivered. Taking these complications and the possible scenarios into account, there is continued dialogue with Defra to understand the impact upon the PFI grant once the Council reaches a resolved position.

8. The detailed financial implications of the Council's contract strategy are contained in the Part 2 report for this item.

Section 151 Officer Commentary

9. The Council is continuing to take appropriate action and advice in order to protect its interests in relation to the Waste PFI contract. The delay to the construction of the Eco Park is not currently resulting in an additional cost to the Council. However, as the delay continues, the risks associated with the contract are increasing.

Legal Implications – Monitoring Officer

10. The Council is continuing to work closely with and receive advice from its specialist external legal advisers in order to take appropriate action to protect its interests and reach an acceptable negotiated solution on disputed issues. The key aspects of latest advice and proposals are set out in the Part 2 report. Its contents are privileged and confidential.

Equalities and Diversity

11. There has been no material change to the Equality and Diversity implications set out in the Cabinet paper of 28 April 2015.

Other Implications:

12. There has been no material change to the implications set out in the Cabinet Paper of 28 April 2015.

Environmental sustainability implications

13. There has been no material change to the Environmental Sustainability implications set out in the Cabinet Paper of 28 April 2015.

Public Health implications

14. There has been no material change to the Public Health implications set out in the Cabinet Paper of 28 April 2015.

WHAT HAPPENS NEXT:

15. The Council will conclude its review of the contract and take appropriate actions to protect its interests.
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Contact Officer: Frank Smith, Commercial Programme Director, 07916 225227

Annexes: Part 2 Report

Consulted:

Legal

Finance

Leader

Cabinet Member, Environment

Director for Environment