

Public Document Pack

Growth & Infrastructure Scrutiny Committee Monday, 9 August 2010 at 10.00 am County Hall

ADDENDA

1. Apologies for Absence and Temporary Appointments

Apology from Councillor Michael Gibbard (Temporary Appointment: Councillor Stewart Lilly)

3. Speaking to or petitioning the Committee

The Chairman has agreed the following requests to address the meeting:-

John Kightley (Chair, Bucknell Parish Council) emailed
Hazel M Watt (Deputy Chair, Bucknell Parish Council) emailed
Mr Brian Wilson, Weston on the Green emailed
Dr Ian Groves, Ardley resident
Mr Mark Ellis, Ardley resident emailed
Mr Jonothan O'Neill, Chairman, Ardley Against the Incinerator

4. Call in of Decision by the Cabinet - Oxfordshire Residual Waste Treatment Procurement - Award of Contract (Pages 1 - 6)

The draft Cabinet minutes of the meeting on 27 July 2010 are attached.

This page is intentionally left blank

CABINET

MINUTES of the meeting held on Tuesday, 27 July 2010 commencing at 10.00 am and finishing at 12.25 pm

Present:

Voting Members: Councillor Keith R. Mitchell CBE – in the Chair
Councillor David Robertson (Deputy Chairman)
Councillor Arash Fatemian
Councillor Ian Hudspeth
Councillor Jim Couchman
Councillor Kieron Mallon
Councillor Louise Chapman
Councillor Rodney Rose

Other Members in Attendance: Councillor Anne Purse,
Councillor Mrs Catherine Fulljames,
Councillor Charles Shouler
Councillor John Tanner

Officers:

Whole of meeting Chief Executive, Director of Environment & Economy,
Assistant Chief Executive & Chief Finance Officer
N. Hyde, A. Pau; F. Upton; R Finlayson (Environment & Economy)
C. Smith, S. Whitehead (Legal & Democratic Services)
External Consultants – A. Ferguson (Ernst & Young), J. Hawkins (Towers & Hamblins), P. Scott (Entec),

The Committee considered the matters, reports and recommendations contained or referred to in the agenda for the meeting and decided as set out below. Except insofar as otherwise specified, the reasons for the decisions are contained in the agenda and reports, copies of which are attached to the signed Minutes.

85/10 APOLOGIES FOR ABSENCE

(Agenda Item. 1)

Apologies were received on behalf of Councillor Judith Heathcoat and Councillor Michael Waine.

86/10 PETITIONS AND PUBLIC ADDRESS

(Agenda Item. 3)

The following requests to address the meeting under agenda item 4E had been agreed:

Councillor Anne Purse, Shadow Cabinet Member for Growth & Infrastructure
Councillor Mrs Catherine Fulljames, local member
Councillor Charles Shouler
Councillor John Tanner
Dr Ian Groves, Ardley Against the Incinerator

**87/10 OXFORDSHIRE RESIDUAL WASTE TREATMENT PROCUREMENT
- AWARD OF CONTRACT**

(Agenda Item. 4)

Cabinet considered a report (CA4E) that explained the nature of the contract and its financial implications including the allocation of risk between the council and the contractor, and recommended the award of the contract to Viridor.

Councillor Anne Purse, Shadow Cabinet Member for Growth & Infrastructure commented that she would not start from the current position and that she felt that the Cabinet had received suggestions about alternatives choices that had not been taken. She feared that Cabinet would be creating a hungry beast at a time a wider context of magnificent efforts to reduce residual waste.

Dr Ian Groves, Ardley Against the Incinerator, emphasised the pleasant and green environment of Ardley and the expectation of residents that this would be enhanced by the restoration of the land fill site in due course. The Group recognised and subscribed to the need to move waste up the waste hierarchy and were aware of the reasons underpinning the current recommendation. Personally he had attended every day of the public enquiry to hear the reasons given but felt that not enough consideration had been given to the impact on local people. He believed that a smaller facility could be designed having less impacts on the environment and the local communities. The current scheme was twice the size required and he felt that the Council had not robustly considered the proposals. The Group considered that the decision should be held until the results of the planning application were known.

Councillor John Tanner, spoke against the recommendation. The decision would tie the Council for 25 years into the future at a time when new possibilities were opening up every year. He referred to the progress made with composting and the reduction in the amount of household waste due to recycling and queried the need for such a large incinerator with waste coming into the County from elsewhere.

In response to comments made the Chairman clarified that the decision would be taken in public.

Responding to a question Councillor Tanner stated that he thought that turbines were an asset.

Councillor Shouler, highlighted paragraphs 25 and 26 of the report that set out the 4 outcomes. A recurring query from members of the public was to question the need to sign before the planning permission was granted. He referred to the fact that if delayed then it was likely that costs (held for some time) would be renegotiated by Viridor and that this could undermine the value for money. Not signing today was not a cost free option and he urged Cabinet to make the financial risks clear.

Councillor Mrs Catherine Fulljames, as local member stated that she was speaking for many villages in her Division. She noted that there were some local people here today but pointed out that the Planning Inquiry was still carrying on and it was school holidays. Councillor Mrs Catherine Fulljames queried why there was any need to rush to a decision. Other Local Authorities were still in the process of procuring. She expressed concern at the widening of the area from which waste would be accepted. Reference to the hinterland had been introduced during the planning process and now Viridor wished to take waste from further afield. She felt that the planned incinerator was monstrous. During a planning inquiry visit to another incinerator local people had been depressed by how large that site was. Commenting on the reference in the report to the robust case by Viridor to the Public Inquiry Councillor Mrs Catherine Fulljames stated that local people had also put up a robust case.

The Cabinet Member for Growth & infrastructure thanked the speakers for their contributions and in responding to the comments made stressed that the decision today was clearly a procurement decision. Councillor Shouler had highlighted financial aspects and he thanked Councillor Mrs Catherine Fulljames for the local focus.

Cabinet received a presentation that explained the context for the decision; the key aspects of the contract and key risks; the financial deal and value for money assessment including risk sensitivities; the closing options (as referred to by Councillor Shouler) and next steps.

During discussion the following points were raised:

- (1) Responding to comments from the Leader, Cabinet received assurances that the negotiated deal remained good value in the market place. Unlike in construction generally there was an upward price pressure in this area due to demand.
- (2) It was clarified that the County council would not take residual ownership at the end of the contract avoiding risks around the cost of remediation and de-commissioning.
- (3) There was some discussion around the implications of the closing options and the costs involved. It was noted that more detailed information was included in the restricted papers that contained commercially sensitive information. It was confirmed that it was closing the contract before planning permission was obtained was part of the Defra model.
- (4) Cabinet received confirmation that the cost of the total contract was significantly below the cost of land fill and under a range of risk factors that difference widened. The value for money assessment carried out had been extremely prudent.
- (5) There was discussion of the steps that could be taken to mitigate the foreign exchange financial risk.

88/10 EXEMPT ITEM

At this point the Chairman proposed that the public be excluded during consideration of annexes 2 and 3. He invited the Councillors in receipt of the exempt information annexes to remain stressing that the detail to be discussed was to be treated as confidential due to its commercial sensitivity. He added that members of the public and other members would be invited to return to the meeting before any decision was taken.

Dr Ian Groves requested that questions be allowed as members of the public in attendance had not previously heard the presentation.

RESOLVED: to exclude the public during the consideration of Annexes 2 and 3 since it is likely that if they were present during that discussion there would be a disclosure of "exempt" information as described in Part I of Schedule 12A to the Local Government Act, 1972 and specified below the item in the Agenda.

DISCUSSION FOLLOWING THE EXCLUSION OF THE PRESS AND PUBLIC

Cabinet considered the information contained in annex 2 and 3. The following is a public summary of the areas of discussion:

- (1) Cabinet probed in detail the Council's potential liabilities in the different closing options as set out by Councillor Shouler.
- (2) There was further detailed questioning of the funding mechanism and costs. They explored issues regarding the proposal to hedge against foreign exchange rates.

- (3) Cabinet explored other options and costs in the event of planning permission being refused.
- (4) Cabinet considered that when exploring alternatives the comparisons must include the whole cycle, for example mbt would also require landfill at the end of the process. End to end cost comparisons would prove more expensive if other options were chosen.
- (5) Cabinet probed the value for money and comparisons to deals on the market.
- (6) Cabinet explored the timescales if the process was to be restarted and the resulting costs.
- (7) Cabinet considered the options if the Council did not go ahead including the financial implications of the increase in costs.
- (8) Cabinet recognised the wider context of the national budget position and the impact on Council services and the possibility of cuts for every point of delay.
- (9) Cabinet received assurances that the Council's position was protected as far as was possible in relation to the various potential operational risks that might arise.
- (10) Cabinet explored the reasons for the size of plant proposed in terms of its commercial viability.
- (11) Councillor Chapman raised queries from a member of the public that were answered as part of the discussion.
- (12) There was some discussion of the existing landfill capacity in Oxfordshire and the costs involved.
- (13) Cabinet considered the issue of indexation.

DISCUSSION FOLLOWING THE RE-ADMITTANCE OF THE PRESS AND PUBLIC

The Chief Executive summarised the debate that had taken place and which is set out above.

The Chairman, in response to the request from Dr Groves agreed that 5 minutes be given to further points of clarification from those speakers who had previously addressed the meeting.

Dr Groves, referred to the consideration given to the value for money for the County council, the commercial viability for the operator but felt that insufficient had been heard about weighing the impact on people. The Leader responded by explaining that today was about the procurement process. Other processes including the planning process and the application to the Environment Agency would look at local impact and health considerations.

At this point Cabinet voted on the recommendations set out in the report and

RESOLVED: to award the contract for the treatment of Oxfordshire's residual municipal waste to Viridor Waste Management Ltd and authorise;

- (a) the Director for Environment & Economy after discussion with the Cabinet Member for Growth and Infrastructure, to approve minor amendments to the form of contract, and any subsidiary or related documents, prior to its execution which do not modify substantial aspects of the contract or the commercial agreement with Viridor as outlined in the report;
- (b) the Director for Environment & Economy to sign any subsidiary or related documents arising from the contract; and
- (c) the Assistant Chief Executive & Chief Finance Officer to issue a certificate under the Local Government (Contracts) Act 1997 (the Certificate).

..... in the Chair

Date of signing