

**REPORT OF THE SERVICE DIRECTOR FOR TRANSPORT, PROPERTY AND  
ENVIRONMENT****WASTE MANAGEMENT PFI CONTRACT - REVISED PROJECT PLAN****Purpose of the Report**

To approve the acceptance of Veolia's Draft Revised Project Plan (DRPP), subject to (i) the satisfactory conclusion of the final legal drafting in relation to the DRPP and the deed of variation required to be entered by the parties to vary the existing PFI Contract to give effect to the Revised Project Plan; and (ii) Defra's consent to the proposed changes to the PFI Contract and continued payment of the PFI credits.

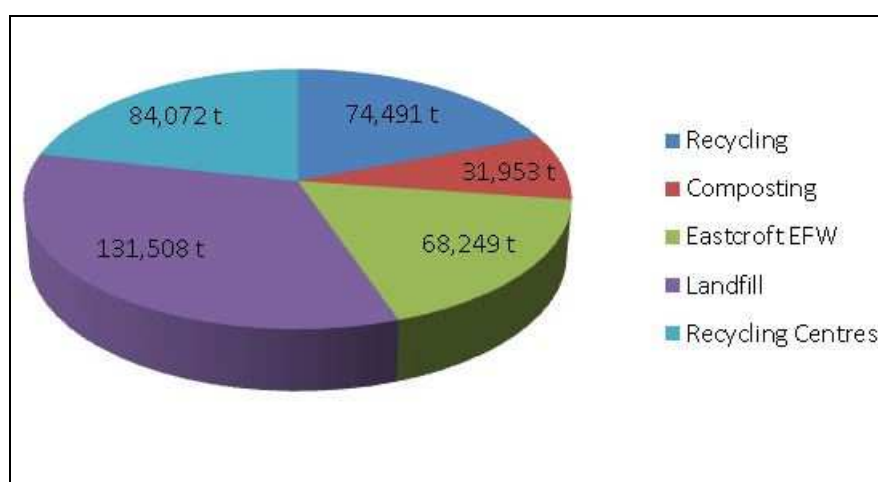
**Information and Advice**Background

1. The County Council through its statutory role as Waste Disposal Authority (WDA) controls the recycling, reprocessing, treatment and disposal of around 390,000 tonnes of waste per annum. This includes the waste collected by the district and borough councils and through the network of 13 Recycling Centres.
2. The majority of this waste is managed through a PFI contract with Veolia which was signed as a twenty-six year agreement in 2006. Although it forms an integrated arrangement, the PFI Contract is structured as:
  - Contract A, which covers the management of the network of Recycling Centres, the development and operation of a new Materials Recovery Facility (MRF) at Mansfield, composting services, waste transfer stations (WTS) and landfill, plus securing planning and environmental permitting for Rufford Energy Recovery Facility (ERF).
  - Contract B, which was for the construction and operation of the 180,000 tonnes per annum (tpa) Rufford ERF at the former Rufford colliery near Mansfield. This was a conditional contract and was subject to Veolia achieving a satisfactory planning permission, environmental permit and the construction cost being below a pre-agreed threshold.
3. The Council also has a long term contract (joint with Nottingham City Council) with FCC (Fomento de Construcciones y Contratas, formerly known as Waste

Recycling Group or “WRG”) for the use of lines 1 and 2 at Eastcroft Energy from Waste (EfW) plant to dispose of residual waste. All of these contracts operate together, at an annual cost of circa £32m.

4. The seven Nottinghamshire district and borough councils are each Waste Collection Authorities (WCA) and as such are responsible for collecting the waste produced by the householders of Nottinghamshire and delivering it to a delivery point as directed by Nottinghamshire County Council, as WDA, for subsequent recycling, composting, treatment or disposal.
5. The relationship between the WDA and WCA is managed through a formal Partnership Agreement to supplement the legislative framework. Meetings are held quarterly at both officer and Member level to ensure concerns and issues are raised, discussed, and hopefully resolved amicably. Veolia attend these meetings as appropriate.

A breakdown of waste disposal methods in 2013/14 is summarised in Chart 1:



#### Draft Revised Project Plan

6. In May 2011, the Secretary of State for Communities and Local Government decided that Veolia’s planning application for the ERF at the Former Rufford Colliery, Rainworth should be refused. Rufford ERF was the principal facility to be delivered through the Waste PFI Contract and would have diverted the majority of residual waste away from landfill. This led the County Council to trigger the contractual Draft Revised Project Plan (DRPP) process, which required Veolia to present an alternative solution to Rufford ERF for the management of residual waste.
7. Veolia formally submitted their initial DRPP to the Council on 20<sup>th</sup> January 2012. Since this time, the Waste Management team have engaged with Veolia, who have developed a DRPP that could provide the Council with an acceptable solution for the treatment of residual waste which would have been treated at Rufford ERF. A report was presented to Environment and Sustainability Committee on 30<sup>th</sup> January 2014, which gave an overview of progress on proposals in the DRPP. Negotiations have now reached the final stages and an overview of the proposal is detailed below. An illustration of the geographic waste flows is also included in Appendix 1.

### Proposed Solution

8. Veolia's DRPP does not propose the development of any new residual waste treatment infrastructure within the Nottinghamshire administrative area. The DRPP is based upon the development of a network of waste transfer stations (or WTS's)<sup>1</sup> to which waste will be delivered by the district councils, bulked up and transported to waste disposal facilities.

### Bassetlaw and Newark and Sherwood

9. Currently the residual waste from Bassetlaw District Council and Newark and Sherwood District Council is disposed of directly to landfill, which is environmentally undesirable and is unsustainable, with less than ten years of expected remaining life in the current operational landfill sites.
10. Two new WTS will be constructed in Worksop and Newark over the next 9 months for the delivery of waste collected by the districts of Bassetlaw and Newark and Sherwood respectively. The development of these facilities was within the original PFI Contract with Veolia and would have been used to transfer residual waste to Rufford ERF. Planning permission and environmental permits are in place for both facilities and they are due to be operational by 1<sup>st</sup> June 2015.
11. This will be a more convenient solution for both of the districts, and will minimise their use of landfill sites, which tend to have slower turnaround times and can cause vehicle damage. For Newark and Sherwood District Council, the new WTS is within half a mile of their depot, which will also bring operational efficiencies.
12. The Worksop and Newark WTS will collectively be used to bulk and transfer 60,000 tpa of residual waste to Sheffield ERF, which is an existing Veolia facility. Veolia will be responsible for the haulage of this waste to Sheffield ERF, which is 19 miles from Worksop WTS and 44 miles from Newark WTS.
13. Sheffield ERF is designed to handle a total of 225,000 tpa of waste and generates both heat and electricity for surrounding buildings and the National Grid (like Eastcroft EfW). The facility has planning permission to accept waste from the northern districts of Nottinghamshire, and it is anticipated that circa 90% of the residual waste from Bassetlaw and Newark and Sherwood will be treated there. The remaining 10% of the residual waste from these two districts (being waste which is unsuitable for treatment and/or waste which is generated when Sheffield ERF is not available) will continue to be disposed of to landfill.

### Mansfield and Ashfield

14. The PFI Contract did not include the development of a WTS to serve the districts of Mansfield and Ashfield because these districts would have delivered their residual waste direct to Rufford ERF.

---

<sup>1</sup> A WTS is a large enclosed building that the district councils use to deliver small loads of waste from householders, which is then bulked up for onward transportation in large articulated lorries to the final waste disposal point.

15. Through the DRPP process, Veolia have not yet been able to identify a cost-effective long-term solution for the disposal of residual waste from these districts due to limited treatment capacity available. This waste equates to circa 59,000 tonnes in total (circa 31,000t from Ashfield District Council and circa 28,000t from Mansfield District Council).
16. The residual waste from Ashfield District Council and Mansfield District Council is currently dealt with through a Veolia subcontract to FCC. From 1<sup>st</sup> September 2014, all of this tonnage will be delivered to Alfreton WTS. This is an existing disposal point for these districts, and although located within Derbyshire, it is close to the Nottinghamshire border and convenient for their use. Previously both districts used Dorket Head landfill for approximately half of their waste arisings, which is due to close in September 2014. The waste is committed under this subcontract with FCC until 31<sup>st</sup> May 2016 with an option to extend until 31<sup>st</sup> May 2017. The subcontract with FCC is a landfill contract, however, where possible, FCC intend to produce a Refuse Derived Fuel (RDF), through a shredding and sorting process. The RDF will be transported to suitable facilities to produce electricity and heat for homes and businesses.
17. Beyond 2016/2017, Veolia has identified that there is potential future capacity from facilities that are in commissioning, under construction or have received planning permission. Veolia have proposed that during the period in which the Mansfield and Ashfield residual waste is committed under the subcontract with FCC to Alfreton WTS, they will use reasonable endeavours to identify and secure a WTS in the Mansfield/Ashfield area. If successful, Veolia will propose their own diversion solution for the Council to consider. The Council also has the option to call for a market test in addition to any Veolia diversion proposal or in the event of planning failure for the WTS.
18. If the Council does not accept either the Veolia diversion proposal or the market test outcome, the Council has the option to remove this element of tonnage at no cost (subject to any existing subcontract arrangements in place). The removal of exclusivity for this element of tonnage is an option that can be exercised with flexibility by the Council at any time up to the Contract Expiry Date (31/03/2033) as part of the DRPP.

#### Broxtowe, Gedling and Rushcliffe

19. The majority of residual waste from Broxtowe, Gedling and Rushcliffe will continue to be treated at Eastcroft Energy from Waste (EfW) facility, outside of the Waste PFI Contract under the provisions of the existing Eastcroft agreements.
20. As at present, any waste from these districts not treated at Eastcroft i.e. bulky waste collections and in periods of Eastcroft unavailability, will continue to be disposed of to landfill under the existing PFI Contract arrangements. This equated to 6,000 tonnes in 2013/14.

#### Recycling Centres

21. The residual waste from the network of Recycling Centres (i.e. the elements that cannot be recycled) will also continue to be disposed of to landfill, under the existing PFI Contract arrangements. This equated to 13,000 tonnes in 2013/14.

## Contract A Savings

22. Alongside the DRPP, officers have been working with Veolia to identify savings that can be delivered through Contract A to ensure that the PFI Contract continues to deliver Best Value for the Council. Further information on the Contract A savings are included in Appendix 2: Exempt Information – Parts A and B.

## Financial Evaluation

23. The cost of the DRPP has been assessed against the cost of:

- Rufford ERF (taking into account the associated planning delay);
- other market alternatives which could be available to the Council, using existing market intelligence and published average gate fees as a Public Sector Comparator (PSC); and
- the continued use of landfill, although this is only included as a point of reference because it is unlikely to be deliverable, with one of the three local landfill sites currently due to reach capacity during this year and the other two sites having less than ten years of life expectancy. It is also inconsistent with the sustainability attributes of the existing contract.

24. The PSC assumes:

- a) the same basic inputs as the Veolia DRPP to allow comparison (i.e. tonnages, contract length);
- b) where sub-contracting arrangements are currently in place (i.e. landfill and composting disposal), the Council would step into these arrangements at the existing rates, thus avoiding the Veolia margin<sup>2</sup>;
- c) services would thus be disaggregated into a number of elements with associated increased contract management/administration costs to the Council;
- d) there would be a run out of the Contract services with Veolia;
- e) the Council would prudentially borrow the capital to meet any termination costs and any additional capital expenditure required to develop new infrastructure (e.g. WTS). This prudential borrowing would be repaid on an annuity basis over the remaining contract term, based on an interest rate of 4.19%, reflecting the prevailing 17 year rate of 3.69% at the time the analysis was undertaken plus a 0.5% buffer to accommodate potential future changes in the period up to when the money would be borrowed - the current rate (at 5th August 2014) is 3.64%.

25. Each of the scenario costs have different cost profiles with time due to differing susceptibilities to inflation (which applies variably to a number of costs and revenues), timing of capital expenditure and tonnages of waste being landfilled.

---

<sup>2</sup> A management fee charged by Veolia under the Contract for Third Party waste disposal arrangements.

26. For comparability, the financial assessment has thus considered the total net present value (NPV<sup>3</sup>) of future forecast cash flows which would be payable by the Council over the remaining contract life taking into account the effect of forecast inflation rates.
27. All of the scenarios assume that there would be no difference in the PFI credit payable from that confirmed by Defra and reported to Environment and Sustainability Committee on 30<sup>th</sup> January 2014.
28. A financial model has been created to assess the value for money of the DRPP for the Council against these benchmarks over the period between 1<sup>st</sup> April 2014 and 31<sup>st</sup> March 2033 (being the Expiry Date of the PFI Contract).
29. As in the original PFI Contract, because so many inputs to the model are uncertain, such as inflation rates and waste tonnages (which are impacted by many factors outside of the control of the Council, including population growth, the economy and the climate), it is not possible to forecast precisely the medium to long-term costs of waste management. A further uncertainty is that the DRPP does not yet define the method or costs of disposing of waste arising in Mansfield and Ashfield after May 2017 (see above). For these reasons, the precise costs set out in Appendix 2: Exempt Information - Part A and the comparison between the scenarios should be regarded as indicative, but based on reasonable and sound assumptions.
30. The financial analysis indicates that the cheapest option available to the Council is the PSC based on the continuing use of local landfill for the disposal of waste. This is principally because it avoids the need for waste transfer stations and the associated onward haulage. However, this option is not realistic or achievable for the Council due to the limited number, and projected life of landfill sites in the County. It is therefore only included as a point of reference.
31. The next cheapest option is the PSC based on the use of merchant EfW facilities. This scenario is the most comparable to the DRPP and is indicated to be marginally cheaper than the DRPP over the remaining contract term. However, although the PSC has been developed using input assumptions which are as robust as possible, there are inherent uncertainties associated with the costs compared with those being offered in the DRPP, which are based on existing pricing. Furthermore, this would not deliver any savings in the short-term because of the re-procurement timescales.
32. The NPV of the DRPP is broadly equivalent to the financial value of Rufford ERF, had it been constructed, taking into account the associated delay. The DRPP would also provide the Council with certainty and immediate savings, helping the Council's current budget position. Therefore the DRPP offers a solution that is financially robust, limits short to medium term risk and with continued allocations in the Council's Medium Term Financial Strategy (MTFS) to meet inflation, is forecast to be affordable to the Council.
33. It is also worth noting that if the Contract elements were to be re-procured, the services would almost certainly not be let as one large contract, but as a number of smaller short-term contracts. This would require additional staff resource for

---

<sup>3</sup> NPV is a commonly used financial metric which assesses the amount of money which would need to be set aside today in order to fund future payments, taking into account future anticipated inflation rates and investment returns.

effective contract management. The Council would also lose the wider social environmental and economic benefits, which are harnessed through the long term partnering arrangement with Veolia i.e. local employment opportunities, community funding and volunteering through the EnviroGrant fund, community events and educational visits to the Mansfield MRF.

### Commercial Implications

34. The DRPP solution will be delivered through Contract A and to give effect to the DRPP certain changes are proposed to Contract A that are described in detail in Appendix 2: Exempt Information – Part B.
35. The DRPP maintains the Contract A services requirements with a number of improvements to the commercial terms for the Council. The proposed solution also offers flexibility around the Mansfield and Ashfield tonnage, for which a long-term solution is still to be determined.
36. As the Contract with Veolia is a PFI Contract and is in receipt of a Waste Infrastructure Grant from Defra, the changes to the PFI Contract will require approval from Defra and confirmation of continued payment of the PFI credits. This approval will be determined in the coming months, although initial discussions have been positive.

### Legal Implications

37. The Council is satisfied of its rights to lawfully vary the PFI Contract in accordance with the DRPP.
38. Further detail on the legal implications, is included in Appendix 2: Exempt Information – Part C.

### Outstanding Issues

39. Although the commercial deal is now settled with Veolia on a subject to contract basis, the following areas are outstanding:
  - Conclusion of formal legal drafting of the DRPP and associated deed of variation that will be required to give effect to the Revised Project Plan; and
  - Defra's written approval of the changes to the PFI Contract and confirmation of continued eligibility for the PFI credits (as referred to in the Commercial Implications above).
40. Subject to the satisfactory conclusion of the above, it is the intention that the RPP process will be concluded by the end of the calendar year.

### **Other Options Considered**

41. The Council has considered a number of options alongside the DRPP, which are set out in paragraphs 23-33 and in Appendix 2: Exempt Information – Part D.
42. The recommendations are informed by the financial evaluation summarised above and set out in Appendix 2: Exempt Information – Part A.

## **Reasons for Recommendations**

43. The existing services provided by Veolia through Contract A operate effectively and achieve high levels of public satisfaction.
44. The DRPP preserves the Contract A services, which are running well and at an improved commercial position for the Council.
45. The DRPP maintains flexibility in relation to the Mansfield and Ashfield tonnage, at a time when there is potential for more options/capacity to become available.
46. The DRPP allows the Council to access secure and cost-effective capacity to treat residual waste at Sheffield ERF.
47. Through delivering WTS, the DRPP will provide long-term security and flexibility regarding the management of waste arising in Bassetlaw and Newark and Sherwood.
48. The DRPP includes appropriate commercial protections which are designed to ensure long-term value for money in the management of waste.
49. Subject to the contract changes and continued payment of the PFI credits being approved by Defra and subject to the detailed legal drafting not raising any issues, it is recommended that the Corporate Director for Environment and Resources is authorised to conclude the DRPP as detailed in the report, in consultation with the Group Manager for Legal Services and the Section 151 Officer.

## **Statutory and Policy Implications**

50. This report has been compiled after consideration of implications in respect of crime and disorder, finance, human resources, human rights, the NHS Constitution (Public Health only), the public sector equality duty, safeguarding of children and vulnerable adults, service users, sustainability and the environment and ways of working and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

## **Financial Implications**

51. See 'Financial Evaluation' paragraphs 23 to 33.

## **Implications for Service Users**

52. This report does not have direct implications on service users, because it does not propose any changes to the waste collection arrangements and it does not propose the development of any residual waste treatment infrastructure, with the exception of the network of transfer stations.



## **Recommendation**

53. That Committee:

- I. Approves the acceptance of Veolia's DRPP subject to (i) the satisfactory conclusion of the final legal drafting in relation to the DRPP and the deed of variation required to be entered by the parties to vary the existing PFI Contract to give effect to the Revised Project Plan; and (ii) Defra's consent to the proposed changes to the PFI Contract and continued payment of the PFI credits.
- II. Approves that the DRPP solution will be delivered through Contract A, with the conditional Contract B becoming null and void.
- III. Authorises the Corporate Director of Environment and Resources to conclude the detailed negotiations and drafting of the Contract variations in consultation with the Group Manager for Legal Services and Section 151 Officer.
- IV. Subject to 1 to 3 above, authorises the Council to enter into the relevant variation agreement and to take all other steps and actions and to enter into any necessary documentation required to give effect to the DRPP and to protect the Council's interests.

**Jas Hundal**

**Service Director, Transport, Property and Environment**

**For any enquiries about this report please contact:**

**Mick Allen, Group Manager, Waste and Energy Management**

### **Constitutional Comments (HD 13/8/2014)**

The recommendations within the report fall within the delegation to the Committee.

### **Financial Comments (TMR 13/8/2014)**

The financial implications are set out in paragraphs 23 to 33 and in Appendix 2: Exempt Information - Part A.

### **Background Papers**

None.

### **Electoral Divisions**

All