

CABINET MEETING

Agenda Item 152

Brighton & Hove City Council

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|-------------------------|--|--|---------------------|
| Subject: | Integrated Waste Management Services Contract (IWMSC) – Acquisition of site at Pebsham, Hastings and leasing arrangements under Waste PFI | | |
| Date of Meeting: | 15 January 2009 | | |
| Report of: | Interim Director of Finance & Resources | | |
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| Key Decision: | Yes | Forward Plan No. CAB 7220 | |
| Wards Affected: | All | City-wide Implications | |

FOR GENERAL RELEASE

1. SUMMARY AND POLICY CONTEXT:

- 1.1 To summarise briefly the arrangements leading to the Integrated Waste Management Service Contract, advise Cabinet of the proposals for the provision of one of the sites for waste management and seek authorisation to deal with the property transactions. The Policy & Resources Committee previously considered the Waste Contract and the Joint Working Arrangements (JWA) with East Sussex County Council (ESCC) at a special meeting of Policy & Resources on 12th March 2003. Subsequently, at meetings on 1st March 2006 and 28th June 2007 the Policy & Resources Committee approved joint acquisition and leasing arrangements in respect of several sites across the county which form part of the joint waste contract with ESCC. After protracted negotiations ESCC have now agreed terms for the eastern site which is located Pebsham between Bexhill and Hastings (See attached plan). This report is complemented by a report in part two of the Agenda.

2. RECOMMENDATIONS:

- 2.1 That Cabinet approve and authorise the Director of Finance & Resources and Assistant Director Property & Design to enter into the following agreements :-

(1)The acquisition of a leasehold interest, jointly with ESCC, in land at Pebsham between Bexhill and Hastings

(2)To grant, jointly with ESCC, an underlease to South Downs Waste Services Ltd (SDWS Ltd) to build and operate a waste transfer station, recycling facility and additional waste plant as required.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS

- 3.1 On 12 March 2003 Policy & Resources Committee approved the Integrated Waste Management Service Contract whereby for the next 50 years Brighton & Hove City Council would enter into partnership with ESCC to procure a solution to waste management, recycling and disposal throughout Brighton & Hove and East Sussex. Policy & Resources Committee also approved the award of the contract to Onyx (now Veolia) and the concept of the JWA, authorising the Head of Law to finalise the details of the latter agreement. Central to the waste proposals is the need to work with the waste contractor who will procure sites where necessary and deal with all aspects of waste transfer, re-cycling and disposal. This was the culmination of several years' joint effort to adopt a new approach to waste management.
- 3.2 During a period from 1997 to 2003 a Waste Study was undertaken to investigate methods of recycling and disposal and the sites needed to facilitate those activities. From the study the Waste Strategy was developed with ESCC and incorporated in the Waste Local Plan. This in turn was covered in the report approved by Committee in March 2003.
- 3.3 Under the contract the waste company is required to buy sites or obtain 50 year leases and make them available to the joint authorities to the Waste PFI. Under the terms of the Waste PFI and the JWA the councils must have shared interest in all the main sites provided. There are detailed arrangements in the JWA governing working arrangements and the ultimate disposal of the sites if no longer required by the authorities.
- 3.4 The Waste Contractor is now undertaking the construction of waste facilities at a number of sites jointly held by Brighton & Hove City Council and East Sussex County Council. These include the Waste Transfer Station and Materials Recycling Facility at Hollingdean Lane, both of which are now in operation, plus various waste facilities at Maresfield, Newhaven and Whitesmith (between Uckfield and Hailsham).
- 3.5 For several years both the Waste Contractor and ESCC attempted to negotiate terms for a new extended lease of the existing waste site at Pebsham. Currently ESCC have a lease until 2018 and Veolia have an underlease from ESCC until 2016. The length of terms did not suit the objectives of the waste contract which required the councils to hold the freehold or at least a 50 year term to permit development of the waste facilities on the site.
- 3.6 After protracted negotiations, the site owner, Hastings Borough Council relaxed its stance late in the first week of December enabling ESCC to agree terms for an extended lease of the site. On the basis of the terms agreed, ESCC and B&HCC will jointly lease the site from Hastings Borough Council for a term of 50 years with effect from 01/04/2008. The two councils will then lease the site on the similar terms to Veolia or their nominated company. Veolia will set in motion plans to develop a waste transfer station and materials recycling facility on this, the eastern most of the joint waste sites. In addition the agreement makes provision for the development of other waste facilities as required.

4. CONSULTATION

- 4.1 East Sussex County Council, Hastings Borough Council, Cityclean and other internal and relevant parties at B&HCC.

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 5.1 The original plan for the Pebsham site envisaged the Council's waste contractor obtaining a freehold interest. However the current landowner, Hastings Borough Council, is only willing to consider the granting of a lease. The financial provision made by the waste contractor is insufficient to cover the full costs of the annual lease charge from Hastings Borough Council. However this was anticipated and provision has been made in the Waste PFI to meet the potential additional costs of acquiring the land which is sufficient to meet the Council's estimated liability.

Finance Officer Consulted: Mark Ireland Date: 09/12/08

Legal Implications:

- 5.2 The purpose and terms of the proposed lease at Pebsham are consistent with the purpose and terms of the Integrated Waste Management Services contract.

Lawyer Consulted: Jonathan Vernon-Hunt Date: 09/12/08

Equalities Implications:

- 5.3 The key equalities implication for the use of this site is to ensure it meets identified and future waste needs.

Sustainability Implications:

- 5.4 The appropriate use of this site has the potential to address long term waste requirements for ESCC and B&HC as part of the Waste PFI. It forms an important link in a chain of sites extending across Sussex from Hollingdean in the west to Pebsham in the east.

Crime & Disorder Implications:

- 5.5 Whilst the problem of "fly – tipping" is widespread the better the system for dealing with waste the greater the chance there is of reducing this problem.

Risk & Opportunity Management Implications:

- 5.6 The key risk is to avoid the loss of this important waste site which currently already forms an important part of the chain of sites across Sussex for waste processing and transfer.

Corporate / Citywide Implications:

- 5.7 Whilst this site will not be directly involved in dealing with waste from the City it forms an important part of the network of sites established to provide a co-ordinated approach to waste handled as part of the Waste PFI between ESCC and the City Council.

6. EVALUATION OF ANY ALTERNATIVE OPTION(S):

- 6.1 A number of options were assessed for an eastern site during the study period from 1997 to 2003 and the Pebsham site, which was already the subject of an ESCC lease, was considered to be the best available. During the subsequent protracted negotiations whilst other solutions were considered the inescapable conclusion was that Pebsham offered the best solution in terms of size, location and given its existing status as a waste site.

7. REASONS FOR REPORT RECOMMENDATIONS

- 7.1 Under the Joint Working Arrangements (JWA) the two councils have agreed to enter a Deed establishing Trusts for each of the waste sites. The JWA sets out the basic requirements for the Trusts and the arrangements for ultimate disposal in the event that the councils agree that they no longer wish to use one or any of the sites for waste purposes.
- 7.2 Under the waste agreement the two councils share control of the sites. The combination of this requirement and the fact that the various sites across the county were owned by various parties, Council and private, has resulted in somewhat complex leasing arrangements to put the councils, as nearly as possible on an even footing in terms of their interests in each of the sites.
- 7.3 Accordingly, Cabinet authorisation is needed to enable the Council to jointly take a lease of the site with ESCC. In addition, given the terms of the sub lease to Veolia, or their nominated subsidiary, Cabinet Approval is also necessary to enable a sublease to be granted.
- 7.4 Negotiations for the Pebsham site were in stalemate for several years but early in December Hastings Borough Council relaxed its stance to enable agreement of a reasonable transaction which met all the objectives of the Integrated Waste Management Services Contract. The other waste facilities being developed in Brighton & Hove and across East Sussex are aimed at meeting local demand whilst addressing specialist requirements for a wider area at particular sites such as the Energy from Waste facility at Newhaven. In this way the object is to provide an integrated range of waste facilities to meet the requirements of the main waste producing areas both now and into the future. This is vital to meet Government targets and to address the imminent loss of local landfill sites as they reach capacity. The

site at Pebsham is an important link in the chain to deal with waste transfer and materials recycling for the eastern part of the County.

SUPPORTING DOCUMENTATION

Appendices:

1. Site Plan

Documents In Members' Room

None

Background Documents

None

