

Waste Management PFI Contract – Variations to Waterbeach Facility Permits

To: Environment and Green Investment

Meeting Date: 16 Sep 2021

From: Steve Cox Executive Director Place and Economy

Electoral division(s): All

Key decision: Yes

Forward Plan ref: 2021/054

Outcome: The Waterbeach waste processing facilities are compliant with the Industrial Emissions Directive and maintain their Environmental Permits to allow continued operation and treatment of waste collected at Household Recycling Centres and by city and district councils.

Recommendation: The Committee is being asked to

- a) Support the proposals outlined in this report and recommend to the Strategy and Resources Committee that it approves the capital and revenue spend outlined in Confidential Appendix 2 to this report.
- b) delegate responsibility to the Executive Director Place and Economy in consultation with the Committee Chair and Vice chair to:
- c) commission the relevant specialist advisors to review the proposed amendments, the associated costs and the Council's contractual liabilities.
- d) commit the necessary internal resources to support waste officers to manage the project, agree and deliver the required amendments to the infrastructure and the Waste Private Finance Initiative (PFI) Contract.
- e) evaluate options and select the technical solution that is most likely to meet the emissions limits without incurring excessive cost.

- f) submit a Variation Business Case to the Department for Food and Rural Affairs (Defra) to obtain agreement to vary the Waste PFI Contract where required.
- g) agree the amendments required to the Waste PFI Contract.
- h) provide regular updates to Committee Chair and Vice Chair on key issues as the project progresses.

Officer contact:

Name: Adam Smith

Post: Group Manager, Waste Management

Email: Adam.Smith@cambridgeshire.gov.uk

Tel: 01223 727977

Member contacts:

Names: Councillors - Lorna Dupré & Nick Gay

Post: Chair/Vice-Chair

Email: lorna@lornadupre.org.uk & Nick.Gay@cambridgeshire.gov.uk

Tel: 07930 337596 & 07833 580957

1. Background

- 1.1 In 2008, CCC commenced a 28-year Waste Private Finance Initiative (PFI) Contract with its Contractor, Donarbon Waste Management, which was later acquired by Amey. The Waste PFI Contract includes services to treat food including garden waste using an In-Vessel Composting (IVC) facility and residual waste using a Mechanical Biological Treatment (MBT) facility, both located at the Waterbeach Waste Management Park.
- 1.2 The operation of the IVC and MBT are regulated by the Industrial Emissions Directive (IED) and require Environmental Permits to legally operate that are issued and regulated by the Environment Agency (EA). The IED has sector specific documents that identify the Best Available Techniques (BAT) which are identified and described in the BAT Reference document (BREF) for waste treatment facilities. The requirements of the relevant sector BREF become binding as BAT Conclusions (BATc).
- 1.3 The Permits for both the MBT and IVC have recently been updated and re-issued by the EA to reflect the requirements of the BREF and BATc. The updates have included new permit conditions which limit odour emissions to between 200-1000 European odour units per normal cubic metre (OUE/Nm³) which are considered to be the most onerous to meet. Previously, no absolute value for odour emissions was included in the permits and the facilities' odour emissions are currently significantly above the new limit.
- 1.4 Whilst the conditions imposed by BATc are prescriptive, the techniques to achieve them are not. Amey instructed technical experts to review the changes to the permits and identify process solutions for the IVC and MBT, together with a technical justification for the recommended solution for adoption.
- 1.5 If the works proposed by Amey fail to reduce odour to an acceptable environmental level at the location of the closest sensitive receptor, there is a risk that further works may be required to reduce odour emissions to acceptable limits.
- 1.6 The Waste PFI Contract places the risk of legislative changes with the Council as the Local Authority. The amendments to the MBT and IVC permits are likely to be deemed a Qualifying Change in Law which allows the associated cost for the works to be passed through to the Council. Amey can also claim relief from the Waste PFI Contract key performance indicators (KPIs) associated with IVC and MBT operations and their performance for the estimated 6 months while the works are implemented, and the upgrades are made to the MBT and IVC facilities.
- 1.7 If the IVC and MBT facilities fail to achieve BATc compliance by 17 August 2022, then waste processing operations at the MBT and IVC are likely to need to cease until the facilities are BATc compliant.

2. Works required to MBT and IVC

- 2.1 An analysis of solutions to ensure ongoing compliance has been carried out and the options selected are the most likely to meet the new permit conditions without incurring excessive cost. Amey has proposed that the following amendments are made to the facilities:
 - MBT – Option 2 solution proposes an increased volumetric air extraction from the MBT facility, Compost Like Output (CLO) Bay encapsulation and the inclusion of an

upgraded odour control system consisting of an additional two wet acid scrubbers and two new biofilters,

- IVC – Option C(ii) proposes to increase the capacity of the existing IVC Reception Hall biofilter, upgrade odour control system to include an additional dedicated biofilter to treat air extracted from the IVC clamps, upgrade the IVC clamp process air system and use “Gore” covers to encapsulate the compost maturation process.

An appraisal of the technical options for the IVC and MBT facilities can be found in sections 2.2 and 3.2 of Appendix 1 to this report which is confidential to comply with the Waste PFI Contract clauses on confidential and commercially sensitive information.

- 2.2 The upgrade works to the MBT are currently scheduled to start at the beginning of February 2022 by Amey (subject to gaining any necessary planning approvals for the changes required) and are anticipated to continue for a period of approximately six months with the MBT being expected to resume operation at the start of August 2022.
- 2.3 The upgrade works to the IVC have been scheduled to start in September 2021 by Amey (also subject to gaining any necessary planning approvals for the changes required) and are anticipated to continue for a period of approximately six months. Completion of the works by the end of February 2022 will allow the IVC to start accepting waste in time for the start of the 2022 growing season.
- 2.4 A detailed technical report on the required changes to the facilities to meet the requirements of BATc has been included in the confidential Appendix 1 to this report. Officers are in the process of seeking clarification and supporting evidence on a number of areas in the report.

3 Financial Implications

- 3.1 Estimates of the costs for the remaining Waste PFI Contract term to 2036 have been included in Appendix 2 to this report which is confidential to comply with the Waste PFI Contract clauses on confidential and commercially sensitive information.
- 3.2 It is estimated that the preferred options for both the MBT and IVC will incur works which will require additional capital funding. These amendments will increase the revenue cost of operating the MBT and IVC, incur additional annual cost for maintenance and require lifecycle intervention activities every 7 years. Details of these financial impacts are contained in the confidential Appendix 2 to this report.
- 3.3 There will be a reduction in income for both the council and Amey generated from treating third party waste at the facilities while the works are being carried out and the facilities are not capable of treating waste.
- 3.4 Clarification is being sought regarding Amey’s ability to secure the capital funding required and the cost of servicing the debt to determine whether it would be more cost effective for Amey or the council to secure the capital funding required.
- 3.5 The Waste PFI Contract requires Amey to mitigate the effect of the Qualifying Change in Law to minimise any increase in costs and maximise any reduction in costs. Amey will be required to obtain competitive quotes and ensure any works are completed according to an agreed programme.

4 Key Issues

- 4.1 Given, the limited remaining term of the Waste PFI Contract, Amey is not confident of being able to secure funding for the capital cost of the works. If external funding cannot be secured by Amey, the Council will be required to provide the capital funding to deliver the proposed amendments to the facilities.
- 4.2 The scale of estimated costs involved make this a key decision requiring member approval before the changes can be formally agreed by officers with Amey and Defra.
- 4.3 If the facilities fail to achieve BATc compliance by 17 August 2022, then waste processing operations at the MBT and IVC are likely to need to cease until the facilities are BATc compliant.
- 4.4 Additional technical support and resources will be required to assist waste officers to evaluate, agree and deliver the proposed amendments to the facilities and the Waste PFI Contract.
- 4.5 Significant amendments will be required to the Waste PFI Contract documentation and financial model to formalise the changes once the details have been agreed.
- 4.6 Defra consent for amendments to the facilities may be required necessitating the submission and agreement of a Variation Business Case.
- 4.7 If the Council is providing the capital funding for the proposed works a review of the Eurostat Assessment for the Waste PFI Contract may be required that could affect the level of Waste PFI funding the Council receives if there are significant changes to apportionment of risk between the Council and Amey.
- 4.8 Amey will be required to obtain consent from the County Council in its capacity as Waste Planning Authority for the amendments proposed to the IVC and MBT facilities. This creates a risk that planning consent could be refused or could delay the implementation of the works beyond the August 2022 deadline for compliance.

5 Alignment with corporate priorities

5.1 Communities at the heart of everything we do

There are no significant implications for this priority. The improvements being sought by the BATc changes are seeking to improve the odour levels in the area, which will in turn benefit the local communities in this area.

5.2 A good quality of life for everyone

There are no significant implications for this priority. See the comments made in paragraph 5.1.

5.3 Helping our children learn, develop and live life to the full

There are no significant implications for this priority.

5.4 Cambridgeshire: a well-connected, safe, clean, green environment

The report sets out the implications for this priority in paragraphs 1.2 to 1.4.

5.5 Protecting and caring for those who need us

There are no significant implications for this priority.

6. Significant Implications

6.1 Resource Implications

The report above sets out the financial implications the details of which are set out in the confidential Appendix 2 to this report.

6.2 Procurement/Contractual/Council Contract Procedure Rules Implications

There are no significant implications within this category.

6.3 Statutory, Legal and Risk Implications

The statutory legal and risk implications are set out in paragraphs 1.2 to 1.7, 4.1, 4.3, 4.7 and 4.8 of this report.

6.4 Equality and Diversity Implications

There are no significant implications within this category. This report relates to engineering works required at waste processing facilities and does not impact on individuals.

6.5 Engagement and Communications Implications

Amey may be required to engage with local communities in the Waterbeach area as part of the planning process otherwise there are no significant implications within this category. The site has a local liaison forum which allows Amey to communicate such changes to interested parties.

6.6 Localism and Local Member Involvement

The local member for Waterbeach (Cllr Anna Bradnam) is a member of the Environment and Green Investment Committee that is being asked to consider this report. In her capacity as Local Member she has been informed of these required works.

6.7 Public Health Implications

The proposal would reduce odour emissions from the Waterbeach MBT and IVC facilities that would protect the health of communities in the area surrounding Waterbeach Waste Management Park.

6.8 Environment and Climate Change Implications on Priority Areas:

- 6.8.1 Implication 1: Energy efficient, low carbon buildings.
Positive/neutral/negative Status: Neutral
Explanation: The proposal will not have an impact on building energy efficiency but may result in increased energy use which comes from renewable sources.
- 6.8.2 Implication 2: Low carbon transport.
Positive/neutral/negative Status: Neutral
Explanation: The proposal will not have an impact on low carbon transport.
- 6.8.3 Implication 3: Green spaces, peatland, afforestation, habitats and land management.
Positive/neutral/negative Status: Neutral
Explanation: The proposal will not have an impact on green spaces, peatland, afforestation, habitats and land management
- 6.8.4 Implication 4: Waste Management and Tackling Plastic Pollution.
Positive/neutral/negative Status: Positive
Explanation: The proposal will reduce emissions from the Waterbeach MBT and IVC treatment facilities and their continued operation will divert waste from landfill for the remaining term of the contract to 2036. While the proposed works are carried out the facilities will not be capable of treating waste which may result in some waste being landfilled if alternative outlets cannot be secured without incurring excessive cost.
- 6.8.5 Implication 5: Water use, availability and management:
Positive/neutral/negative Status: Neutral
Explanation: The proposal will not have an impact on water use, availability and management.
- 6.8.6 Implication 6: Air Pollution.
Positive/neutral/negative Status: Positive
Explanation: The proposal will lead to an improvement in air quality. If waste is diverted to alternative treatment facilities while the proposed works are implemented there may be a temporary negative impact on air pollution where additional haulage is required.
- 6.8.7 Implication 7: Resilience of our services and infrastructure, and supporting vulnerable people to cope with climate change.
Positive/neutral/negative Status: Positive
Explanation: The proposal will make the Waterbeach waste treatment facilities infrastructure more resilient to cope with tightening regulations requiring the reduction of odour emissions resulting from the Industrial Emissions Directive.

Have the resource implications been cleared by Finance? Yes
Name of Financial Officer: Sarah Heywood

Have the procurement/contractual/ Council Contract Procedure Rules implications been cleared by the LGSS Head of Procurement? Yes
Name of Officer: Henry Swan

Has the impact on statutory, legal and risk implications been cleared by the Council's Monitoring Officer or LGSS Law? Yes
Name of Legal Officer: Fiona McMillan

Have the equality and diversity implications been cleared by your Service Contact?
Yes
Name of Officer: Elsa Evans

Have any engagement and communication implications been cleared by Communications?
Yes
Name of Officer: Amanda Rose

Have any localism and Local Member involvement issues been cleared by your Service Contact? Yes
Name of Officer: Emma Fitch

Have any Public Health implications been cleared by Public Health?
Yes
Name of Officer: Iain Green

If a Key decision, have any Environment and Climate Change implications been cleared by the Climate Change Officer?
Yes
Name of Officer: Emily Bolton

5. Source documents

5.1 Source documents

Technical Report supplied by Amey which is included in Appendix 1 to the report which is confidential to comply with the Waste PFI Contract clauses on confidential and commercially sensitive information.

Estimates of the costs for the remaining Waste PFI Contract term have been included in Appendix 2 to this report which is confidential to comply with the Waste PFI Contract clauses on confidential and commercially sensitive information.