

From: WIDP Programme Office [WIDP.ProgrammeOffice@defra.gsi.gov.uk]
Sent: 13 June 2013 15:28
To: Jackson, Mike
Cc: Allen, Mark; Hull, Joel; [REDACTED] (Defra); [REDACTED] (Defra); [REDACTED] (Defra); [REDACTED] (Defra)
Subject: Norfolk County Council: Residual Waste Treatment Contract
Attachments: 20130613 Final Defra letter to NCC.pdf
Please see the attached letter from Nigel Atkinson.

<<20130613 Final Defra letter to NCC.pdf>>

WIDP

Programme Office

Department for Environment, Food and Rural Affairs (Defra)

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Mike Jackson
Director of Environment, Transport and Development
Norfolk County Council
County Hall
Martineau Lane
Norwich NR1 2SG

Your ref:
Our ref:
Date: 13 June 2013

Dear Mr Jackson,

Norfolk County Council: Residual Waste Treatment Contract

Thank you for your letter of 5 June 2013, delivered by hand by your colleague Mark Allen, who was able to give me an outline of the main points. In responding, I would first like to highlight the following key point:-

Position under the WI Credit Letter of 7 February 2012

The Planning Permission Longstop Date has now passed without your Authority having secured a Satisfactory Planning Permission. In light of this, Defra now considers itself to be released from its obligations under the WI Credit Letter. Defra is now reconsidering the allocation of WI Credits to your project, pursuant to the procedures outlined in the Annex to the WI Credit Letter.

Your letter is being given careful consideration by myself and colleagues as part of the review process and as discussed, I plan to share its contents with ministers to assist them in their decision-making.

Now turning to the specific points raised in your letter of 5 June:-

Forecast Capacity Requirements

Your letter refers to Defra's assessment of the treatment infrastructure required to meet the UK's 2020 EU Landfill Directive diversion target, which included a contribution from your Project to achieving those national targets. You indicate that nothing has changed to affect that assessment. I would like to clarify this point.

As you are aware, Defra published analysis assessing progress towards achieving England's share of the UK's 2020 EU Landfill Directive diversion target (the "2020 target") in February 2013. First of all, you should note that without the three projects then in procurement, the February 2013 analysis indicated an estimated 93% likelihood of meeting the 2020 target, with a capacity of around 2.1m tonnes per year in excess of what is needed to meet the 2020 target. Your project is intended to deliver plant capacity of 268,000 tonnes per year. You should not assume therefore that the contribution from your project in the February 2013 publication was required to meet the 2020 target.

For the purposes of the current review, Defra is updating the analysis in the February 2013 publication to take account of changes on the supply and demand side. For example, the updated analysis now includes a contribution from the Merseyside Recycling & Waste Authority project, which has appointed a Preferred Bidder notwithstanding Defra's withdrawal of its provisional allocation of WI Credits. In the February 2013 publication, no contribution was assumed from any of the three projects in procurement from which the provisional allocation of WI Credits was withdrawn.

Initial results from Defra's updated analysis indicate that the forecast capacity requirements have changed. These initial results now show an estimated 94% likelihood of meeting the 2020 target, assuming no contribution from your project by 2020, with approximately 2.2 million tonnes of capacity in excess of what is needed to meet the 2020 target.

The initial results also indicate that your project would contribute an additional 1 percentage point to the likelihood of meeting the 2020 target if your project becomes operational in time for the target date of 2020.

As outlined above, there is therefore a slightly higher likelihood of meeting the 2020 target than was predicted in the February 2013 publication. This is the case even if the analysis is run assuming no contribution from your project by 2020.

The final results of Defra's updated analysis will form one of a number of considerations to which ministers will have regard when reconsidering the allocation of WI Credits to your project.

I would therefore welcome your views on these points.

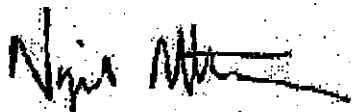
Further Documentation Requested

For the purposes of Defra's review, please could you provide the following documentation/information:-

- i) a copy of the current draft Revised Project Plan (together with a note indicating any aspects of it that are likely to change);
- ii) in Appendix A of the final version of your Final Business Case (FBC) which was received by Defra on 5 July 2011, your Authority identified, with cross-references, the relevant parts of the FBC that in your view demonstrated satisfaction of Defra's criteria for awarding waste PFI Credits. For the purposes of Defra's review, please can you provide an update to this Appendix A? In providing your update, please indicate whether or not those parts of the FBC to which the cross-references relate provide a complete and accurate picture in light of current circumstances. If there have been any changes to the relevant parts of the FBC since it was received by Defra, please explain the nature of those changes;
- iii) any other documents or information which you consider might be relevant to our considerations.

I would be grateful if you could provide these requested documents as soon as possible and provide any comments to the section headed Forecast Capacity Requirements above by Thursday 20 June.

Yours sincerely,



Nigel Atkinson
WIDP Programme Director
Defra

Direct line: ~~020 7034 4000~~

Email: ~~[redacted]~~

Web: www.defra.gov.uk

Cc: Mark Allen – Assistant Director, Environment and Waste, NCC
Joel Hull – Project Director Residual Waste Services, NCC
~~[redacted]~~ – Team Leader in WIDP
~~[redacted]~~ – WIDP Project Transactor
~~[redacted]~~ – Head of WIDP Commercial Team and Contracts
~~[redacted]~~ – Programme Manager and Head of WIDP Scrutiny Team

[REDACTED]
From: [REDACTED] (Defra) [REDACTED]

Sent: 19 June 2013 14:04

To: Hull, Joel

Subject: RE: Norfolk Waste PFI

Hello Joel,

Thanks, that would be great

Kind regards,
[REDACTED]

*Defra
Official*

From: Hull, Joel [mailto:[REDACTED]]

Sent: 19 June 2013 13:58

To: [REDACTED] (Defra)

Subject: Re: Norfolk Waste PFI

Hello [REDACTED]

Sorry for the delay but I've been in meetings in London and will call this afternoon when I can to bring you up to speed.

Best regards

Project Director - Residual Waste Services
[REDACTED]

From: [REDACTED] (Defra) [mailto:[REDACTED]]

Sent: Wednesday, June 19, 2013 09:50 AM

To: Hull, Joel

Subject: Norfolk Waste PFI

Hello Joel,

I hope you are keeping well.

I have left a couple of voicemails for you and thought I'd follow up by email. It would be helpful to have a chat with you, today if you are able, about your thinking on next steps, including timings, following on from the full Council meeting earlier this week.

I am going into a meeting from 10:30am and should be available again from 1:45pm today. Maybe we could speak before or after, depending on your own availability.

Kind regards,
[REDACTED]
[REDACTED]

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Waste Infrastructure Delivery Programme

Department for Environment, Food and Rural Affairs (Defra)

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From: Hull, Joel
Sent: 20 June 2013 17:11
To: [REDACTED]
Cc: Allen, Mark; Jackson, Mike
Subject: Norfolk County Council: Residual Waste Treatment Contract
Attachments: Draft RPP dated 30 April 2013.zip; Ltr of Understanding re RPP.pdf; Defra Response 130613 FINAL.doc; Defra Response 130613 FINAL.pdf

*Nigel Atkinson
& other Defra
Officials.*

Hello Nigel

Please find attached a response to your letter dated 13 June - can you please confirm receipt as I am mindful that the size of the attachments may cause a problem.

I have also attached, as requested in your letter, a full copy of the draft Revised Project Plan provided to us by our contractor on 30 April following our request on 31 Jan. The zipped file contains the draft plan and associated financial model.

By way of further information I have also attached a letter that relates to the draft Revised Project Plan [REDACTED]

I look forward to hearing from you and we will continue to provide other documents and information which we consider may be relevant to your considerations.

Best regards

Joel Hull
Project Director Residual Waste Services
Environment, Transport and Development
Direct dial telephone number: [REDACTED]
E-mail: [REDACTED]
Norfolk County Council
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Nigel Atkinson
Widp Programme Director
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Rm 1A Ergon House
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SW1P 2AL

NCC contact number: 0344 800 8020
Textphone: 0344 800 8011

Your Ref:

Date: 20 June 2013

My Ref: E/35/0/Waste Project/PFI/3.0/JH

Tel No.: ~~01603 253111~~

Email: ~~nigel.atkinson@defra.gov.uk~~

Dear Nigel

CONFIDENTIAL Norfolk County Council: Residual Waste Treatment Contract

I am writing further to your letter of 13 June 2013 in respect of the Norfolk County Council Residual Waste Treatment Contract. You have requested a response to points you raised in that letter about Forecast Capacity Requirements by 20 June 2013. Accordingly, this letter sets out below the County Council's response and provides some of the additional information that was also requested to be provided as soon as possible.

However, the first point to make is that the County Council does not consider that Defra is now released from its obligations under the Waste Infrastructure Credit Letter as you have indicated. We have set out the reasons here, not least of which is the expectation that parties in such matters act reasonably and proportionately.

In line with the provisions of the contract approved by your department and Treasury, a draft Revised Project Plan has already been requested and received by the County Council. Both parties have already established, by way of a supplemental agreement, the revised dates as a part of that process such that a new Planning Permission Longstop Date has already been agreed.

Forecast Capacity Requirements

In relation to your department's Forecast Capacity Requirements, thank you for the opportunity to comment on your conclusions. As an observation this Authority has experienced a slowing and recent reversal to the reduction in residual waste volumes. From talking to other authorities, we are also aware that these increases experienced in Norfolk are smaller than those in other parts of the country and I therefore suggest that any projections you use are based on the very latest data.

Continued....

However, to pass any other comment on your conclusions as invited to do so is impossible as I do not know the project by project assumptions that Defra's calculations are based on for either projects within the Widp programme or outside of it.

On that basis and until I have seen a model it is impossible for me to comment on the veracity of your conclusions. Nevertheless, even on the data that you have provided it is clear that you are not fully confident that you will meet the 2020 targets and that the Norfolk project does actually increase your confidence levels.

If you are able to provide the model and the underpinning information I would be happy to provide a detailed commentary on the assumptions you have used and the conclusions taken from that information.

Further Documentation Requested - Draft Revised Project Plan

In relation to your request I have also today provided a full electronic copy of the Draft Revised Project Plan provided to us by our contractor on 30 April 2013 following our request on 31 January 2013, which means that in the terms of the contract the Planning Permission Longstop Date has no further specific relevance. It is the intention that all negotiations on the draft Revised Project Plan are concluded by late October 2013 in line with the requirements of the contract and in relation to this there are three main things to note.

Firstly, we have had to give the contractor a challenging target price which is significantly lower than that in the financial model which forms a part of the Draft Revised Project Plan. To achieve this we expect the contractor to either renegotiate a key sub-sub-contract for civil engineering work or alternatively replace that contractor following a benchmarking exercise, in addition to revisiting the contractor's profit margins.

Secondly, we have informed the contractor that it cannot amend its breakage costs as expressed in the contract for planning failure or indeed revisit any part of the contract that may be perceived to distort competition or require a derogation or the detailed involvement of Defra and Treasury.

Thirdly, the revised Planning Permission Longstop Date has already been formally agreed by both parties as [REDACTED] and the letter of understanding confirming this is attached.

Further Documentation Requested - Updated Final Business Case Appendix A

An update of Appendix A to the Final Business Case is provided as an appendix to this letter which evidences that there have been no significant changes to the need, value for money and circumstances around the project as outlined in Appendix A beyond what was presented in the Final Business Case and the additional information that was provided to allow the Secretary of State to reach a decision to provide a promissory note in January 2011.

Continued....

Further Documentation Requested – Other Documents and Information

I will continue to provide documents and information that I think might be relevant to your considerations but as an initial response I make these points:

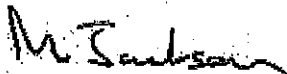
1. The County Council relied on the Waste Infrastructure Credits Letter in entering the contract. Where as this was conditional upon the matters set out, the County Council relied on action being taken reasonably and proportionately.
2. The form of contract and timing of its being entered were driven in large part by Defra and Treasury – this in itself led to significant delays prior to commencing the procurement in 2009 and during the latter stages of the procurement in 2010 and 2011.
3. Subject to point four below, if the contract were terminated now, i.e. before the late October 2013 date for agreeing the draft Revised Project Plan, the Council will incur breakage costs currently estimated to exceed £33m in line with paragraph 3.5.1 of Schedule 26 (Planning).
4. The County Council's decision to award was specifically granted on the basis that a Waste Infrastructure Grant was awarded. The absence of a Waste Infrastructure Grant may render the contract ultra vires, leading to termination for Authority Default. I assume that Defra would take legal advice on this point before withdrawing credits.
5. The draft Revised Project Plan does not, in my view, materially depart from the original contract and nor is the delay significant in the overall 30 year scheme. We were fortunate in the contractor's preparedness to submit the planning application in advance of contract award and the Planning Permission Longstop Date reflects the conventional 24 month timescales for this process. However, it is recognised that frequently an application occurs later and is considered coincidental with the contract award such that Defra's 24 month standard period normally extends from the contract award date. On that basis it would be unreasonable for credits to be withdrawn when the project is still within Wipd's own recommended timescales.
6. In any event, the timescale and delay are entirely driven by the Call In by the Secretary State, which in turn is on the grounds that the application is nationally significant. Either the Government considers it nationally significant or it does not and it should be borne in mind as a major consideration that the withdrawal of credits may in any event jeopardise the planning process.
7. From a macro perspective we are very concerned that the withdrawal of Waste Infrastructure Grant in a closed deal would be considered unfavourably by the US sponsor and non UK bank and jeopardise further inward investment into the UK, especially at a time when the Government is trying to encourage such investment.
8. Regionally there is a shortfall of alternatives to landfill and the closest similar facility being developed is over 60 miles away from the location of the Willows Power and Recycling Centre.

Continued....

I would also like to reiterate that whilst Condition 7 of the Waste Infrastructure Credit Letter requires that Satisfactory Planning Permission is obtained before the Planning Permission Longstop Date, and whilst I agree that this has not been achieved, in the spirit of the condition it has been met since on the 29 June 2012 the Authority's Planning and Regulatory Committee resolved to grant planning permission well in advance of the Planning Permission Longstop Date. The only reason that Satisfactory Planning Permission was not be obtained by the original Planning Permission Longstop Date is because the planning application has been called in by the Secretary of State. This has also affected other projects currently in development as well as Norfolk's and we believe these will also be in jeopardy if Defra follows this unreasonable and disproportionate approach on this matter.

I hope the above response provides useful and if you require further information please let me know.

Yours sincerely



Mike Jackson
Director of Environment, Transport and Environment

Appendix One – Update to Appendix A of the Final Business Case

This update to Appendix A of the Final Business Case (FBC) submitted in July 2011 has been compiled in response to limb (ii) of the request for documentation as set out in the letter from Nigel Atkinson to Mike Jackson dated 13 June 2013. As requested, this update indicates whether or not those parts of the FBC to which the cross-references in Appendix A of the FBC relate provide a complete and accurate picture in light of current circumstances. In any situation where there have been any changes to the relevant parts of the FBC since it was received by Defra, this update explains the nature of those changes.

For ease of reference this update is set out in the same format as the Appendix A submitted as part of the original FBC. For clarity, where an issue in the FBC was subsequently addressed in clarification of the FBC this has not been revisited below.

Original FBC text – black

Updated commentary – blue italic

Criterion	Cross reference to relevant part of FBC
<p>1. Schemes (which may involve more than one Authority) must demonstrate how they will contribute to delivery of their authorities' adopted Municipal Waste Management Strategies (regardless of whether they are Unitary or Two-tier Authorities).</p> <p><i>The cited paragraphs of the FBC continue to provide a complete and accurate picture with the exception of paragraph 3.2.6.</i></p> <p><i>Paragraph 3.2.6 of the FBC stated that the Borough Council of King's Lynn and West Norfolk "is considering withdrawing from the JMWMS". The Borough Council has since revoked its adoption of the strategy but has remained a member of the Norfolk Waste Partnership and through that body has stated that it remains committed the same key objectives in the Strategy.</i></p> <p><i>This issue was raised by the then Secretary of State prior to her decision to award Waste Infrastructure Credits to the County Council, and was addressed by the County</i></p>	<p>3.2, 3.3, 3.4, 3.5</p>

There are at least five reasons why co-operation with neighbouring Authorities is desirable:

- The role of scale in a project which may be particularly relevant in attracting strong market interest – an important driver of value-for-money (see Section 7);
- Availability of suitable sites is not evenly distributed across the territories of all Authorities;
- Transport links and logistics may dictate co-operation across Authority boundaries;
- Failure by Authorities to co-operate may hand a significant negotiating advantage to a supplier who is sizing a facility to cater for more than one Authority's needs; and
- Economies of scale, which are another important driver of value-for-money.

Council in communications to the then Secretary of State and formed part of her consideration of her decision to award the Waste Infrastructure Credits to Norfolk. Since that decision, the situation has remained unchanged.

4.2.2, 6.7

Local Authorities are strongly encouraged to have explored with neighbouring authorities the opportunities for joint working when considering a major procurement¹. Scale and strategic impact are two important aspects to consider when proposing a scheme. In line with Government policy, PFI projects with a capital value below £20 million will not be supported. However, Defra's upper threshold of £40m for the availability of PFI credits for individual projects no longer applies.

The cited paragraphs of the FBC continue to provide a complete and accurate picture.

2.2.5, 3.1, 3.2,
3.3, 3.4, 3.5,
6.3.1, 6.3.2,
9.5

In two-tier areas, proposals should demonstrate how the two tiers of local government will work together to deliver their targets under legally binding agreements or constitutions, which should be in place by the start of procurement. By Final Business Case (FBC) stage we would expect a minimum of a detailed Memorandum of Understanding (covering major points of principle), or establishment of joint waste management structures or formal contractual arrangements.

In two-tier areas, a Joint Municipal Waste Management Strategy will be a requirement towards this and should include clear, long-term targets for Biodegradable Municipal Waste diversion; recycling; etc., which have been adopted or are close to adoption by all stakeholders.

For the avoidance of doubt, the statement in paragraph 3.1.2 remains correct. Whilst the Borough Council of King's Lynn and West Norfolk has withdrawn from the Municipal Waste Management Strategy it has stated that it remains committed to its objectives and the Borough Council continues to work, as a member of the Norfolk Waste Partnership, on the implementation of its objectives.

The comments already made concerning paragraph 3.2.6 also apply here.

Paragraph 3.4 sets out the activities being undertaken by WCAs to improve levels of recycling. In addition to those initiatives cited in the FBC the Borough Council of King's

Appendix One – Update to Appendix A of the Final Business Case

Lynn and West Norfolk commenced kerbside collections of food waste in April 2013.

Table 3.4.8 suggested a projected household waste recycling and composting rate of 44.91% for 2011/12. The actual rate for 2011/12 was 45.30%.

Table 3.5.2 outlines the forecasted performance of the Authority against its landfill allowances. The Authority has been regularly updating its forecasts with a view to continuing this approach up until the final publication of data for the final target year of the Landfill Allowance Trading Scheme. Due to improvements in recycling and composting performance and reductions in the overall level of municipal waste arisings the 2010/11 performance was better than expected, resulting in a surplus of 10,924 tonnes of Biodegradable Municipal Waste (BMW). In 2011/12 there was a surplus of 7,567 (including the effects of banking the surplus from the previous year). In the target year of 2012/13 the Authority is currently forecast to meet its landfill allowance target by a very narrow margin. Fundamental to achieving this was the procurement of a short term contract hauling a portion of Norfolk's residual MSW from Norfolk to Kent for energy from waste treatment.

Paragraph 9.5.3, like paragraph 3.2.6, states that the Borough Council of King's Lynn and West Norfolk is considering withdrawing from the JMWMS. Accordingly, the same comments as those made in respect of paragraph 3.2.6 apply.

Paragraph 9.5.4 refers to "longstanding and ongoing support for the... Local Development Framework (LDF) Core Strategy" and subsequently refers to the "existing Waste Local Plan and the emerging Core Strategy". Since the FBC was submitted the development of the LDF has progressed significantly. This will be covered in more detail in response to criteria 13, 14 and 15 below.

Save for the updates provided above, the information cited in the FBC in respect of this criterion continues to provide a complete and accurate picture.

In other types of partnership, such as regional or multi-area partnerships, plans should demonstrate evidence of strong joint working and the intention to have legally binding agreements or arrangements (e.g. joint waste management boards) in place by the start of the dialogue process.

Not applicable

2. PFI credits are awarded to authorities primarily to deliver increased diversion of biodegradable municipal waste from landfill. Proposals should demonstrate how the schemes:

- Contribute to or complement longer-term national targets for recycling and composting as well as diversion of biodegradable and other municipal waste from landfill, indicating the amount of biodegradable and other municipal waste expected to be diverted from landfill over the whole life of the project;
- Support or complement the authorities' plans for recycling set out in their Municipal Waste Management Strategies.

3.1, 3.2, 3.3,
3.4, 3.5

2.5, 3.4

Paragraph 2.5.1 states that "Norfolk is currently in the top ten best performing county councils in the country and the third best in the eastern region, for recycling dry materials like glass, paper and cardboard". For 2011/12 Norfolk was the 13th best performing county council in the country and the fourth best performing county council in the eastern region for recycling dry materials.

Table 2.5.1 would, if compiled now, contain a further row detailing Norfolk's recycling performance for 2011/12 which was 101,279 tonnes of dry recycling (27.03% of household waste) and 68,058 tonnes of composting (18.16% of household waste).

Table 2.5.2a would, if compiled now, contain a further row detailing Norfolk's recent annual performance in relation to the tonnage of MSW for 2011/12 which was:

- 2,978 tonnes of MSW was sent for thermal treatment.
- 211,444 tonnes of MSW was sent to landfill.
- 45.7% of MSW was diverted from landfill.

The original table 2.5.2a states that 54.9% of MSW was diverted from landfill in 2010/11. This is an error and actually reflects the percentage of waste landfilled, rather than diverted from landfill. The correct figure is 45.1%.

Table 2.5.2b would, if compiled now, contain a further row detailing Norfolk's actual performance in relation to 2010/11 and 2011/12 as well as an updated projection for 2012/13. This updated data is as follows:

Year	Total BMW arising	BMW landfilled	Landfill Allowance	Surplus / (Deficit)
	Tonnes	Tonnes	Tonnes	Tonnes

Appendix One – Update to Appendix A of the Final Business Case

2010/11	268,671	137,417	148,341	10,924
2011/12	264,758	133,118	129,761	7,567
2012/13*	267,840	111,014	111,181	167

**projected using three quarters of 2012/13 data.*

Figures for 2012/13 are yet to be published.

Paragraph 3.4.5 details existing recycling and composting collection schemes. In addition to this the Borough Council of King's Lynn and West Norfolk commenced food waste collections in April 2013.

Table 3.4.8 suggested a projected household waste recycling and composting rate of 44.91% for 2011/12. The actual rate for 2011/12 was 45.30%.

Table 3.5.2 would, if compiled now, contain a further row detailing Norfolk's actual performance in relation to 2010/11 and 2011/12 as well as an updated projection for 2012/13. Data for Lats allowance, BMW landfilled and the surplus or deficit would be as per the commentary above concerning table 2.5.2b and the projected surplus in the OBC of 46,260 would also apply. The difference between the projected surplus now and that envisaged in the OBC would be 46,093 tonnes of BMW.

Save for the updates provided above, the information cited in the FBC in respect of this criterion continues to provide a complete and accurate picture.

<p>3. Proposals should show how schemes will provide additional contribution to national landfill diversion during the contract period and up to 2020 as required under the Landfill Directive, where appropriate.</p> <p><i>The information contained under paragraph 3.5 continues to provide a complete and accurate picture. However, table 3.5.6 outlines the level of waste to be diverted from landfill through the proposal. The table outlined the reduction in waste sent to landfill based on the overall base case capacity of the facility of 268,000tpa. This is still correct. However, during clarification of the FBC this table was revised to reflect only the municipal element of this waste and therefore reflected the 170,000tpa of MSW to be diverted through the operation of the contract.</i></p>	3.5
<p>4. Waste minimisation is at the top of the waste hierarchy. While PFI is frequently not an appropriate mechanism for addressing waste reduction, proposals should make clear what other action the Authority is taking to reduce</p>	3.5

<p>generation of MSW.</p> <p><i>The information contained under paragraph 3.5 in respect of this criterion continues to provide a complete and accurate picture.</i></p>	
<p>5. The use of residual waste treatment options involving recovery, including energy from waste solutions, will have an integral role in treating the waste we cannot 'design out', re-use or recycle. Such options should be considered while also demonstrating that there is no future barrier to meeting reduction, reuse and recycling targets.</p> <p>The Authority should have done sufficient analysis of the technical, environmental and economic options to have identified a preferred solution within the FBC, so that bidders will not be expected or required to carry-out their own repetitious options appraisals.</p> <p><i>The information supplied in the FBC in respect of this criterion continues to provide a complete and accurate picture.</i></p>	<p>3.6</p> <p>OBC appendices E, F and G.</p>
<p>6. Proposals should demonstrate that other relevant authorities, the public and interested parties have been consulted and that there is a broad consensus supporting a recognised long term waste management strategy which is reflected in the proposed solution.</p> <p><i>The information under paragraph 9.4 and 9.5 was written at a time when the Borough Council of King's Lynn and West Norfolk was known to be considering withdrawing from the JMWMS and, as mentioned earlier, they have since revoked its adoption.</i></p> <p><i>Paragraph 9.5.14 of the FBC stated that two major statutory public consultations were due to start in June and July 2011 in relation to:</i></p> <ul style="list-style-type: none"> <i>the process of applying to the Minerals and Waste Planning Authority for planning permission.</i> <i>the process of applying to the Environment Agency for a permit to operate the facility.</i> <p><i>The consultations in relation to the planning application to the Minerals and Waste Planning Authority are complete. Following these processes the Minerals and Waste Planning Authority's Planning and Regulatory Committee met on 29 June 2012 and resolved to grant planning permission for the</i></p>	<p>9.2, 9.4, 9.5, 9.6.</p>

Appendix One – Update to Appendix A of the Final Business Case

proposed development. However, the day before this meeting a letter was sent to the Minerals and Waste Planning Department from the Secretary of State for Communities and Local Government, the Rt. Hon Eric Pickles MP, directing the Authority to not grant planning permission until he had completed his consideration of whether or not to call in the planning application for his determination. On 30 August 2012 the Secretary of State for Communities and Local Government wrote to the Planning Authority informing it that he had decided to call in the planning application for his determination.

A public inquiry was held in King's Lynn from February 2013 through to May 2013 and the Planning Inspectorate have stated that a decision from the Secretary of State on whether to grant planning permission will be forthcoming on or before 14 January 2014.

Whereas the FBC reflected a stage where these consultations were yet to be commenced, the current situation is considerably more advanced than this. The relevant statutory consultations referred to in the FBC are both complete, an environmental permit for the facility has been granted, an exhaustive public inquiry process is now complete during which a significant number of local stakeholders were able to make representations and a decision on whether to grant planning permission is due within seven months.

Since the submission of the FBC public opposition to the proposed scheme continued. This included significant lobbying of the then Secretary of State for Environment, Food and Rural Affairs, the Rt. Hon. Caroline Spelman MP to persuade her to withdraw Norfolk's provisional award of Waste Infrastructure Credits. The County Council received some correspondence from the then Secretary of State expressing concern over the level of public opposition and considering the issue of whether a broad consensus supporting a recognised long term waste management strategy remained.

In reaching her decision to award Waste Infrastructure Credits to Norfolk the then Secretary of State for Environment, Food and Rural Affairs recognised in her letter dated 18 January 2012 that "the relevant criterion... does not require support for the project itself at a local level, but rather that there is a broad consensus on a recognised long-term waste management strategy, and that the project is consistent with that strategy" and further recognised that "broad consensus" does allow for some dissent and does not

<p><i>in particular require unanimity amongst the interested local authorities". The then Secretary of State concluded that the project did meet her criteria for support.</i></p>	
<p>7. Proposals should follow HMT value for money guidance and clearly demonstrate that the proposed project offers a value for money solution when compared with other procurement options. Evidence is required to demonstrate that the authorities have considered and approved all on-going funding requirements necessary to make the project affordable over its whole life. This evidence should include signed commitments from members, or minutes of members meetings clearly demonstrating that they have committed to the ongoing affordability of the project.²</p> <p><i>Paragraph 1.8.3 indicated that the cost of the preferred bidder's solution over the 29 year period of the contract had reached £618m due to the movements from the final tender price due to the changes in the interest rates and foreign exchange rates. However, the project reached financial close on 07 February 2012 by which time foreign exchange rates and interest rates had changed further, reducing the cost of the solution to £581.2m. Accordingly, the project remained well below the lower end of the affordability gap identified to and approved by the County Council's Cabinet.</i></p> <p><i>The calling in by central government of the planning application has delayed the project to the extent that it will not be possible to obtain planning permission by the planning longstop date and therefore a Revised Project Plan has been requested.</i></p> <p><i>Table 8.5.1 assessed the affordability of the FBC based on a Unitary Charge of £617.7m whereas the project achieved financial close on a Unitary Charge of £581.2m. A draft Revised Project Plan has been requested and it is reasonable to assume that the price of the RPP will move upwards due to the effects of indexation but remain well within the price envelope envisaged. Were the analysis to be undertaken now, no landfill allowance deficit would be assumed and the key dates underpinning the analysis would be altered to reflect those in the draft RPP.</i></p> <p><i>Table 8.5.9 models sensitivities associated with differing rates of RPIx, foreign exchange as well as a one year planning delay. As with Table 8.5.9 were this analysis to be performed again the key dates underpinning the analysis</i></p>	<p>1.8, 8.5, 8.6, 8.7 Appendix D Appendix N</p>

² The approval should be on the basis of members having a clear understanding of the range of possible costs based on a sensitivity analysis giving best and worst case scenarios.

Appendix One – Update to Appendix A of the Final Business Case

<p>would be changed to reflect those set out in the draft RPP which would already account for the impact of the delay caused by central government calling in the planning application.</p> <p>Paragraph 8.5.9 discusses the cost and impact of carbon. There is no evidence to undermine the validity of this assessment. However, it is noted that the public inquiry that arose from central government's call in of the planning application received evidence with further assessment of the carbon impact of the proposal with differing results. It is recognised that the discipline of modelling carbon impacts is a complex discipline involving a number of variables and is therefore subject to uncertainty. However, use of the Wrate assessment is the Environment Agency's recognised methodology of assessing carbon impacts for significant waste developments and is considered by the Authority to be robust for the purposes of the FBC.</p> <p>Table 8.6.2 sets out the do nothing costs. Were this analysis to be performed at present it would be undertaken on the basis of the key dates outlined in the draft RPP and accordingly it is reasonable to assume that the costs would increase due to the effects of inflation.</p>	
<p>8. Proposals must follow the extant guidance for PFI procurement; i.e. Defra-issued specific guidance, the WIDP Waste Procurement Pack, SoPC4 and other HMT guidance on PFI procurement. Authorities should also be aware that even if a proposal receives PFI credits support from Defra all OBCs will have to gain final approval from the inter-departmental Project Review Group (PRG) that they are ready to proceed to procurement. The criteria for the PRG assessment of business cases are available on the HM Treasury website (www.hm-treasury.gov.uk).</p> <p>Since FBC submission the project has reached financial close and received a promissory note from Defra confirming the award of Waste Infrastructure Credits. Whereas the FBC made the case that the project would follow the extant guidance for PFI procurement the receipt of the promissory note confirms Defra's approval of the project and that the project has followed the extant guidance for PFI procurements.</p>	<p>1.5, 1.6, 5.2, 5.3, 9.5</p>
<p>9. Residual disposal solutions (e.g. refuse derived fuel, fibre, soil improvers) must demonstrate the destination of any residual output and the existing or intended commitments for and cost of effecting such disposal. Proposals should include findings from soft market</p>	<p>1.4.6, 4.9.9, 4.9.15, 5.6</p>

<p>testing indicating a market appetite for the proposed residual product, so as to secure value for money.</p> <p>Where there is a potential for third-party income (e.g. from sale of recyclate, electricity, heat, etc.), this should be considered as part of the value for money analysis. Where new or alternative technologies are proposed in the reference project, they should be shown to be bankable and deliverable.</p> <p><i>The information relating to this criterion presented in the cited paragraphs continues to provide a complete and accurate picture.</i></p>	<p>1.4, 5, 3.7.8, 8.3</p>
<p>10. Preferential consideration will be given to capital projects which focus on residual treatment plant only, including, but not limited to, Energy from Waste, Mechanical Biological Treatments, and Anaerobic Digestion.³</p> <p><i>The information relating to this criterion presented in the cited paragraphs continues to provide a complete and accurate picture.</i></p>	<p>1.4, 3.2.12, 4.9</p>
<p>11. Proposals should demonstrate how the potential for community sector involvement in service delivery through the project has been assessed. Where, as a result of such work, a decision is made to exclude or displace such services, a value for money case must be put to support such an approach.</p> <p><i>The information relating to this criterion presented in the cited paragraphs continues to provide a complete and accurate picture.</i></p>	<p>1.4.10, 3.3.3, 3.4.6, 9.5</p>
<p>12. Projects should consider the potential for including other waste streams such as commercial or industrial waste, on the basis of securing a value for money solution. However, projects must demonstrate that:</p> <ul style="list-style-type: none"> • The project continues to deliver value for money in relation to the biodegradable municipal waste being managed through it; • Any cross subsidisation of the costs of disposing of non-municipal waste streams is transparent and acceptable to all stakeholders. <p><i>The reference to paragraph 8.7.4 in the FBC was a</i></p>	<p>4.2.1, 4.9.23, 8.7.4</p>

Appendix One – Update to Appendix A of the Final Business Case

<p><i>typographical error and was in fact intended to refer to 8.3.4. References in paragraph 8.3.4 to the third party waste gate fee are out of date to a restructuring of how costs and income are modelled but the impacts of this restructuring in the financial model are neutral to the Council. Accordingly, the value for money of the solution is unchanged.</i></p> <p><i>Otherwise, information relating to this criterion presented in the cited paragraphs continues to provide a complete and accurate picture.</i></p>	
<p>13. Projects should have potential sites under consideration which accord with the relevant waste planning Authority's statutory development plan. Where this is being updated to reflect Planning Policy Statement 10 (PPS10) projects should align with the policies in PPS10.</p> <p><i>Since the submission of the FBC the development of the Core Strategy and the Waste Site Specific Allocations processes have moved on considerably. The Core Strategy is now adopted. The hearings relating to the Waste Site Specific Allocations DPD have been completed and the Inspector's report is due imminently. The document is due for formal adoption by the County Council in the autumn prior to the scheduled decision by the Secretary of State for Communities and Local whether to grant planning permission for the proposed facility.</i></p>	<p>7.1, 7.2, 7.3, 7.4</p>
<p>14. Authorities responsible for projects will be expected to engage in the preparation of the relevant regional spatial strategy and local development plan documents so as to help secure an up-to-date and supportive planning context in line with PPS10, including appropriate land allocations.</p> <p><i>Information relating to this criterion presented in the cited paragraphs continues to provide a complete and accurate picture.</i></p>	<p>7.1, 7.2, 7.3, 7.4</p>
<p>15. Authorities should take proactive action to acquire sites in line with the development plan, or which they are confident will accord with the development plan if components of the development plan are under review or in preparation.⁴</p> <p>Consideration will be given on a case by case basis to the status and substance of those planning policies and</p>	<p>7.1, 7.2, 7.3, 7.4</p>

⁴ Availability of necessary site(s) identified and secured by the Authority does not preclude bidders offering alternative sites, but does provide a secure reserve position which increases competition, reduces bid costs (both thereby enhancing value-for-money) and improves deliverability of the project.

plans currently in place at authorities.

Information relating to this criterion presented in the cited paragraphs continues to provide a complete and accurate picture with the addition that the Minerals and Waste Core Strategy (DPD1) has been adopted.

From: Atkinson, Nigel (Defra) [mailto: [REDACTED]]
Sent: 21 June 2013 13:10
To: Hull, Joel; [REDACTED] (Defra); [REDACTED] (Defra); [REDACTED] (Defra); [REDACTED] (Defra)
Cc: Allen, Mark; Jackson, Mike
Subject: RE: Norfolk County Council: Residual Waste Treatment Contract

Joel
Thanks for this. Yes, all docs received.
Nigel

From: Hull, Joel [mailto: [REDACTED]]
Sent: 20 June 2013 17:11
To: Atkinson, Nigel (Defra); [REDACTED] (Defra); [REDACTED] (Defra); [REDACTED] (Defra); [REDACTED] (Defra)
Cc: Allen, Mark; Jackson, Mike
Subject: Norfolk County Council: Residual Waste Treatment Contract

Hello Nigel

Please find attached a response to your letter dated 13 June - can you please confirm receipt as I am mindful that the size of the attachments may cause a problem.

I have also attached, as requested in your letter, a full copy of the draft Revised Project Plan provided to us by our contractor on 30 April following our request on 31 Jan. The zipped file contains the draft plan and associated financial model.

By way of further information I have also attached a letter that relates to the draft Revised Project Plan [REDACTED]

I look forward to hearing from you and we will continue to provide other documents and information which we consider may be relevant to your considerations.

Best regards

Joel Hull
Project Director Residual Waste Services
Environment, Transport and Development
Direct dial telephone number [REDACTED]
E-mail: [REDACTED]
Norfolk County Council
General enquiries: 0344 800 8020 or information@norfolk.gov.uk
www.norfolk.gov.uk

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To see our email disclaimer click here <http://www.norfolk.gov.uk/emaildisclaimer>

Department for Environment, Food and Rural Affairs (Defra)

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24/10/2013

George Nobbs
Leader of the Council
County Hall
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NR1 2DH

NCC general enquiries: 0344 800 8022
Textphone: 0344 800 8011

Your Ref:

My Ref : GN/MJL

Date: 21 June 2013

Tel No : (01603) 222222

Email: george.nobbs@norfolk.gov.uk

Dear Secretary of State

As your department knows, Norfolk County Council is currently working with our contractor Cory Wheelabrator to agree with them a revised project plan for the proposed Willows Energy from Waste plant in King's Lynn, West Norfolk for which, in January 2011, we received a Defra promissory note awarding the project £91m Waste Infrastructure Credits, equivalent to a grant worth £169m to Norfolk over the life of the contract.

I was alarmed to hear therefore that Defra officials appear to be re-considering the 'allocation' of this funding. I have already written to CLG this week, to stress the importance to Norfolk of the promised Waste Infrastructure Credits to Norfolk and the public services for which we are responsible.

Defra knows that the County Council requested the Revised Project Plan from our contractors in January 2013, and the process of agreeing this plan is well advanced. We received a fully worked up plan on 30 April 2013, and have until 31 October to accept or reject it. We have agreed with our contractors a revised Planning Permission Longstop Date of December 2014, subject to acceptance of the Revised Project Plan.

At this time, we are also waiting to hear the decision of the Communities Secretary in respect of the planning application – which was called in by him and subject to a recent, exhaustive public inquiry into all the relevant planning aspects. Had this not happened and no challenge to the decision been mounted, the planning permission would have become a Satisfactory Planning Permission in September 2012.

The project remains very good value, which has already been reflected in the published Defra assessment of the treatment infrastructure required to meet the UK's 2020 EU Landfill Directive diversion target, which included the contribution of this project to achieving those national targets. Norfolk County Council's commitment to its contractual obligations remains unchanged and we have responded to your officials' letter of 13 June.

Following a recent Council motion, I now write to ask for some urgent clarification on some wider funding matters.

These are very difficult times for public service funding, which I know you will be keenly aware of, making it even more critical for Norfolk's public services that we receive this promised grant to support the effective treatment of residual waste. The savings to our residents afforded by Defra's promise are factored into this authority's budget and service planning and this happened with confidence, after formal receipt from the then Defra Secretary, of the Government's funding assurance.

In May 2013, a new administration took control at Norfolk County Council which I lead. Not surprisingly, given the local controversy concerning this proposal, the new Council has ensured an open debate on the matter and wants to urgently reassure itself of, all the various aspects concerning the contract, the decision making process and what any 'Plan B' could look like and, importantly, at what cost to our public services and council tax payers. We are currently commissioning independent reviews of all these aspects to give a further layer of reassurance to those who have concerns about the project.

Last Monday, 17 June 2013, the County Council passed a motion that states:

"Full council recognises that Cabinet will be drawing up contingency arrangements, involving officers, including looking at alternatives to Energy from Waste, in case the contract does not go ahead (including exploring funding options from Central Government)."

Should the contract not go ahead for any reason, the Authority faces three very significant issues:

- It has a statutory duty to dispose of its waste and would have to put alternative arrangements in place. Currently there are no viable alternative sources of municipal waste treatment available in the region.
- The contract with Cory Wheelabrator is signed, supported by a promissory note from Defra worth £169m to our council taxpayers over the lifetime of the project (25 years). The currently estimated cost to the Authority in resolving a termination of the project is of so severe a magnitude that it would necessitate in-year emergency budget and service reductions of a very considerable scale.
- Clearly we would need to identify the lowest cost alternative course of action in carrying out such duty. This may limit our ability to have due regard for the waste hierarchy and impact on the environment, for example by having to source waste disposal solutions outside the county.

However, as we consider such matters it has been publicly suggested that the much needed Waste Infrastructure Credits, or alternative sources of Defra funding could be made available by Defra in the event that an alternative scheme were to be pursued. Such suggestions have gained wider credibility because they have been made by a former Government Minister – Mr Henry Bellingham MP.

In addition to his reported comments and letters to the media about potential Government support for alternatives and mitigation of costs, in a note to a Norfolk County Councillor dated 12 May this year, and circulated subsequently to every member of the new council in advance of the council debate, Mr Bellingham said:

"My own view is, if Norfolk County Council pulls out of the incinerator immediately, there would be an excellent chance of getting Government assistance to both put in place a new waste strategy, and to help mitigate the potential £20m penalty.

After all, if the County Council do pull out the Government is going to be saving a considerable amount of money on the PFI/Waste Credits. Of course, we will work together with the Government to secure new PFI Credits for the alternative technology that should now be embraced, but this is bound to be cheaper".

This statement seems at odds with all we have been advised previously by Defra. However, such suggestions have, unsurprisingly, generated considerable interest and not a little traction, particularly among people opposed to the use of incineration as a means of disposing of residual waste and recovering energy and heat. If true, then clearly the authority will need to have regard to them.

In light of these suggestions of Government alternative funding options, I am therefore concerned to receive from you any assurances Defra has given, or is able to give to a Waste Disposal Authority about wider funding options from the Government for Waste Infrastructure projects. Namely, and critically:

- Are there other sources of funding available to this authority from Defra were this contract not to go ahead,
- And are Waste Infrastructure Credits transferable?

May I reiterate, to avoid any doubt, Norfolk County Council's commitment to its contractual obligations remains unchanged in this matter, but I would welcome an urgent reply from you or your ministerial colleagues on these very important matters.

I look forward to hearing from you soon.

Yours sincerely

George Nobbs
Leader of the Council

Rt Hon Owen Paterson MP
Secretary of State for Environment, Food and Rural Affairs
Department for Environment, Food and Rural Affairs
Nobel House
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Mike Jackson
Director of Environment, Transport and Development
Norfolk County Council
County Hall
Martineau Lane
Norwich NR1 2SG

Your ref:
Our ref:
Date: 04 July 2013

Dear Mr Jackson,

Norfolk County Council: Residual Waste Treatment Contract

I write further to your letter of 20 June, and your request for the model and underpinning information to facilitate comment on the assumptions used and conclusions taken.

Please note that we are unable to provide you with a copy of the model due to the fact that the model includes 'Red-Amber-Green' (RAG) ratings (Defra's internal rating system of delivery confidence in respect of individual projects). The RAG ratings constitute commercially confidential information which Defra is unable to disclose in order to protect the legitimate economic interests of the infrastructure projects involved and the integrity of the information. The model would not produce meaningful results with the RAG ratings removed, and could therefore be misinterpreted.

Subject to our comments below, the methodology and all of the assumptions used in the model are explained in the February 2013 publication of our analysis, which you can view via the following link:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/181816/pb13883-forecasting-2020-waste-arising.pdf

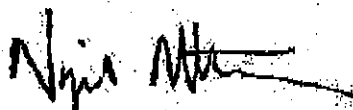
The only change to those assumptions relates to Commercial and Industrial (C&I) waste arisings. These are forecast in line with economic growth. Latest Office of Budget Responsibility forecasts from March 2013 show lower growth in the near term than the previous forecast in December 2012. Updating for this slightly reduces the C&I waste arisings forecasts, with the central forecast falling slightly from 23.1 million tonnes to 22.9 million tonnes of municipal C&I waste per year by 2020.

The only other aspects that have changed since the February 2013 publication relate to an updated project by project assessment of delivery risk and, as we say above, we would not provide

that for commercial confidentiality reasons in any event.

If there is anything you would like to add to your letter of 20 June, please do so by Monday 8 July.

Yours sincerely,



Nigel Atkinson
WIDP Programme Director
Defra

Direct line: [REDACTED]

Email: [REDACTED]

Web: www.defra.gov.uk

Cc: Mark Allen – Assistant Director, Environment and Waste, NCC
Joel Hull – Project Director Residual Waste Services, NCC
[REDACTED] – WIDP Project Transactor
[REDACTED] – Head of WIDP Commercial Team and Contracts
[REDACTED] – Programme Manager and Head of WIDP Scrutiny Team



Norfolk County Council
at your service

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via e-mail

Nigel Atkinson
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NCC contact number: 0344 800 8020
Textphone: 0344 800 8011

Your Ref:

Date: 04 July 2013

My Ref: E/35/0/Waste Project/PFI/3.0/JH

Tel No.: ~~01603 253111~~

Email: ~~nigel.atkinson@defra.gov.uk~~

Dear Nigel

Norfolk County Council: Residual Waste Treatment Contract

Thank you for your letter dated 04 July 2013 and I will reply to that by 08 July with any additional information as requested. In the meantime I would like to draw your attention to a recent letter, dated 21 June 2013, from George Nobbs as Leader of Norfolk County Council to the Rt Hon Owen Patterson MP in his role as the Secretary of State raised a number of points in relation to the Norfolk project.

I am not aware that there has yet been a response, and I understand the points raised may justify a longer period for a reply, however there is one part of the letter for which I think a quick answer is feasible and if possible I would appreciate clarification on that part from you now. Statements have been made by interested parties that essentially make the case that in relation to the Norfolk project:

- The Waste Infrastructure Credits awarded to Norfolk County Council could be transferred to another Norfolk scheme were the contract not to go ahead.
- Other sources of funding could be made available to the County Council by Defra if the existing scheme did not go ahead.

From our understanding the Waste Infrastructure Credits are not transferrable and there is no other equivalent funding stream within Defra to support local authorities in the same way and to the same extent. I would appreciate confirmation from you that this is indeed the case or an explanation of the options available as this would be helpful in establishing a wider understanding of the limits of funding available.

Yours sincerely

Mike Jackson

Director of Environment, Transport and Environment





Norfolk County Council
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Your Ref:
Date: 05 July 2013

My Ref: E/35/0/Waste Project/PFI/3.0/JH
Tel No.: ~~01603 253111~~
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Dear Nigel

Norfolk County Council: Residual Waste Treatment Contract

Thank you for your letter dated 04 July 2013 explaining that you are unable to provide a copy of the Defra model due to the rating you have applied in relation to individual infrastructure projects and the need to protect their economic interests.

Firstly, I reiterate the first point made in my letter to you dated 20 June 2013 that the County Council does not consider that Defra is now released from its obligations under the Waste Infrastructure Credit Letter as you have indicated, for a number of reasons, not least of all the expectation that parties in such matters act reasonably and proportionately.

Secondly, in relation to your most recent letter, and mindful of your very short deadline, I make the following points:

1. Request to Check Data Relating to Norfolk's Project

On the basis that the Defra model will not be provided I do request that you provide the Defra assessment of the Norfolk project. This is so I can assess the integrity of the information Defra holds about the Norfolk project and thereby help ensure that the legitimate economic interests of this project are being protected. This is a valid concern, as it appears to be the case that in the February 2013 publication you referred to, the North Yorkshire project was assessed incorrectly, i.e. stating that it did not have planning permission, and I would not want to see an inaccuracy made in any assessment of the Norfolk project.

Continued....

2. Comments on 'Forecasting 2020 Waste Arisings and Treatment Capacity'

Instead of providing the model requested you have guided me to the February 2013 publication 'Forecasting 2020 Waste Arisings and Treatment Capacity'. Consequently, I make the following observations in relation to that report which I hope you will find useful in your further deliberations, as they raise very relevant issues around the uncertainty of assumptions behind the ability to meet the 2020 targets:

(a) Uncertainty of Assumptions.

The report itself states:

'The infrastructure capacity model forecasts waste arisings and treatment capacity to establish whether sufficient capacity is expected to be in place to meet the requirements of the Landfill Directive target in 2020. This requires predicting future behaviour of a number of uncertain factors, such as waste arisings, recycling rates, when infrastructure projects are likely to come online and how much waste they will divert'.

'There are considerable uncertainties over forecasting these factors to 2020. For example, changes in the economy, attitudes to waste, access to finance and many other issues can all potentially impact future trends'.

These two quotes alone place an over arching uncertainty across all of the report and its findings and brings in to doubt the reliability of any decisions based upon its conclusions.

(b) Waste Arisings Data

The waste arisings data and the forecast of future waste arisings in the report were used in evidence by Eunomia acting on behalf of objectors to the Norfolk project at the recent Planning Inquiry to question the need for 703,000 tonnes per annum of treatment capacity required in Norfolk as evidenced in the Norfolk adopted Core Strategy – Development Plan Document. The figures and conclusions put forward were challenged by the applicant's witnesses and legal team as well as by the Waste Planning Authority's legal team. The detailed information relating to this can be found at the Public Inquiry website here: http://www.persona.uk.com/kings_lynn/index.htm

(c) England's Waste Arisings

2011/12 has been used as a baseline from which the projections of household waste arisings have been made and there is a concern that this is not a robust approach particularly when considered in combination with the report's projection that household waste arisings are assumed to continue to fall.

The downward trend in household waste arisings observed over the last ten years is not indicative of a longer term trend that can be assumed to continue but has been a medium term downward adjustment which coincides with the delivery of a number of successful waste minimisation initiatives across the country and the

Continued....

impact of the economic downturn over the last five years. It is not considered certain that this reduction is a pattern that is likely to be sustained when the effects of these initiatives may have run their course, when population is continuing to steadily increase and with economic recovery in the years leading up to 2020 being expected.

There are already signs in some authority areas of an emerging reversal in this trend. Data for 2012/13 does not appear to have been fully submitted to Waste Data Flow by enough authorities to obtain a clear picture across the country, however, a brief comparison of the first three quarters of 2012/13 against the same three quarters of 2011/12 shows that out of the 33 Waste Disposal Authorities for which reported data were found, 17 had seen an increase in overall arisings of local authority collected waste.

(d) England's Recycling Rates, Initiatives and the Potential Impact of Reduced Local Authority Finances on Residual Waste

The report assumes a continuing increase in recycling rates. However, whilst data for 2012/13 does not appear to have been fully submitted to Waste Data Flow, a brief review of data available on Waste Data Flow showed 169 authorities that have submitted data for the four quarters of 2012/13 have experienced a reduction in recycling rates as measured by the former BVPI82a. This seems to undermine the assumption that recycling rates are set to continue to steadily climb.

Whilst in Norfolk we remain confident of and committed to achieving a 50% recycling rate by 2020 we are not convinced that this will be achieved across local authorities in England and this is relevant when assessing the need to provide for infrastructure to divert biodegradable waste from landfill. This is an increasingly relevant concern when the reduction in funding available to Local Authorities may lead to some waste re-use, reduction and recycling schemes and initiatives being delayed, pulled or not going ahead in the first place and this has to be a major consideration in assessing the future residual waste treatment needs where it is already not certain that 2020 requirements will be met.

(e) Residual Waste Levels on the Rise

A brief look at 286 authorities that have submitted fourth quarter data in whole or in part showed that 140 authorities are already showing an increase in levels of total collected residual waste.

This is partly due to the reclassification of street sweepings which has meant this material can no longer be composted but must be sent to landfill. This has no doubt affected local authorities in England and it is probable that the full impact of this has yet to be felt as some authorities may still be in a phase of transition in order to comply with the new regulations.

Continued....

(f) Commercial and Industrial Waste Tonnage Data Unreliability

The February 2013 paper notes that data about Commercial and Industrial data is not readily available and there is a concern over any reliance on data from the 2009 "Commercial and Industrial Waste Generation and Management Survey" in predicting future performance against the 2020 targets.

The 2009 survey was obtained from self reported data from 6,005 companies in the UK and an additional 1,000 in the north west. As a proportion of the amount of companies in the UK this is a relatively small sample size. For the purposes of a generalised survey to gain an indication of the nature and scale of commercial and industrial waste it may well be an appropriate approach. However, as a source of data for the purposes of forecasting the likely performance against the 2020 target its results ought to be treated with caution.

Sustainability of Reduction Trend

The central forecast level of 43.9 million tonnes of Commercial and Industrial waste arisings referred to at page seven of the report cannot be relied upon. Whilst a sensitivity relating to a 20% probability of a 20% upward adjustment in waste arisings has been assessed, it does not otherwise seem that sufficient probability has been attached to the risk that a smaller but more probable increase in Commercial and Industrial waste arisings could have a negative impact upon the probability of meeting the 2020 target.

Sustainability of Recycling Trend

The use of a central assumption of a 62% recycling rate for Commercial and Industrial waste is questionable. Whilst some uncertainty is catered for through a range of eight percentage points either side of the projection, a lower central assumption may be a more prudent assumption to make given the considerable uncertainty inherent in both the lack of regular data and the small sample size from which existing estimates have been derived.

The report refers to the assumptions made around the deemed municipal content of Commercial and Industrial waste and acknowledges that "the lack of regular data means the municipal content of C&I waste in 2020 is uncertain". Whilst the report has attempted to account for some of this uncertainty there is no evidence offered to back up the assumptions used for the municipal content of Commercial and Industrial waste for 2020.

(g) Commercial and Industrial Waste Composition Uncertainty

Biodegradable content of the municipal element of Commercial and Industrial waste in particular is uncertain and therefore predicting diversion of this element of municipal waste in 2020 is especially uncertain and therefore assumptions on meeting the Landfill Directive Targets for 2020 are also uncertain (this links in to uncertainties above).

Continued....

(h) Programme Wide Assessment of Project Risk

In the RAG system it must be the case that the Norfolk project is rated the same as some other projects. On that basis alone it does not seem justifiable that Norfolk can be isolated as a project for further consideration when a programme wide assessment is made without an equivalent assessment made of each project similarly rated. I cannot see any evidence of this being the case and I am not aware of any approaches being made to other projects that could be viewed to be behind Norfolk in the pipeline of projects that one would expect if a programme wide assessment were being made.

(i) North Yorkshire Project

Assessing North Yorkshire's project as red because it had not secured a satisfactory planning permission is an incorrect statement, which gives rise to concerns about other elements of the report.

(j) Uncertainty on Overall Waste and Recycling Performance Interactions

One notable feature of the report is that sensitivity testing on model inputs appears to have been done on an individual basis. There is no evidence of an integrated approach that considers the risks of an upturn in waste arisings combined with a slowdown in the increase of recycling rates – the very situation realised for some authorities in 2012/13.

Overall, there is a risk that modest increases in both household and Commercial and Industrial waste arisings and a slowdown in improvements to recycling rates will occur and indeed that there are signs of this occurring already. When considered in the context of the delays being caused to the delivery of waste infrastructure projects and the considerable uncertainties apparent in the February 2013 report there has to now be considerably less cause for optimism around meeting the 2020 target than suggested in the report.

3. Disparity Between Consented Capacity and Delivered Capacity

Defra's recent publication: Energy from Waste, A Guide to the Debate, February 2013 suggests that if the waste treatment capacity that has planning consent (around 12 million tonnes) reaches financial close and begins construction, then the 2020 capacity gap will decrease to just under 11 million tonnes per annum. It also notes that planning consent is being sought for around a further three million tonnes of waste treatment capacity.

I raise this as there is a difference from what has consented capacity and what actually gets constructed and this needs to be appreciated when considering the ability to comply with the Landfill Directive targets. As a relevant example a 150,000 tonnes per annum residual waste treatment facility in Norfolk did not go ahead in to construction despite having planning permission as well as a permit as no contract was awarded to the developer and the permissions have since lapsed. It should also be appreciated that in some areas not all facilities will go ahead in to delivery where competitors are vying for contracted tonnages.

Continued....

In connection to this it should also be taken in to account that Eunomia observed that one million tonnes had recently exited the planning process without obtaining consent, either having been withdrawn or refused.

4. Funding Uncertainty Across Projects

In the recent Eunomia report 'Residual Waste Infrastructure Review', it is noted there is a slow-down in new capacity reaching financial close due to challenging lending criteria, which a large proportion of merchant plants are struggling to meet. This creates an increasing uncertainty about the assumptions around the deliverability of merchant capacity which is a part of the 2020 target compliance calculation and previous assumptions would therefore need revisiting.

5. Lack of Detailed Insight on PPP and Merchant Capacity Projects

At a wider programme level there are considerations that need to be taken in to account by Defra in relation to the 2020 obligations that relate to assumptions around contracted PPPs and PFIs. A large number of these are signed contracts but without consents and some of the projects individually can be expected to reach Planning Longstop Dates – where decisions may be made not to proceed or Revised Project Plans may be requested and subsequently not delivered or rejected. This may occur for a number of reasons, for instance lack of availability of funding for either project financed or corporate financed deals, or changes in project cost linked to the changing requirements around these. The Norfolk project is already beyond this point as a Revised Project Plan has been received, a new Planning Longstop Date has been agreed and all the funding is deliverable. This set of circumstances should give reassurance about the deliverability of the Norfolk project which Defra will have been able to assess for itself based on the Revised Project Plan information already provided. Defra will not have these levels of reassurance on any PPP or delayed merchant facility. This should lead to the certainty about the Norfolk project in your longer term projections being reflected more favourably – as Defra has increased confidence about the Norfolk project that it does not have about either the PPP or merchant capacity projects, or for that matter any PFI contract that is behind Norfolk in this regard.

6. Relation to Energy Security Policy

In his foreword to the 2011 Energy White Paper, Planning Our Electric Future, the Secretary of State observes that *"Around a quarter of our existing capacity... will close in the next decade"* and that *"...traditional fossil fuels leave us open to volatile prices, deepen our dependence on imported energy and emit too much carbon"*. He makes clear the need, inter alia, for a *"... huge investment in renewables..."* in order to *"... diversify supply and wean us away from imported fossil fuels"*.

The coalition has made clear its commitment to increase the amount of renewable energy deployed in the UK. It believes that *"This will make the UK more energy secure, will help protect consumers from fossil fuel price fluctuations, will help drive investment in new jobs and businesses in the renewable energy sector, as well as keep the country on track to meet its carbon reduction objectives for the coming decades."*

Continued....

This makes the Norfolk project very relevant to wider needs recognised by Government as the fuel used will include the biogenic fraction of waste material, and thus the scheme represents one of the technologies the Government will rely upon in meeting its objective for 2020.

5. Infrastructure Delivery

I have attached a letter from Lord Deighton to the County Council's contractor which you may not have seen (Appendix 1). Whilst it is valuable in clarifying that Treasury has not instructed Defra to review waste contracts that have been awarded PFI credits it also registers a keenness to limit the negative reaction to Departments' decisions to achieve savings and acknowledges the need for a stable and predictable platform to deliver waste infrastructure. This assessment appears to be at odds with the consequences of any decision to remove allocated funding, not just from the Norfolk project but to any contracted project, which would have in the Norfolk case an immediate negative impact on the confidence levels of Japanese and American investors as well as two UK banks, a knock on effect in the wider funding market's confidence levels in the sector with a wider consequence of seriously denting funder confidence in any Government supported programmes at a time when Government strategy is to promote economic growth supported by investment in infrastructure.

The above points and issues are all raised in the expectation that Defra is taking these matters, along with other matters, in to account in its deliberations with regards to the 2020 targets. In conclusion though I refer back to your letter of 20 May 2013 in which you note that Defra's updated analysis indicates that:

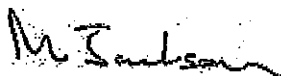
- Defra is not certain that 2020 targets will be met.
- The Norfolk project does increase the likelihood of meeting the 2020 target.

On that basis alone, and in the light of the recent unfortunate news about the continuing uncertainty about the prospects for the Merseyside project, I do not think it would be reasonable or sensible to remove the financial support allocated to the Norfolk project.

I am happy to provide additional information and clarifications where required or needed and would appreciate an explanation of your processes and timetable going forwards in relation to your ongoing deliberations. I would also like to hear from you about your view on all the points and issues raised in this letter with a provision of an explanation in relation to any points raised with which you disagree.

Lastly, I look forward to a response to the points in my letter to you dated 04 July 2013 around the transferability of Waste Infrastructure Credits awarded to Norfolk County Council, or availability of alternative equivalent sources of funding that could be made available to the County Council by Defra, to support alternative residual waste treatment solutions if the existing contract did not go ahead.

Yours sincerely



Mike Jackson
Director of Environment, Transport and Environment

Appendix 1 – Letter from Lord Deighton to Wheelabrator Technologies



HM Treasury, 1 Horse Guards Road, London, SW1A 2HQ

Wheelabrator Technologies Inc. UK
Portland House
Stag Place
London
SW1E 5BH

26 June 2013

Dear Mr. Aguirre & Mr. Gertrou


WASTE INFRASTRUCTURE CREDITS FOR THE NORFOLK COUNTY COUNCIL: RESIDUAL WASTE TREATMENT CONTRACT

Thank you for your letter of 17 June regarding the proposed residual waste treatment contract with Norfolk County Council. We want Britain to be one of the most competitive places in the world to do business and investment in infrastructure is a key part of the Government's strategy to promote economic growth. I am concerned by any event that you believe may prejudice trust in the sector.

I would like to clarify that the Treasury has not instructed the Department for Environment, Food and Rural Affairs to review waste contracts that have been awarded PFI Credits. This applies to both the decision to review and withdraw PFI Credits from the then remaining PFI projects in procurement (Bradford and Calderdale, Merseyside Waste and North Yorkshire waste), as well as the Norfolk Waste PFI project to which your letter refers. I am very keen that we manage where we can to limit the negative reaction to the difficult decisions that Departments must make as they seek to achieve savings. I share your view that we need a stable and predictable platform to deliver the long term planning needs of our waste infrastructure. A fundamental requirement of that ambition is to retain the enthusiasm, confidence and partnership of you and your industry.

Calling in projects such as these during the planning process is the responsibility of the Secretary of State for Communities and Local Government so it would not be appropriate for me to comment at this stage. However, I am sure the Secretary of State will appreciate your desire for a swift decision. I appreciate the impact that delay can have on investor confidence, the supply chain and employment opportunities.

I take seriously the issues you have raised, and I am copying this letter to the Secretary of State for Communities and Local Government, the Chief Secretary to the Treasury and the Parliamentary Under Secretary of State for Resource Management, the Local Environment and Environmental Science.

A handwritten signature in dark ink, appearing to be 'L. Deighton', written in a cursive style.

LORD DEIGHTON

From: Hull, Joel
Sent: 08 July 2013 14:43
To: [REDACTED] *NCC Official*
Subject: Fw: NCC Residual Waste Treatment Contract
Attachments: Defra 050713 FINAL.pdf

For info.
Project Director - Residual Waste Services
[REDACTED] / [REDACTED]

From: Hull, Joel
Sent: Friday, July 05, 2013 06:03 PM
To: Atkinson, Nigel (Defra) <[REDACTED]>
Cc: WIDP Programme Office <WIDP.ProgrammeOffice@defra.gsi.gov.uk>; [REDACTED] (Defra)
<[REDACTED]>; [REDACTED] (Defra) <[REDACTED]>; [REDACTED] (Defra) <[REDACTED]>; Jackson, Mike; Allen, Mark
Subject: RE: NCC Residual Waste Treatment Contract

Hello Nigel

Please find attached a reply from Mike Jackson to your letter dated 04 July.

Best regards
Joel Hull
Project Director Residual Waste Services
Environment, Transport and Development
Direct dial telephone number: [REDACTED]
E-mail: [REDACTED]
Norfolk County Council
General enquiries: 0344 800 8020 or information@norfolk.gov.uk
www.norfolk.gov.uk

From: WIDP Programme Office [mailto:WIDP.ProgrammeOffice@defra.gsi.gov.uk]
Sent: 04 July 2013 09:02
To: Jackson, Mike
Cc: Atkinson, Nigel (Defra); Allen, Mark; Hull, Joel; [REDACTED] (Defra); [REDACTED] (Defra); [REDACTED] (Defra)
Subject: NCC Residual Waste Treatment Contract

Dear Mr Jackson,

Please see attached letter from Nigel Atkinson

<<20130704 Letter to NCC.pdf>>

WIDP Programme Office

Department for Environment, Food and Rural Affairs (Defra)

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From: Hull, Joel
Sent: 10 July 2013 17:52
To: [REDACTED] NCC officials
Subject: Fw: Norfolk County Council: Residual Waste Treatment Contract
Attachments: 20130710 Letter in reply to NCC_scanned.pdf

For info.

Project Director - Residual Waste Services
[REDACTED] / [REDACTED]

From: [REDACTED] (Defra) [mailto:[REDACTED]]
Sent: Wednesday, July 10, 2013 03:36 PM
To: Jackson, Mike
Cc: Allen, Mark; Hull, Joel; Atkinson, Nigel (Defra) <[REDACTED]>; [REDACTED] (Defra) <[REDACTED]>; [REDACTED] (Defra) <[REDACTED]>; [REDACTED] (Defra) <[REDACTED]>
Subject: Norfolk County Council: Residual Waste Treatment Contract

Dear Mr Jackson


Please see attached letter from Nigel Atkinson. The original is in the post and will be with you shortly.

<<20130710 Letter in reply to NCC_scanned.pdf>>

WIDP PROGRAMME OFFICE

Department for Environment Food and Rural Affairs (Defra)

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for Environment
Food & Rural Affairs

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Horseferry Road
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T: 08459 335577
helpline@defra.gsi.gov.uk
www.defra.gov.uk

Mike Jackson
Director of Environment, Transport and Development
Norfolk County Council
County Hall
Martineau Lane
Norwich NR1 2SG

Your ref: -
Our ref: -
Date: 10 July 2013

Dear Mr Jackson,

Norfolk County Council: Residual Waste Treatment Contract

I write further to your letter of 4 July, which seeks a quick answer on two points raised by George Nobbs as Leader of your Authority in his recent letter to our Secretary of State dated 21 June.

Defra will respond to the points raised in the 21 June letter in due course. In the meantime, and in line with your request for a quick answer to the question of transferability of credits and availability of other sources of funding, I can confirm that your understanding as set out in the final paragraph of your letter of 4 July is correct: the Waste Infrastructure Credits are not transferrable and there is no other equivalent funding stream within Defra to support local authorities in the same way and to the same extent.

Yours sincerely,

Nigel Atkinson
WIDP Programme Director
Defra

Direct line: ~~020 3 743 2400~~

Email: ~~defra@defra.gov.uk~~

Web: www.defra.gov.uk

Cc: Mark Allen – Assistant Director, Environment and Waste, NCC
Joel Hull – Project Director Residual Waste Services, NCC
~~XXXXXX~~ – WIDP Project Transactor
~~XXXXXX~~ – Head of WIDP Commercial Team and Contracts
~~XXXXXX~~ – Programme Manager and Head of WIDP Scrutiny Team

From: Allen, Mark
Sent: 24 July 2013 08:47
To: [REDACTED]
Cc: Jackson, Mike
Subject: FV: Norfolk's Waste PFI
Attachments: Report Norfolk Waste Final.doc

Colin

Colin Church,
Defra

I trust that you are well. I understand that Nigel is on leave until 5 August, and as I've not heard from [REDACTED] I thought I should bring this to your attention.

On Monday we received the Inspectors' examination final report on the LDF Waste Site Specific Allocation Plan (attached). The inspector has found both frameworks for our strategy and the allocations 'sound'. This addresses many of the objections raised at the Willows Power & Recycling Centre Public Inquiry.

I'm sure that you will want to update your assessment of Norfolk's PFI to include this new information.

If you need any more information, please do contact me or Mike.

Kind regards,

Mark

From: Allen, Mark
Sent: 22 July 2013 19:37
To: Nigel Atkinson ([REDACTED])
Cc: [REDACTED]; Hull, Joel
Subject: RE: Norfolk's Waste PFI

Defra
Official

Nigel

Please find attached the Waste Site Specific Allocation Plan, that the Inspector has found 'sound'. This addresses many of the objections raised at the Willows Power & Recycling Centre Public Inquiry.

Mark

From: Allen, Mark
Sent: 22 July 2013 15:11
To: Nigel Atkinson ([REDACTED])
Cc: [REDACTED]; Hull, Joel
Subject: Norfolk's Waste PFI

Defra Official

Nigel

I trust that you are well. I've been on leave the last two weeks, and would appreciate a catch up conversation when convenient.

In the mean time I have some immediate news with regard to Norfolk's Local Development Framework. The inspectors' examination final report was issued today (22 July) and the inspector has found both frameworks for our strategy and the allocations 'sound'. I'm sure that you will want to update your assessment of Norfolk's PFI to include this new information.

I'll forward a copy of the final report for you, once I have one.

I look forward to speaking to you soon.

Kind regards

Mark

Mark Allen

Assistant Director

Environment & Waste

Environment, Transport & Development

Direct dial telephone number: [REDACTED]

E-mail: [REDACTED]

Norfolk County Council

General enquiries: 0344 800 8020 or information@norfolk.gov.uk

www.norfolk.gov.uk



The Planning
Inspectorate

Report to Norfolk County Council

by Andrew S Freeman BSc(Hons) DipTP DipEM FRTPI FCIHT MIEEnvSc
an Inspector appointed by the Secretary of State for Communities and Local Government

Date: 22nd July 2013

PLANNING AND COMPULSORY PURCHASE ACT 2004 (AS AMENDED)

SECTION 20

REPORT ON THE EXAMINATION INTO NORFOLK COUNTY COUNCIL

WASTE SITE SPECIFIC ALLOCATIONS LOCAL PLAN

Document submitted for examination on 10 December 2012

Examination hearings held between 9 and 11 April 2013

File Ref: PINS/X2600/429/7

ABBREVIATIONS USED IN REPORT

Core documents (referenced in parentheses in the text) are prefixed by the letters
A to G

HRA	Habitats Regulations Assessment
LDS	Local Development Scheme
MIN	Prefix to allocated minerals sites
PFI	Private Finance Initiative
RS	Regional Strategy
SA	Sustainability Appraisal
SAC	Special Area of Conservation
SCI	Statement of Community Involvement
SCS	Sustainable Community Strategy
SPA	Special Protection Area
WAS	Prefix to allocated waste sites

Non-Technical Summary

This report concludes that the Norfolk County Council Waste Site Specific Allocations Local Plan provides an appropriate basis for the planning of the County over the next 13 years. The County Council has specifically requested that I recommend any modifications necessary to enable adoption of the Plan. However, after full consideration of the representations from other parties on all the issues, I have concluded that none are necessary in this case. I recommend that the submitted Plan is adopted on the basis that it meets in full the requirements of Section 20(5) of the Planning and Compulsory Purchase Act 2004 (as amended).

Introduction

1. This report contains my assessment of the Norfolk County Council Waste Site Specific Allocations Local Plan in terms of Section 20(5) of the Planning and Compulsory Purchase Act 2004 (as amended). It considers first whether the Plan's preparation has complied with the duty to co-operate, in recognition that there is no scope to remedy any failure in this regard. It then considers whether the Plan is compliant with the legal requirements and whether it is sound. The National Planning Policy Framework (Paragraph 182) makes clear that, to be sound, a Local Plan should be positively prepared; justified; effective; and consistent with national policy.
2. The starting point for the examination is the assumption that the local authority has submitted what it considers to be a sound plan. The basis for my examination is the "Waste Site Specific Allocations Development Plan Document: Pre-Submission" (April 2012, A01) as modified by waste-related changes in the "Pre-Submission: Addendum: Proposed Focussed Changes" (September 2012, A160). Both of these documents have been the subject of full public consultation.
3. The documents submitted for examination also included a schedule of "Additional (Minor) Modifications to Pre-Submission Waste Site Specific Allocations" (A60). It was not envisaged by the County Council that these modifications would affect the soundness or legality of the Plan. Nevertheless, participants were given the opportunity to comment on the proposed modifications through the examination process.
4. As the Plan as submitted in regard to both soundness and legal compliance is capable of being adopted without change, no main modifications are recommended in this report.

Assessment of Duty to Co-operate

5. Section 20(5)(c) of the 2004 Act requires that I consider whether the County Council complied with any duty under Section 33A of the 2004 Act in relation to the Plan's preparation. Section 33A requires constructive, active and on-going engagement with local authorities and a variety of prescribed bodies with regard to a strategic matter in order to maximise the effectiveness of plan preparation.
6. I find that the County Council has been inclusive throughout the plan making process, engaging and co-operating with neighbouring authorities, undertaking a series of public consultation exercises and working closely with key stakeholders. The process has continued through the examination. The extent of the co-operation is explained in the following documents:
 - Proposed Focussed Changes Representations Feedback Report (A168)
 - Proposed Focussed Changes Statement of Consultation (A167)
 - Pre-Submission Representations Feedback Report (A55)
 - Pre-Submission Statement of Consultation (A25)

- Pre-Submission Statement of Consultation Part 2 (A26)
 - 2011 Public consultation comments and Norfolk County Council's responses (F167)
 - Waste Site Allocations Summarised Representations to the Issues & Options consultation (F41, F42, F43, F44, F45, F46 and F47)
7. In addition to the formal consultation, the County Council maintains liaison with its peer authorities through quarterly meetings of the East of England Waste Technical Advisory Body. Attendance at this body also includes the Environment Agency, a representative of the South East Waste Planning Advisory Group and a secretary/coordinator who attends meetings of both the London Waste Technical Advisory Body and the South East Waste Planning Advisory Group. Joint evidence produced for the East of England Waste Technical Advisory Body and the former East of England Regional Assembly has informed the County Council's work on waste matters.
 8. Within Norfolk, a Norfolk Strategic Services Co-ordinating Group was established in 2008. Quarterly meetings are held with Norfolk district level authorities, the Highways Agency, the Environment Agency, Anglian Water and other important representatives. The County Council attends, representing roles including Highway Authority and Minerals and Waste Planning Authority.
 9. In addition, meetings of a Norfolk Strategic Planning Group take place on a bi-monthly basis. This involves representatives of the County Council, the Norfolk District/Borough Councils, Norwich City Council and the Broads Authority. The group considers strategic planning policy issues including waste. The group shares information and good practice; also liaises on the production of local plans. Other meetings are held between the County Council and individual districts to discuss strategic planning issues, including waste.
 10. I conclude that the County Council has worked collaboratively with other authorities and bodies and has co-operated effectively through a continuous period of engagement. The County Council has fulfilled the duty to co-operate with regard to the Norfolk County Council Waste Site Specific Allocations Local Plan.

Assessment of Legal Compliance

11. My examination of the compliance of the Plan with the legal requirements is summarised in the table below. I conclude that the Plan meets all such requirements. However, in the light of discussion at the examination hearings and other evidence before me, I include comments on a number of relevant matters:

Local Development Scheme

12. The Minerals and Waste Development Scheme (A71), as submitted to the Secretary of State at the start of the examination process, referred to submission of the Waste Site Specific Allocations Development Plan Document in June 2012 with hearings in September 2012. In the event, the Plan was submitted in December 2012 and hearings were held in April 2013. To reflect

these and other revised dates, an updated Local Development Scheme (A72) has been prepared. The content and timing of the Plan are compliant with the revised scheme.

Habitats Regulations Assessment

13. The adequacy of the Habitats Regulations Assessment has been questioned in certain representations. However, these criticisms tend to be part and parcel of representation on particular sites, notably WAS 05 (Land at Estuary Road, King's Lynn) and WAS 65 (Land at the Willows Business Park, King's Lynn). For convenience, material points have been considered alongside other key representations on the proposed allocations. Only the conclusion (that Habitats Regulations Assessment has been carried out and is adequate) is set out in the following table.

National Policy

14. Aspects of national policy have also been questioned in the representations. As in the case of the criticisms on the Habitats Regulations Assessment, the points tend to relate to specific sites and are considered under the main issues. The overall conclusion, as summarised in the following table, is that the Local Plan complies with national policy.

LEGAL REQUIREMENTS	
Local Development Scheme (LDS)	The Local Plan is identified within the approved LDS (May 2013) which sets out an expected adoption date of September 2013. The Local Plan's content and timing are compliant with the LDS.
Statement of Community Involvement (SCI) and relevant regulations	The original SCI was adopted in March 2007. An updated statement was adopted in September 2012. Consultation has been compliant with the requirements therein.
Sustainability Appraisal (SA)	SA has been carried out and is adequate.
Habitats Regulations Assessment (HRA)	The Habitats Regulations HRA has been carried out and is adequate.
National Policy	The Local Plan complies with national policy.
Sustainable Community Strategy (SCS)	Satisfactory regard has been paid to the SCS.
2004 Act (as amended) and 2012 Regulations.	The Local Plan complies with the Act and the Regulations.

Assessment of Soundness

Preamble

15. In September 2011, Norfolk County Council adopted its "Core Strategy and Minerals and Waste Development Management Policies Development Plan Document 2010 – 2026" (A170). The Core Strategy sets the context for the County Council's site allocations documents. One of these is the Waste Site Specific Allocations Local Plan that forms the subject of this report. A Minerals Site Specific Allocations Local Plan has also been submitted. This is being considered alongside the Waste Site Specific Allocations Local Plan.
16. The Local Plan aims to allocate sites that are considered to be suitable for waste management development of one sort or another. Twenty-nine sites across the County are identified. The sites are allocated for uses that include recovery (residual treatment), recycling / composting and landfill / quarry restoration. The aim has been to identify suitable sites that meet the locational criteria and quantitative needs set out in the Core Strategy.
17. The Core Strategy was adopted prior to publication of national planning policy as expressed in the National Planning Policy Framework. Specific waste policies are not included in the Framework although Planning Policy Statement 10: Planning for Sustainable Waste Management still applies in relation to waste management and other policies in the Framework are relevant to the content of the Waste Site Specific Allocations Local Plan. In particular, when testing soundness, it is necessary to consider whether the Plan has been "positively prepared".
18. The key purpose of the Plan is stated to be the allocation of deliverable sites to provide waste management capacity to meet the requirements identified in the adopted Core Strategy. The County Council considers that the allocated sites represent the most appropriate strategy, when considered against the reasonable alternatives, based on proportionate evidence; also that the allocated sites are deliverable and would enable the delivery of sustainable development.
19. For my part, I find that the Plan has been positively prepared and is sound in this regard. In particular I note that, through the Proposed Focussed Changes (A160), an appropriate policy has been included on the presumption in favour of sustainable development. I conclude that the Local Plan complies with national policy as set out in the Framework and in other national policy documents.
20. The Core Strategy was in general conformity with the then Regional Spatial Strategy, the East of England Plan. The East of England Plan was revoked in its entirety on 3 January 2013. As such, the matter of general conformity does not apply to the Waste Site Specific Allocations Local Plan.
21. On the matter of consultation, I have noted above that the "focussed changes" (A160) have already been the subject of consultation. In the absence of any post-hearing main modifications, further consultation was not a requirement. Nevertheless, the County Council included proposed additional modifications in a round of post-hearings consultation. I have considered the responses

received but none are material to legal matters or to the soundness of the Plan.

Main Issues

22. Taking account of all the representations, written evidence and the discussions that took place at the examination hearings, I have identified two main issues upon which the soundness of the Plan depends.

Issue 1 – Whether sufficient new waste management capacity would be provided

23. The amount of waste management capacity that needs to be provided is identified in Policy CS4 of the Core Strategy (A170). By the end of 2026, there is a need for about 163,000 tonnes of new recycling, composting and source-separated anaerobic digestion capacity; and about 703,000 tonnes of recovery infrastructure. In addition, some 3,075,000 tonnes of new inert fill would be required for landfill and quarry restoration purposes.¹ There is no quantified need for inert recycling or non-hazardous landfill capacity.

Recycling, composting and source-separated anaerobic digestion capacity

24. Using the estimates in the Waste Site Specific Allocations Local Plan, there is the potential to provide about 643,000 tonnes of new recycling, composting and source-separated anaerobic digestion capacity over the plan period. This is considerably above the need identified in Core Strategy Policy CS4.
25. However, there are a number of important considerations:
- The capacities are estimates.
 - Some of the developments would be temporary.
 - Generous provision is likely to facilitate and encourage recycling and composting.
 - There is no general need to constrain these activities.
 - If at the planning application stage any of the sites prove to be unsuitable, the "loss" to other uses would not be critical.
 - Some of the sites may be developed for other purposes in any event.
 - Flexibility would be beneficial.

In these circumstances, I find that the provision for recycling, composting and source-separated anaerobic digestion is appropriate.

Inert recycling capacity

26. The need for new inert recycling capacity is not quantified under the terms of Core Strategy Policy CS4. However, inert material would be used in existing,

¹ In the policy, this is expressed as about 2,060,000 tonnes of new inert landfill/quarry restoration voidspace. However, to fill this voidspace, about 3,075,000 tonnes of material would be required.

allocated and partially-filled mineral workings. These are obvious candidates for the receipt of inert recycled matter. The waste allocations tend to be directly linked to sites allocated for mineral extraction purposes. I find that the additional allocation of these sites for waste purposes (inert recycling) is entirely sensible. Inert waste recycling would be encouraged and restoration assisted.

Recovery capacity (residual treatment)

27. The estimated amount of annual recovery capacity (residual treatment) that would be needed over the plan period (Core Strategy Policy CS4) is 703,000 tonnes. Just over half would be needed in the period 2010 to 2015. The remainder would be needed in 2015 to 2020. Provision under the Waste Site Specific Allocations Local Plan would be 800,000 tonnes per annum.
28. With regard to the allocated sites, I note that the annual capacity figures are only estimates.² In addition, capacity would vary according to the technology used. Flexibility would be beneficial. However, if any one of the sites failed to come forward, there could be a shortfall of anything in the range of 53,000 to 153,000 tonnes of annual recovery capacity.
29. In the event of a shortfall, the County Council would rely on a review of the Plan. There are no "reserve" sites, suitable recovery (residual treatment) sites being particularly difficult to identify. On-going review is provided for under the monitoring and implementation provisions of the Core Strategy. The circumstances underline the importance of the Plan allocations in this regard.

Landfill and quarry restoration

30. With regard to inert landfill, the submission version of the Waste Site Specific Allocations Local Plan makes provision for the disposal of about 3 million tonnes of material. However, post-submission, the County Council investigated the average amount of imports at the five main quarry restoration projects that are on-going in the County. The average tonnage per annum is in the region of 45,000 tonnes.
31. Through additional modifications, the County Council proposes to use this latest figure. This suggests that use would be made of some 3,450,000 tonnes of inert landfill. This may be compared with the "need" for approximately 3,075,000 tonnes.
32. Whilst the margin of "excess provision" is not generous, I agree with the County Council's view that it would be preferable not to over-allocate landfill capacity. Provision further up the waste hierarchy should be encouraged. In addition, there are mineral sites where inert material would be required for restoration purposes even though the sites are not allocated within the Waste Site Allocations Local Plan.³

² One representor has argued that the estimates are not sufficiently reliable. However, they are in line with the examples contained in the research study "Planning for Waste Management Facilities" (C25). Although this document dates from 2004, it still sets out some reasonable assumptions.

³ Examples are an allocation forming an extension to Spixworth Quarry (MIN 96) and three allocated minerals sites forming extensions to Mangreen Quarry (MIN 79, MIN 80 and MIN 81).

Non-hazardous landfill capacity

33. The Core Strategy does not require any additional non-hazardous landfill capacity during the Plan period. Capacity (75,000 tonnes a year) would be provided at Keeper's Cottage, Attlebridge (WAS 24). Here, the capacity has been included as restoration of an allocated mineral extraction site. The site could be developed for inert landfill or non-hazardous landfill.

Conclusions

34. I conclude that sufficient new waste management capacity of appropriate types would be provided under the terms of the Norfolk Waste Site Specific Allocations Local Plan. The Local Plan is sound in this regard.

Issue 2 – Whether the allocated sites are acceptable in environmental terms and in other respects; and whether the sites are deliverable

35. The majority of the 29 sites that are allocated in the Norfolk Waste Site Specific Allocations Local Plan are the subject of representations. Many of the representations are from bodies such as the Environment Agency. However, most differences of opinion have been resolved through on-going negotiations. They concern detailed matters rather than the principle of allocation. There are no soundness matters in this regard.
36. By far the greatest number of representations concern two sites in the Borough of King's Lynn and West Norfolk. These sites are known as WAS 05 (Land at Estuary Road, King's Lynn) and WAS 65 (Land at Willows Business Park, King's Lynn). These sites are considered individually below.
37. At the same time as the examination hearings into the Local Plan, a public local inquiry was being held under Section 77 of the Town and Country Planning Act 1990. This related to an application for a proposed energy from waste and recycling facility on the WAS 65 site (Land at Willows Business Park). At the time of writing this report, no decision on the application had been made by the Secretary of State.
38. Further representations of significance concern general matters relating to the sites in the Borough of King's Lynn and West Norfolk and sites within Breckland district. I consider key issues raised after the discussion on the WAS 05 and WAS 65 sites.

WAS 05 and WAS 65

39. The issues pertaining to these two sites are the same. The following discussion is focussed on the Willows Business Park site (WAS 65). However, the conclusions are relevant to both sites.
40. In line with the discussion at the examination hearings, I am reporting on a number of key matters. These are the integrity of European and internationally designated sites; site selection and flood risk assessment; and proposed provision and the principle of proximity.

Integrity of European and internationally designated sites

41. Based on the Habitats Regulations Assessments of sites WAS 05 and WAS 65 it is concluded that there would be no adverse effects on the integrity of European or internationally designated sites. The work is summarised in two key documents. These are the "Review of Norfolk Waste Site Specific Allocations Development Plan Document: Sites WAS 65 and WAS 5" (F162) and the "Waste Site Specific Allocations Development Plan Document Habitats Regulations Assessment" (A10 and A10a).
42. The work assesses potential direct and in-combination effects on:
- Roydon Common and Dersingham Bog SAC and Roydon Common Ramsar site; and
 - The Wash and North Norfolk Coast SAC, The Wash SPA and The Wash Ramsar site.
43. In line with Policy WAS 05 and Paragraph 6.5.1 of the Waste Site Specific Allocations Local Plan, the effects of processing 150,000 tonnes per annum (tpa) of recyclables, mixed waste processing, thermal treatment or other forms of residual waste treatment were considered. For WAS 65, the assessment concerned composting with capacity up to 40,000 tpa; processing of recyclables and mixed waste processing up to 50,000 tpa; or anaerobic digestion, thermal treatment and other forms of residual waste treatment up to 250,000 tpa (Paragraph 6.65.1 and Policy WAS 65).
44. A range of potential emissions to air and water from each facility was identified in accordance with industry practice. It was concluded:
- Site WAS 05:
- Mixed waste processing could potentially affect air quality at The Wash and Roydon Common. Mixed waste processing together with other possible development such as residential development could potentially have a cumulative effect on water quality at The Wash.
 - Thermal treatment could potentially affect air quality at Roydon Common.
- Site WAS 65:
- Composting together with other possible developments such as residential development could potentially affect water quality at The Wash.
 - Mixed waste processing could potentially affect air quality at The Wash and Roydon Common. Mixed waste processing together with other possible developments could potentially have a cumulative effect on water quality at The Wash.
 - Thermal treatment could potentially affect air quality at The Wash and Roydon Common.
45. The documents (F162, A10 and A10a) describe a range of potential mitigation measures. It is further concluded that, with appropriate mitigation measures

in place, no adverse effects on the integrity of European or internationally designated sites should be achievable.

46. Both Policy WAS 05 and WAS 65 contain provisions to ensure that there would be no adverse effects on relevant designated sites as a result of emissions to water or air. With compliance with these requirements I am satisfied that development in accordance with Policies WAS 05 and WAS 65 would not adversely affect the integrity of any European or internationally designated site. Detailed mitigation could be agreed at the project stage. This is in line with the conclusions of Natural England.⁴

Site selection and flood risk assessment

47. This section examines the proposition, made in representations, that the process used for the selection of potential waste allocation sites was flawed. It was argued that, as a result, the flood risk assessments concerning sites WAS 05 and WAS 65 were also flawed because it should have been concluded that there were reasonably available sites in Flood Zones 1 or 2.⁵
48. On site identification, it has been argued similarly that the process followed should have been similar to an example of best practice as set out in the Companion Guide to Planning Policy Statement 10 (B10, Page 78). The example concerns an appraisal carried out by the former Shropshire County Council in the development of its Waste Local Plan (adopted in 2004).
49. On a preliminary point, I note that the example concerns testing the suitability of sites, not site selection. Be that as it may, I have determined that the process in Shropshire involved the identification of a "long list" of sites assembled by:
- requesting proposals from over 200 waste management and property stakeholders;
 - working closely with District Council officers to identify potentially suitable land; and
 - carrying out a desk-based study to identify potential non-inert landraise sites.
50. The third of these bullet points is not applicable to Norfolk. With regard to the first bullet point, a similar exercise was carried out in Norfolk. This led to the assembly, by the County Council, of a long list of 66 sites.⁶ Essentially these were sites nominated by owners, agents, operators and the like. Twenty-nine of these were eventually considered to be suitable for allocation including five sites deemed suitable for recovery infrastructure. Of the five "recovery (residual treatment)" sites, three are located within Flood Zone 1. The other two (WAS 05 and WAS 65) are located within Flood Zone 3.

⁴ See for example the written submission prepared by Natural England for the examination hearing session on WAS 05 and WAS 65

⁵ The County Council accepts that WAS 05 and WAS 65 are within Flood Zone 3. At the examination hearings, a representative of the developers sponsoring the Section 77 planning application on WAS 65 opined that the site is with Flood Zone 1. However, bearing in mind the absence of any duly-made representation or pre-hearing written evidence on this point, I have examined the worst case (Flood Zone 3).

⁶ This was at the Initial Issues and Options stage following a "call for sites". A number of other sites were submitted following the consultation.

51. To meet the identified need for recovery (residual treatment) capacity, all of the allocated recovery (residual treatment) sites, including those in Flood Zone 3, would be required (see Paragraphs 27 to 29 above). In these circumstances, there would be no reasonably available alternative sites with a lower probability of flooding. However, representors have argued that other suitable sites have been excluded from the process and that, had there been closer working with the officers of King's Lynn and West Norfolk District Council, further candidate sites, including those with a lower probability of flooding, could have been allocated.
52. As examples of other potential allocations put forward by representors, sites at Broadland Business Park and west of William Frost Way, Costessey were discussed at the examination hearings. Other potential sites were stated to exist by representors. Within the constraints of the discussion,⁷ I determined that there were reasonable grounds for deciding that such sites would be unsuitable for recovery (residual treatment) purposes. For example, there is residential development reasonably close to the Broadland site; and at Costessey, potential problems include deliverability issues, incompatible land uses and objections from the Environment Agency.
53. Be that as it may, I consider that the methodology used by the County Council was entirely appropriate and, in my experience, similar to practice used elsewhere. District-level councils in Norfolk were involved in the call for sites and were formally involved in the consultation process at numerous stages. Further details are set out in Paragraphs 5 to 10 above.
54. I appreciate that certain representors would have liked the County Council to have been more pro-active. However, at the heart of this matter, is the decision by the County not to take on board the sort of sites referred to by the Borough Council of King's Lynn and West Norfolk. However, I do not consider that the County Council's selection process was unsound in any way. In addition, all the allocated recovery (residual treatment) sites would be needed including those in Flood Zone 3. The "sound" selection process did not identify any reasonable alternatives.
55. On a detailed point, it has been argued by representors that the sites should at least be phased such that the Flood Zone 1 sites would be utilised first. I do not find this to be a plausible argument. Core Strategy Policy CS4 requires 370,000 tonnes of recovery facilities to be delivered in the period up to 2015. As such, it is highly likely that the WAS 65 site would have to be developed in this timescale. In terms of thermal treatment, only one other site outside Flood Zone 3 is deemed suitable in land use terms. This is site WAS 19 (Harling Road, Snetterton) which has a capacity of only 100,000 tpa.

Proposed provision and the principle of proximity

56. Certain representors are concerned that the proposed provision at King's Lynn would be disproportionate (potentially 250,000 tpa of recovery capacity at WAS 65 and a further 150,000 tpa at WAS 05). Further, representors are concerned that provision would be contrary to the principle of proximity as set out in European Union Waste Framework Directive, 2008/98/EC (C185).

⁷ The written material before the examination did not include a detailed assessment of the "objection" sites.

57. On the first point, I note that the allocations would be consistent with the provisions of the Core Strategy (A170). Paragraph 6.23 of the Core Strategy refers to a proposed PFI project at King's Lynn (now the subject of the Section 77 inquiry) that would provide up to 275,000 tonnes of waste treatment capacity. The paragraph continues by indicating that further capacity would be needed to serve King's Lynn.
58. In locational terms, Core Strategy Policy CS5 (General location of waste management facilities) states that "strategic" or "major" waste management facilities should be well related to areas that include King's Lynn. "Strategic" or "major" waste management facilities include residual waste treatment plants with an indicative minimum threshold of 10,000 tonnes annual throughput.⁸ "Well related" is intended to mean within 10 miles of the settlement.⁹
59. As to the principle of proximity (typically referred to as the proximity principle), representors are concerned that the WAS 65 site would be used as a county-wide facility and that, as such, it should be well-related to arisings of municipal solid waste and other wastes, not located on the western fringe of the County.
60. To my mind, this is a misinterpretation of the proximity principle. In the "Guidance for local planning authorities on implementing planning requirements of the European Union Waste Framework Directive" (B03), the possibility of facilities that serve a catchment wider than (for example) a county is explicitly recognised.¹⁰ In my experience, it is communications that are often more relevant. In this regard, I note that King's Lynn is served by the A10 principal route and the A47 trunk road. Other major links include the A17, A134 and A149/A148.
61. More particularly, the terms of the Waste Site Allocations Local Plan do not prescribe that site WAS 65 (or WAS 05) should be used as a county-wide facility. This may be the function of the Section 77 application. However, this does not stem from the provisions of the Local Plan.

Conclusions

62. In terms of the key matters that I have identified, I find that sites WAS 05 and WAS 65 are acceptable in environmental terms and in other respects. There are no known deliverability issues. The Plan is sound in regard to related matters.

Other sites

63. As indicated above, further representations of significance concern general matters relating to sites in the Borough of King's Lynn and West Norfolk and sites within Breckland district.
64. In respect of the King's Lynn and West Norfolk sites, there are a raft of representations relating to "environmental health" matters. Typically these

⁸ Core Strategy, Paragraph 6.20

⁹ Defined and qualified in Core Strategy Paragraph 6.25. Sites WAS 05 and WAS 65 are both within King's Lynn.

¹⁰ Discussion on Article 16

call for air quality assessments; consideration of cumulative effects; greater specificity in the Transport Assessments; conditions on dust nuisance; lighting conditions; odour management control plans; Site Environmental Management Plans; and Restoration Management Plans.

65. For my part, I am satisfied that such matters are covered adequately under the policies in the Core Strategy and Minerals and Waste Development Management Policies Development Plan Document 2010 – 2026 (A170). For example, there are policies on environmental protection (CS14), transport (CS15 and DM10), amenity (DM12), air quality (DM13), progressive working, restoration and after-use (DM14) and cumulative impacts (DM15). Notwithstanding, the County Council has volunteered a number of additional modifications to the section of the Local Plan that sets out "The Process So Far".
66. My conclusion is that the sites within King's Lynn and West Norfolk are acceptable in environmental terms. The Local Plan is sound in this regard. The provisions in the Plan would be strengthened by additional modifications drawing attention to adopted development management policies and dealing specifically with air quality and dust, environmental permitting, noise and lighting.
67. Within Breckland District, the principal concern relates to cumulative effects. In particular, there is a cluster of allocated sites to the northwest of Dereham. These include the waste sites WAS 01 (Land at Beck Farm, East Bilney, East Dereham) and WAS 87 (Land west of Bilney Road, Beetley). The WAS 87 site is also a minerals allocation (MIN 51). There is a further mineral allocation in the immediate vicinity at Fakenham Road, Beetley (MIN 10).
68. The WAS 01 site is currently used for mineral processing under a permission that requires restoration of the site by the end of 2017. Under the Local Plan, the waste management uses would be allocated for a temporary period. Policy WAS 01 requires that the development should not prejudice the timing and implementation of the final quarry restoration. For site WAS 87, inert waste recycling and inert landfill would take place in conjunction with restoration of the mineral working.
69. Cumulative effects have been assessed through the Sustainability Appraisal (A05, A05a, A05b and A05c). In addition, the cumulative impact would need to be considered at the application stage under adopted Policy DM 15 (A170, Page 89). Cumulative effects of multiple impacts from individual sites and/or a number of sites in a locality would also be considered under the National Planning Policy Framework (B01, Paras 32, 120, 124 and 143).
70. I appreciate that mineral and waste activities have been taking place in this area over an extended period of time. Nevertheless, having regard to adopted development management and other policies, I am satisfied that the environmental effects could be adequately mitigated. The sites are acceptable in this regard.

Conclusions

71. I find that the sites allocated in the Norfolk Waste Site Allocations Local Plan are acceptable in environmental terms and in other respects. There are no known deliverability problems. The Local Plan is sound in this regard.

Overall Conclusion and Recommendation

72. In accordance with Section 20(7) of the Planning and Compulsory Purchase Act 2004 (as amended), I recommend that the submitted Plan is adopted on the basis that it meets in full the requirements of Section 20(5). My report covers the primary issues that have brought me to this conclusion.


INSPECTOR



Norfolk County Council
at your service

Environment, Transport, Development
County Hall
Martineau Lane
Norwich
NR1 2SG

via e-mail

Nigel Atkinson
Widp Programme Director
Defra
Rm 1A Ergon House
London
SW1P 2AL

NCC contact number: 0344 800 8020
Textphone: 0344 800 8011

Your Ref:

Date: 25 July 2013

My Ref: E/35/0/Waste Project/PFI/3.0/JH

Tel No.: [REDACTED]

Email: [REDACTED]

Dear Nigel

Norfolk County Council: Residual Waste Treatment Contract

Further to my letter of 4 July 2013, you will have seen the note from Mark Allen alerting you to the fact that the Norfolk waste site allocation plan has been found sound. This is an important milestone for the Willows planning application.

My letter raised some significant concerns with Defra's assessment of progress against landfill targets, and the implementation of the waste infrastructure programme, and asked for a response.

Defra Official

I was therefore disappointed to learn from [REDACTED] that advice has been put before Ministers without our queries and questions being answered.

I would be grateful for an early meeting with you to discuss all these issues, and ensure that you are fully informed on the status of the Willows. I will be in touch to fix a meeting.

Yours sincerely

M Jackson

Mike Jackson
Director of Environment, Transport and Environment

From: Allen, Mark
Sent: 31 July 2013 15:03
To: ~~Mark Allen~~ (Defra)
Subject: RE: Norfolk County Council: Residual Waste Treatment Contract
OK

From: ~~Mark Allen~~ (Defra) [mailto:~~mark.allen@defra.gov.uk~~]
Sent: 31 July 2013 15:03
To: Allen, Mark
Subject: RE: Norfolk County Council: Residual Waste Treatment Contract

Mark,
Many thanks for confirming. ~~Mark Allen~~ is just finishing up in another meeting. We will call you in 5 minutes or so.
Kind regards,

Defra Official
Defra Official

From: Allen, Mark [mailto:~~mark.allen@defra.gov.uk~~]
Sent: 31 July 2013 14:59
To: ~~Mark Allen~~ (Defra)
Subject: RE: Norfolk County Council: Residual Waste Treatment Contract

Teressa 3pm today (2 minutes!) is fine. Mark

From: ~~Mark Allen~~ (Defra) [mailto:~~mark.allen@defra.gov.uk~~]
Sent: 31 July 2013 14:19
To: Allen, Mark
Cc: ~~Mark Allen~~ (Defra)
Subject: Norfolk County Council: Residual Waste Treatment Contract

Mark,

Defra Official
~~Mark Allen~~ is on annual leave this week and has been in touch to let me know you left a voicemail earlier to give him an update. If it's not too late notice, would you be available for a call at 3pm this afternoon? It would be with myself and ~~Mark Allen~~, a Head of Team in WIDP.

Otherwise are you free at 12:00 midday tomorrow?

I look forward to hearing from you.

Kind regards,

~~Mark Allen~~
Commercial Team
WIDP
Defra
Area 6C
Ergon House
Horseferry Road
London
SW1P 2AL

15/11/2013

Mob: [REDACTED]
Waste Infrastructure Delivery Programme

Department for Environment, Food and Rural Affairs (Defra)

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From: Jackson, Mike
Sent: 05 August 2013 17:12
To: 'Atkinson, Nigel (Defra)'
Cc: Allen, Mark
Subject: Urgent
Hi Nigel

I have a left a couple of messages for you today. I realise this is your first day back, but I am keen to speak to you urgently, following up my letter of 25 July. I will try again in the morning.

Regards

Mike

Mike Jackson
Director Environment, Transport and Development
Environment, Transport & Development

Norfolk County Council
General enquiries: 0344 800 8020
or information@norfolk.gov.uk
www.norfolk.gov.uk

From: Atkinson, Nigel (Defra) [mailto:nigel.atkinson@defra.gov.uk]
Sent: 06 August 2013 09:57
To: Jackson, Mike
Cc: Church, Colin (Defra); PS/Owen Paterson (Secretariat); [redacted] (Defra); [redacted] (Defra)
Subject: RE: Complaint

Mike

As you say, I have been on leave for the last three weeks, returning yesterday. Happy to have a word on the phone today. Do you want to suggest a couple of times that would work for you? I can mostly move things around if necessary but I'm tied up after 2.45.

Nigel

From: Jackson, Mike [mailto:mike.jackson@norfolk.gov.uk]
Sent: 06 August 2013 08:56
To: Atkinson, Nigel (Defra)
Cc: Church, Colin (Defra); PS/Owen Paterson (Secretariat)
Subject: Complaint

Nigel

I tried to contact you by phone a number of times yesterday. I have just tried again to contact you and left another message this morning. I appreciate you are just back from leave, but we did alert your colleagues last week to my request for an urgent meeting, and my wish to speak to you yesterday.

This is an urgent and significant issue for the council, as I'm sure you will appreciate. I have felt it necessary therefore to make a formal complaint (copy attached) to Defra's Independent Adjudicator regarding the lack of response to the significant issues raised in my letter of 5 July, and my request for a meeting. The redress we seek is a meeting to discuss these issues, so we can ensure that ministers have an accurate picture of the situation before making a decision (as you will be aware, there is, amongst other things, a growing national debate about the confidence we should have in the UK's ability to make landfill diversion targets).

I would be happy to withdraw this complaint if we can agree a meeting date.

Regards

Mike

Mike Jackson
Director Environment, Transport and Development
Environment, Transport & Development
[redacted]

Norfolk County Council
General enquiries: 0344 800 8020
or information@norfolk.gov.uk
www.norfolk.gov.uk

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Department for Environment, Food and Rural Affairs (Defra)

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From: Allen, Mark
Sent: 06 August 2013 14:41
To: Nigel Atkinson (nigel@norfolk.gov.uk); [redacted]
Subject: FW: Cabinet questions
Attachments: cabinetquestions130805public.doc
Nigel and [redacted], As discussed today. Kind regards. Mark

Defra
Official

From: [redacted]
Sent: 06 August 2013 14:38
To: Allen, Mark
Subject: FW: Cabinet questions

Mark

Electronic copy attached.

PA to Mark Allen, Assistant Director of Environment and Waste (ETD)
Norfolk County Council
Telephone: 0344 800 8020
Email: mark.allen@norfolk.gov.uk
General enquiries: 0344 800 8020 or information@norfolk.gov.uk
Website: www.norfolk.gov.uk
For Business Support information and forms please see [Business Support Net](#)

From: [redacted]
Sent: 06 August 2013 14:35
To: [redacted]
Subject: FW: Cabinet questions

Hi [redacted]

Please find the final questions attached.

Many thanks

Business Support Assistant
Direct Dial: [redacted]
Email: [redacted]

From: [redacted] - On Behalf Of Committees Mailbox
Sent: 06 August 2013 14:33
To: [redacted]
Subject: RE: Cabinet questions

Attached.

Regards

15/11/2013

Chairman's Officer
Democratic Support
Norfolk County Council
Tel: [REDACTED]
Fax: [REDACTED]
Email: [REDACTED]
Web: www.norfolk.gov.uk/chairman

From: [REDACTED]
Sent: 06 August 2013 14:11
To: Committees Mailbox; [REDACTED]
Subject: Cabinet questions

Hi [REDACTED],

Can we get the list of questions and answers for our files from yesterday's meeting?

Many thanks

Business Support Assistant
Development and Processes
Business Support and Development
Environment, Transport and Development
Direct Dial: 01603 [REDACTED]
Email: [REDACTED]
Norfolk County Council
General enquiries: 0344 800 8020 or
information@norfolk.gov.uk
www.norfolk.gov.uk
For Business Support Information and forms please see [Business Support Net](#)

5 PUBLIC QUESTIONS

5.1 One questions from Stuart Wilkie

- a) Can the Cabinet please lift the very undemocratic and puerile Diktat, that David White unfairly imposed on John Martin, which prevents his access to a Publicly available FOI Service and, his reasonable right to fair questions from the 'Public Servants' of Norfolk County Council - in the interests of 'equality', transparency and an interest in 'truth' & Public scrutiny of highest standards by an informed & qualified Observer?

Response by Mr George Nobbs, Leader of the Council

I can confirm there is no restriction on Mr Martin making Freedom of Information Act requests, nor has there been. It is a matter of public record from the minutes of this committee that he also exercises his right to raise public questions to this and other public meetings of the Council. It would not be appropriate for me to comment further in a public forum on matters affecting an individual member of the public.

5.2 Two questions from Mr John Martin

- a. What payments were made by NCC to Lisa Christensen, when she resigned her post as Director of Children's Services?
- b. What was the justification for each individual payment?

Response by Mr Steve Morphew, Cabinet Member for Finance, Corporate and Personnel

Thank you for your questions. I can respond to them together. The payments made to Lisa Christensen have been well publicised in the local press.

Ms Christensen left Norfolk County Council employment on 17 July 2013. In the July payroll she was paid:

£6,374.54 in respect of salary up to and including the 17 July which is subject to deductions for income tax and national insurance

£23,248.32 payment in lieu of notice which is subject to deductions for income tax and national insurance

£21.20 for sundry expenses including lease car mileage

In the interests of transparency, although the question does not cover this point, a payment was made to the Local Government Pension scheme, which we are required to make, of £122,302.46 to cover the actuarial strain on the pension fund. This of course is not paid to Ms Christensen.

5.3 Two questions from Ms Jennifer Hartley

- a. In the waste PFI contract, is the term "Revised Project Plan" defined in such a way that the revised project could be built on a site other than Saddlebow and/or encompass a technology other than incineration?

Response by David Harrison, Cabinet Member for Environment, Transport, Development and Waste.

The contract documents, available on the County Council's website, lists the full scope of what a draft Revised Project Plan has to cover. It's addressed in Schedule 26 'Planning', section 3.3. As a part of such a process, an alternative site could only be suitable for consideration if the original site was fundamentally compromised. A change of waste treatment process would not be appropriate; this is because some changes, such as this, could be considered large enough to distort the procurement process.

- b. Why do officers report (4 June 2013) that they are "now in discussion with the contractor" in relation to a revised project when the outcome of the current planning application may not be known until January 2014?

Response by David Harrison, Cabinet Member for Environment, Transport, Development and Waste.

The County Council requested a draft Revised Project Plan in January 2013 and this was provided by the contractor in April 2013. The contract documents available on the County Council's website explain in Schedule 26 'Planning', section 3.3.4, that the contractor and the County Council shall seek to agree the elements of the plan and within six months either accept the plan or reject it. That six month period ends in October 2013 which means that things cannot be put on hold until 2014. The County Council has resolved to keep open the option of proceeding with the contract. We therefore need to fulfil our client role. It would be negligent not to do so. Officers are working closely with Cabinet in this regard.

5.4 Two questions from Mr Ron Cornell

- a. My questions relate to the former RAF Coltishall site. Would the leader deny that ;

A written offer was made on the 4th June 2013 to NCC by Hans House/Artemis that would have returned to the taxpayers purse immediately all money so far expended on the site, but would have extended to Artemis/Hans House still working in partnership with NCC in relation to the future of the site?

Response by Mr George Nobbs, Leader of the Council

Thank you for your question because it gives me an opportunity to clarify the situation regarding the purchase of the former RAF Coltishall. I am assured that the Authority has not received an offer to buy the site from the Hans House Group of Companies. I can confirm that that company did send an offer by email to the Authority but this involved Artemis/Hans House purchasing a leasehold interest in the site and then leasing the site back to the County Council in return for an annual rent.

Given the recent correspondence in the EDP I think it would be helpful if the exact terms of the proposal were now put in the public domain so that the public can see the details for themselves and make up their own minds. But that's clearly a matter for the company concerned.

- b A complaint was made to him on the 10th June 2013 by Artemis/Hans House supported by evidence from the Ministry of Justice, in respect of public comments made by Cllr. Cliff Jordan casting doubt upon the financial strength of Artemis/Hans House seeking a formal public retraction of those comments and an unequivocal apology.

Response by Mr George Nobbs, Leader of the Council

I have already responded to Mr Giddy on this matter, in which I stated that I think it is difficult to draw conclusions or take action based on an alleged remark, which I did not witness. I cannot see how I can add anything to what I have already said.

5.5 One question from Mr Diskin

Park and Ride Fare increases: Do you believe it is fair to expect the working people of Norwich/Norfolk to be subjected to massive fair increases, when your own employees use the service for free?

Response by David Harrison, Cabinet Member for Environment, Transport, Development and Waste.

Park and Ride fares are, and will continue to be, very competitively priced. As part of the wider Transport for Norwich strategy, Park and Ride continues to be the most cost effective means of long stay parking in the

city centre. It is still cheaper to use Park and Ride than to pay a local bus fare or to drive into the city and pay for parking.

The current fare for a return adult trip ranges from £1.70-£2.40. With smart ticketing, a return adult fare will cost £1.83-£3.00. In this respect, I do not agree that the price rises are "massive". However, I do understand that users may find it difficult to compare their current costs against the new ones, which is why we have a planned period of advice and support at all Park and Ride sites and Norwich Bus Station starting in September.

Like any large employer, the council needs to proactively help staff manage their travel to work and the travel they need to undertake to deliver our services.

We continue to want to help our staff but from October, to coincide with the introduction of smart ticketing on the Norwich Park and Ride service, charges for staff will be introduced.

5.6 Two questions from Mrs Carolyn Martin

- a. NCC has engaged Mrs Sheila Lock as full-time interim Head of Childrens' Services at the rate of £900 a day, plus expenses. (That equates to about £207k per annum over forty-six weeks a year.) But, until the end of September, Mrs Lock will continue to be employed full-time in a similar role also at Cardiff Council, some 270 miles away

What reasons does the Cabinet have for believing that Mrs Lock will be able to carry out effectively her vital role in County Hall over the next two months?

Response by Mr James Joyce, Cabinet Member for Safeguarding.

Sheila Lock is not doing two full time jobs at present. She is coming to the end of her placement in Cardiff and with their agreement she is able to be released to Norfolk on a phased basis. She will be covering 2 days a week in Norfolk from 1st August, 3 days a week from 1st Sept and full time from 17th Sept, not the end of Sept as stated in the question. With the aid of technology she is also able to keep in touch more frequently than that, but naturally she is honouring her commitment to Cardiff which is, in any case, in its final phase. We are only paying for the days on which she works for us.

- b. How can the Cabinet justify to the taxpayers what it will be paying her during that time?

Response by Mr James Joyce, Cabinet Member for Safeguarding.

I am confident that we have achieved the best possible arrangement to replace Lisa Christensen for the present and that Sheila's appointment represents value for money to the authority and will ensure that we keep up our relentless pursuit of improvement for children in Norfolk.

5.7 Two questions from Mr Simeon Cobb

- a. Regarding the park and ride, When such high fare increases are being proposed please confirm why we are still expected to subsidise Norfolk Council workers to travel for free especially bearing in mind that corporate discounts were recently removed? I would highlight that the average wage for a public sector worker is now higher than the private sector and with a better pension.

Response by David Harrison, Cabinet Member for Environment, Transport, Development and Waste.

Like any large employer, the council needs to proactively help staff manage both their travel to work and the travel they need to undertake to deliver our services. This has meant we have offered staff free use of park and ride services on their working days to help ease pressure on our car parks, to help cut congestion around our work bases and make a positive local impact in environmental terms. As a daily average, around 120 people out of a potential 2,000 have used this facility.

We continue to want to help our staff but from October, to coincide with the introduction of smart ticketing on the Norwich Park and Ride service, charges for staff will be introduced.

- b. Please also confirm why there cannot be less frequent buses during non peak times to reduce costs? It seems strange that the peak users are being penalised and having to subsidise non-peak users when peak use is more economically viable.

Response by David Harrison, Cabinet Member for Environment, Transport, Development and Waste.

A primary reason for the success of park and ride sites is the "turn up and go" nature of the service offer – making it attractive to car based travellers and keeping cars out of the city centre. Service frequencies below 15 minutes deter passengers, undermining the viability and future of the whole service. There is also no significant financial benefit as a result of running less frequent buses for 4-5 hours during the day as the marginal cost savings are offset by reductions in income.

In most forms of transport peak and off-peak rates apply. Encouraging travellers who can to shift to a later time, with a lower fare, allows more capacity for peak time travellers. This spreads loadings more evenly across the day and will help improve the customer experience on sites with overcrowding at peak times.

5.8 One question from Mr D Hastings

Will the Cabinet agree to offer the full Council at its meeting on 16th September the opportunity to debate whether, in the worsening financial conditions facing NCC, it is wise to continue with the proposed redevelopment of the former RAF Coltishall site rather than marketing the site now with a view to recovering, as a minimum, NCC's expenditure to date?

Response by Mr George Nobbs, Leader of the Council

The previous administration made the decision to purchase the former RAF Coltishall. I supported this at the time and have no reason to change my view. Local residents have responded with enthusiasm to the purchase at community meetings.

5.9 One question from Ms Julie Brigham

I really hope that the council will rethink the proposed increases in park and ride fares as in view of the current financial situation in this country I am sure that further jobs will be lost as the demand for the park & ride service will certainly fall.

Response by David Harrison, Cabinet Member for Environment, Transport, Development and Waste.

Park and Ride fares are very competitively priced. Park and Ride continues to be the most cost effective means of long stay parking in the city centre. It is still cheaper to use Park and Ride than to pay a local bus fare or to drive into the city and pay for parking.

5.10 Two questions from Ms Christine Hall

- a. Will the Cabinet please give detailed reasons why it was advised that debating in full Council the Dobson/Coke motions would have made NCC vulnerable to legal proceedings by Cory Wheelabrator?

Response by David Harrison, Cabinet Member for Environment, Transport, Development and Waste.

The Cabinet was not advised about the four motions which you refer to. In the case of Cllr Dobson's three motions the decision was the Chairman's.

In the case of Cllr Coke's motion, Members sought advice and drew their own conclusion.

The officer's advice, like the rest of the meeting, is a matter of public record and is publicly available now as an audio recording.

Members will frequently seek advice from officers but the decision is theirs alone.

- b) Will the Cabinet itself agree to instruct officers not to take any further steps under the waste PFI contract that might increase the liability of NCC for termination costs, pending a final decision on whether or not to proceed?

Response by David Harrison, Cabinet Member for Environment, Transport, Development and Waste.

While we await the outcome of the review, and the Secretary of State's decision, as Cabinet Member for Environment Transport and Development I will continue to work closely with officers to make sure that the County Council's exposure to termination costs is not increased.

5.11 Two questions from Ms Angela Crabb

- a) Why are the parking charges being increased during peak times, affecting the regular users of service, who work and pay taxes.

Response by David Harrison, Cabinet Member for Environment, Transport, Development and Waste.

In most forms of transport peak and off-peak rates apply. Encouraging travellers who can to shift to a later time with a lower fare, allows more capacity for peak time travellers. This spreads loadings more evenly across the day and will help improve the customer experience on sites with overcrowding, at peak times. The fares are very competitively priced and continue to be the most cost effective means of long stay parking in the city centre.

- b) If these price changes are brought in, what will be the benefits to using the service over inner city parking, which will be same/similar cost, and more convenient.

Response by David Harrison, Cabinet Member for Environment, Transport, Development and Waste.

Park and Ride fares are, and will continue to be, very competitively priced. As part of the wider Transport for Norwich strategy, Park and Ride continues to be the most cost effective means of long stay parking in the city centre. It is still cheaper to use Park and Ride than to pay a local bus fare or to drive into the city and pay for parking.

5.12 One question from Mr Brian Lingwood

- a) In the minutes of the cabinet meeting of 25 January 2010, the amendment to the street lighting policy includes, under "reasons for decision": "Norfolk residents had shown quite positive attitudes to switching of street lighting for part of the night, as obtained via the Citizen's Panel earlier in the year", although the report (item 11) highlighted the divided opinion of respondents, with at least twice as many believing that crime and road traffic collisions would increase, compared to those who disagreed. When exactly was that survey carried out, and how did the responses vary between different groups according to their age, household tenure, local authority district, and urban/rural location?

Response by David Harrison, Cabinet Member for Environment, Transport, Development and Waste.

The relevant Citizen's Panel survey was sent out on 23 February 2009 with a closing date of 6 March 2009. A report on this survey was produced in July 2009.

With regard to the breakdown of the responses, I have asked officers to carry out the analysis and reply to you directly as quickly as they can.

6. MEMBER QUESTIONS

6.1 One question from Mr Adrian Dearnley

Recently Norwich City Council passed a motion calling on the Government to reverse the on-going reductions in grants to councils, stating that it was an ideologically driven attack on public services. Can the leader say whether he agrees with them, and what affect the new level of cuts will have on the people of Norfolk?

Response by Mr George Nobbs, Leader of the Council

I have on many occasions over a number of years expressed my horror at the scale of reductions in government grant to local authorities and the impact this is having on essential local services for Norfolk citizens.

My report to Cabinet today spells out the £182m challenge this Council is facing over the next three years. We will be consulting with the public, stakeholders and staff on our options to close the gap but as I have recently commented, there are no easy options and efficiencies cannot deliver it all.

The choices will be difficult. That is why I am keen to know from our forthcoming consultation, what is really important for local people and communities.'

From: [REDACTED] on behalf of Jackson, Mike

Sent: 06 August 2013 08:51

To: 'service-standards.adjudicator@defra.gsi.gov.uk'

Subject: Urgent complaint

Attachments: 20130806.ComplaintLetter.pdf; 20130520.NCC Residual Waste Treatment Contract.pdf;
20130605.Defra Response FINAL.doc; 20130613.Final Defra letter to NCC.pdf;
20130620.Defra Response 130613 FINAL.pdf;
20130621.paterson210613wasteplant.doc.doc; 20130704._n_atkinson_defra_rwt.doc;
20130704.Letter to NCC.pdf; 20130705.Defra FINAL.pdf; 20130710.Letter in reply to
NCC_scanned.pdf; 20130725.Atkinson - Defra.pdf

Please find attached an urgent complaint for your attention.

If you need any further information please feel free to contact me.

Regards

Mike Jackson
Director Environment, Transport and Development
Environment, Transport & Development
[REDACTED]

Norfolk County Council
General enquiries: 0344 800 8020
or information@norfolk.gov.uk
www.norfolk.gov.uk



Norfolk County Council
at your service

Environment, Transport, Development
County Hall
Martineau Lane
Norwich
NR1 2SG

Service Standards Complaints Adjudicator
Department for Environment, Food and Rural
Affairs
Sent by email to service-
standards.adjudicator@defra.gsi.gov.uk

NCC contact number: 0344 800 8020
Textphone: 0344 800 8011

Your Ref:
Date: 6 August 2013

My Ref: BSD/SJR/MJ
Tel No.: [REDACTED]
Email: [REDACTED]

Dear Sirs

Complaint
Norfolk County Council, Residual Waste Treatment Contract

In January 2012, Defra confirmed a Waste Infrastructure (WI) grant to the County Council worth some £169 million for its power and recycling centre project. This was confirmed in a WI Credit Letter, including an Annex setting out terms and conditions.

On 20 May 2013, Defra wrote to the County Council in relation to its obligations under the WI Credit Letter. The letter asked the County Council to provide further information to be considered as part of Defra's decision making processes, essentially whether there had been a failure to comply with the terms and conditions of the WI Credit Letter which would then allow Defra to review the WI Credits.

In subsequent correspondence, Defra confirmed that it considers itself to be released from its obligations under the WI Credit Letter and therefore is reviewing the allocation of Waste Infrastructure Credits. The County Council does not consider that Defra is released from its obligations under the Waste Infrastructure Credit Letter, and has provided Defra with reasons for this view.

I am writing to you to complain because the County Council has raised some significant concerns with Defra's assessment of progress against landfill targets, and the implementation of the waste infrastructure programme, which directly relate to the terms and conditions of the WI Credit Letter and the review of the WI Credits. We have asked Defra to provide a response to these points, but none has been received (with the exception of a response dated 10 July 2013 to two specific points relating to the transferability of credits and availability of other sources of funding).

Continued.../

We are aware that advice has been put before Ministers in relation to the WI Credits. However, because we have not been provided with a response to the queries and concerns that we have raised we have serious concerns that the submission to Ministers may not be accurate and that steps may not have been taken to clarify or resolve this.

I wrote to Nigel Atkinson, Wldp Programme Director, on 25 July to request a meeting with him. I have also tried to contact him by telephone, including phone calls to his office yesterday and this morning. However, I have not received a response to my request and given the urgency of the matter I do not feel that it can wait.

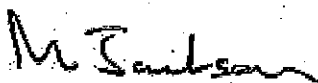
The action we are seeking is for Defra to provide the County Council with responses to the questions and issues we have raised and for us to have the opportunity to meet and discuss these with relevant Defra officers.

I hope that you appreciate that this is a significant issue for the County Council and therefore requires urgent attention. A copy of the relevant correspondence is attached to this letter.

If you need any further information please do not hesitate to contact me.

Finally, whilst I hope that you will be able to resolve my complaint, I would be grateful if in your response to me you could confirm the next steps in the event that this is not possible. I note that the complaints procedure published on Defra's website says the next step is to write to your MP, but this is not appropriate for a local authority.

Yours faithfully,



Mike Jackson
Director of Environment, Transport and Development

Encl



Norfolk County Council
at your service

Environment, Transport, Development
County Hall
Martineau Lane
Norwich
NR1 2SG

NCC contact number: 0344 800 8020
Textphone: 0344 800 8011

Mr Nigel Atkinson
Head of Waste Infrastructure Policy and
Delivery
Defra
Ergon House
6th floor
London SW1

Your Ref:
Date: 16 August 2013

My Ref:
Tel No.:
Email:

Dear Nigel

We are grateful for Monday's meeting and look forward to your response to the concerns we have raised. I attach Mike's letter of the 5th July, which I suggest we use for part of the agenda.

Since this letter, there have however been several significant developments which we would also like to cover.

Firstly, Norfolk's Waste Site Specific Allocations Plan has been found 'sound' by the Inspector. This is a key milestone in the planning context for the Willows Planning Inquiry. The Inspector dealt in detail with the Willows site (Was 65) and reported on a number of key issues that will have relevance to the Planning Inquiry findings. These are the integrity of European and internationally designated sites, site selection, flood risk assessment; proposed provision and the principle of proximity. The Inspector's report concluded that in all these identified key matters WAS 65 is acceptable in environmental terms and in other aspects and that there are no deliverability issues.

Norfolk's Cabinet will be invited to recommend to Council adoption of the Plan at it's meeting on 2nd September, which would then be considered by Council on 16 September.

This progress significantly alters the planning risk associated with the Willows and we would welcome confirmation that this will be reflected in advice to Ministers.

Continued.../

Secondly, the Bank of England has recently revised its growth projections for the UK economy, for this year up from 1.2% to 1.4% and for next year from 1.7% to 2.5%. APSE recent analysis of the impact of the economic downturn on household waste generation has found that whilst there are a number of other factors that are contributing to overall household waste reductions, it is safe to say that the economic downturn has been the major reason.

In addition the UK population is rising, with more birth's since 1972, and the ONS has said there were 254,400 more births than deaths and 165,000 more people came to the UK rather than leaving.

These factors all form part of Defra's Infrastructure Capacity Model and we are seeking confirmation that your assessment has been amended to reflect this latest data.

Finally, we note that a range of waste sector representative groups have called on Defra to confirm your current infrastructure programme, and to review the UK strategy for diverting waste from landfill, given the growing uncertainty about future waste arising and recycling rates. Clearly we would support this call, and look forward to an early response from Defra.

I look forward to seeing you on Monday.

Yours sincerely

Mark Allen

Mark Allen
Assistant Director Environment and Waste

~~noted~~ noted

30/8



Department
for Environment
Food & Rural Affairs

Nobel House
17 Smith Square
London SW1P 3JR

T 08459 335577
helpline@defra.gsi.gov.uk
www.gov.uk/defra

Mr G Nobbs
Leader, Norfolk County Council
County Hall
Martineau Lane
Norwich
NR1 2DH

Your ref: GN/MJL
Our ref: PO314964/ARG

24 August 2013

From Lord de Mauley
Parliamentary Under Secretary

Dear Mr Nobbs,

Thank you for your letter of 21 June to the Secretary of State about the allocation of funding for the proposed King's Lynn energy-from-waste plant. I am replying as the Minister responsible for waste policy and am sorry for the time this has taken.

As you will be aware from previous correspondence with your Authority's Director of Environment, Transport and Environment, Mike Jackson, Defra is currently reviewing the waste infrastructure credits (WICs) allocated to your Authority's residual waste treatment contract. The review follows a breach of one of the conditions (No. 7) of Defra's WIC letter of 7 January 2012, and is being carried out in accordance with the procedure provided for in the WIC letter. The review is ongoing and your comments regarding the project will be considered as part of this process.

In your letter you sought clarification on some wider funding matters, specifically the transferability of WICs and the availability of other sources of funding. These matters were the subject of a subsequent letter from Mike Jackson to the Director of the Waste Infrastructure Delivery Programme (WIDP) dated 4 July this year. WIDP's Director confirmed to Mike Jackson that WICs are not transferrable and there is no other equivalent funding stream within Defra to support local authorities in the same way and to the same extent in a letter of 10 July. Please see a copy of the correspondence enclosed.

I will be in touch again in due course to confirm the outcome of the review once it is concluded.

Lord de Mauley
Rupert de Mauley

Encl.



INVESTORS
IN PEOPLE



**Department
for Environment
Food & Rural Affairs**

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Mike Jackson
Director of Environment, Transport and Development
Norfolk County Council
County Hall
Martineau Lane
Norwich NR1 2SG

Your ref:
Our ref:
Date: 10 July 2013

Dear Mr Jackson,

Norfolk County Council: Residual Waste Treatment Contract

I write further to your letter of 4 July, which seeks a quick answer on two points raised by George Nobbs as Leader of your Authority in his recent letter to our Secretary of State dated 21 June.

Defra will respond to the points raised in the 21 June letter in due course. In the meantime, and in line with your request for a quick answer to the question of transferability of credits and availability of other sources of funding, I can confirm that your understanding as set out in the final paragraph of your letter of 4 July is correct: the Waste Infrastructure Credits are not transferrable and there is no other equivalent funding stream within Defra to support local authorities in the same way and to the same extent.

Yours sincerely,

Nigel Atkinson
WIDP Programme Director
Defra

Direct line: ~~020 7 238 1004~~
Email: ~~Nigel.Atkinson@defra.gov.uk~~
Web: www.defra.gov.uk

Cc: Mark Allen – Assistant Director, Environment and Waste, NCC
Joel Hull – Project Director Residual Waste Services, NCC
~~Andrew Smith~~ – WIDP Project Transactor
~~Wendy Jones~~ – Head of WIDP Commercial Team and Contracts
~~Emma White~~ – Programme Manager and Head of WIDP Scrutiny Team



Norfolk County Council
at your service

Environment, Transport, Development
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NCC contact number: 0344 800 8020
Textphone: 0344 800 8011

Mr Nigel Atkinson
Head of Waste Infrastructure Policy &
Delivery
DEFRA
Ergon House (6th floor)
LONDON SW1

Your Ref:
Date: 30 August 2013

My Ref:
Tel No.:
Email:

Dear Nigel

Thank you for our recent meeting on the Willows Power and Recycling Centre – an example of a best practice Combined Heat and Power facility (see attached plan of the potential heat use).

Please can you cover the following points that we discussed in our recent meeting on 19 August, and provide answers in your full response to Mike Jackson's letter dated 5 July, and my letter of 15 August 2013.

1. Defra's Infrastructure Capacity Model has no causal link between economic growth and waste arisings.

We were very surprised to hear from you that, unlike other Government Departments, the Defra model has no causal link between economic growth and waste arisings.

Norfolk's Business Case, approved by Defra and Treasury, clearly links household growth with waste arisings, indeed this was a requirement of the approval process. Other national organisations including APSE have demonstrated a clear link between growth and waste.

Consequently it's a surprise that Defra's model lacks a causal link to growth which must bring into question assumptions that household waste arisings in 2020 will have fallen from the 2011/12 level of 22.9m tonnes to 22.6m tonnes. Commercial and Industrial (C&I) waste is similarly forecast to be 43.9m tonnes in 2020 – a reduction on 2010 levels.

I understand that Defra will keep it's model under review as new data arises. Mindful that CIWM will be issuing a report on C&I waste data in October, I ask that Defra both reviews it's model and assumptions based on this information, and uses the latest Waste Data Flow audited data, available in November 2013, to establish the national requirements for waste treatment capacity, to meet the 2020 targets.

Continued.../



2. Other Waste PFI projects show poor value for money for the public sector

Surrey, Hertfordshire and Worcestershire, and Nottingham have all received PFI payments, but have not delivered a residual waste treatment facility:

Surrey

- 2010/11: Total PFI payments received to date totalled £102m (John Burns letter June 2011)
- August 2013: Still receiving PFI payments. 12 years remaining on PFI contract with no residual waste treatment yet in place.

Hertfordshire and Worcester

- 2009/10: Received £1.757m in PFI payments. £13.990m held in County Council's PFI reserve account
- August 2013: Still receiving PFI payments but the grant has probably not been reduced for non-delivery of residual waste treatment element of contract. 10 years remaining on PFI contract with no residual waste treatment yet in place.

Nottinghamshire

- 2012: £4m waste PFI credits received. £26.7m received to date.
- August 2013: 18 years remaining on PFI contract with no residual waste treatment yet in place or planned.

and closer to home, Cambridgeshire in 2012/13 received £2.691m PFI payments with residual waste being landfilled while the MBT plant is being repaired.

I ask that Defra carefully considers its duty to spend public money wisely across the programme and that it also accurately reflects the status and prospects for projects in its longer term projections of diversion from landfill.

3. Defra have not analysed Waste Planning Authority adopted plans

Waste Site Specific Allocations Local Plans that have been independently assessed by the Planning Inspectorate and then adopted by the local authority form the best basis to assess need and capacity up to and beyond 2020.

I ask that Defra undertakes a capacity assessment of all adopted Waste Planning Authority Site Specific Allocations Local Plans. In doing so it should also determine that on a project by project basis, both with regards to PFI / PPP projects and merchant capacity that there is no inadvertent double counting where permissions for facilities in the same area have been granted where only one facility may go ahead successfully. This view should also take into account the apparent difficulties in funding permitted merchant capacity.

I look forward receiving your response to these points and to a full response to Mike Jackson's letter dated 5 July, and my letter of 15 August 2013.

Yours sincerely

Mark Allen
Assistant Director – Environment and Waste

Attachment: PDF of Willows red line planning area

From: Allen, Mark
Sent: 30 August 2013 18:22
To: Nigel Atkinson (~~nigel.atkinson@norfolk.gov.uk~~)
Cc: Jackson, Mike
Subject: Norfolk's Waste PFI
Attachments: 20130830_nigel_atkinson.pdf; Willows Site Plan.pdf
Nigel

I trust that you are well. Thank you for our recent meeting on the Willows Power and Recycling Centre. I've not heard from you since the meeting, and so attach a letter with some of the points we would like you to consider.

I am on leave for the next two weeks, but my Director Mike Jackson, returns from leave on Monday.

Kind regards

Mark

Mark Allen
Assistant Director
Environment & Waste
Environment, Transport & Development
Direct dial telephone number: ~~01603 722222~~
E-mail: ~~mark.allen@norfolk.gov.uk~~
Norfolk County Council
General enquiries: 0344 800 8020 or information@norfolk.gov.uk
www.norfolk.gov.uk

