



**Department
for Environment
Food & Rural Affairs**

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Mike Jackson

Our ref:

Date: 5 September 2013

Email: mike.jackson@norfolk.gov.uk

Dear Mr Jackson,

Norfolk County Council: Residual Waste Treatment Contract

Thank you for our meeting of 19 August, to discuss the content of your letter dated 5 July. I believe we discussed all of the points you raised in that letter and in your other letters. I can confirm that we continue to advise Ministers and pass on all relevant information for their consideration.

You should take this present letter as a full and complete reply to your letters of 5 July and 16 August, as well as your most recent letter of 30 August. Inevitably, it repeats the points we made in our meeting with you on 19 August.

At our meeting on 19 August and in your letter of 5 July you asked for the opportunity to verify the factual information relating to your project contained in our model. The information is shown below. The 'FY (End) Completed' date refers to the financial year in which it is planned that the EfW facility will reach service commencement. We recognise this date may change once you have agreed a Revised Project Plan with your Contractor. You should be aware however, that the assumed date that the plant is fully operational has no significance in the model, provided that the specified date is before 2020. The operational capacity has been taken from your FBC. We understand that the capacity assumed in the environment permit and the planning application is 275 ktpa – this difference makes no material impact on our forecasting analysis.

Location	Classification - PFI, PPP or M	Status	FY (End) Completed	Operational Capacity (ktpa)	Plant Type - efw, bmbt, lfbmt, mt
Norfolk Waste Management Project	PFI	Financial Close	2017	268	EFW



**INVESTORS
IN PEOPLE**

Your letter of 30 August

(i) Causal link between growth and waste arisings

It is incorrect to state that the Defra model has no causal link between economic growth and waste arisings. As we explained in our meeting of 19 August, C&I waste arisings are projected forward in line with economic growth in the commercial and industrial sectors. Household waste arisings are forecast based on trends in past data. The methodology is set out clearly in our published February paper to which we have drawn your attention on previous occasions.

Alternative approaches for forecasting household waste arisings were also considered; for example, models based on changes in the underlying drivers of waste, such as economic activity and waste intensity. Such alternative approaches were found to produce implausible results for household arisings with high forecast error. Therefore, the trend based model for household waste provides the most statistically robust forecast of future levels of household waste arisings. Economic growth is only one of several factors that could affect future waste trends. Household waste arisings levels peaked in 2002-03, several years before the start of the recession. Nonetheless, the possibility of an increase in waste arisings from previous trends is taken into account in the analysis, as explained in our February paper:

"A further adjustment is made to allow for the possibility that waste arising patterns could potentially change from those observed in the data. For example, a pronounced economic recovery could cause waste arisings to increase unexpectedly, potentially up to or beyond levels seen before the recession started in 2008-09. Therefore, the possibility of an upward 'shock' to household and C&I waste arising trends is explored in the analysis."

Defra keeps its forecasts under review as new data becomes available.

The APSE report highlights a number of other factors affecting waste arisings as well as economic growth (consumer attitudes, retail and manufacturer changes etc.). Some of these factors may add downward pressure to waste arisings even if there is upward pressure from economic recovery. Defra's analysis also takes into account the possibility that economic growth could potentially increase waste arisings and this uncertainty in future trends is reflected through the ranges and 'shocks' applied in the analysis.

Currently the 2009 survey is the best available data on commercial and industrial waste arisings at the national level for England. We will of course monitor any new information as this becomes available and are aware of CIWM's upcoming report.

(ii) Other waste PFI projects

You claim that other waste specified PFI projects show poor value for money. As I explained on 19 August, it is not appropriate for me to discuss with you the merits of other specific projects in our Programme. We keep project delivery and value for money under review and take action where appropriate and feasible.

(iii) Defra have not analysed Waste Planning Authority adopted plans

We have reflected on your suggestion to use WPA adopted plans as an alternative approach to determine 'bottom-up' capacity requirements. However, we consider this is not likely to meet our requirements for the following reasons:

- For the purposes of the current exercise, Defra is interested in determining the national capacity requirement not necessarily what a WPA determines is its requirement at a local level.
- There are over 120 WPAs and not all have updated or recently adopted plans in place so it will not be possible to produce a complete and up to date picture.
- The methodologies used by the WPAs will be variable with differing and likely inconsistent assumptions on national growth rates and other relevant factors.

It should also be noted that Defra's approach does not double count facility capacity. Where a WPA may have awarded planning permission for two facilities in its area we count only the capacity that is associated with a local authority waste contract and/or procurement.

As I explained on 19 August, we have also taken into account the possible difficulties in funding permitted merchant capacity.

Your letter 16 August

(i) Norfolk's Waste Site Specific Allocations Plan (WSSAP)

We note that Norfolk's WSSAP was found as 'sound' by the Inspector and your Project Director's subsequent update about progress towards the adoption of the plan. We continue to keep Ministers updated on this.

(ii) Bank of England growth forecasts

C&I waste is projected in line with economic growth in the commercial and industrial sectors. The economic growth forecasts are consistent with Office of Budget Responsibility Gross Domestic Product (GDP) forecasts from the March 2013 'Economic and Fiscal Outlook' report. This forecast for 2013 is lower than the Bank of England forecast, but is within the range of other recent independent forecasts. Our household waste arisings

forecasts are based on past trends, but the possibility of an upward shock to these trends, e.g. resulting from a more pronounced economic recovery is included.

(iii) Rising UK population

Whilst population changes will have an impact on waste arisings, it is one of a number of relevant factors. Waste arisings have been falling over a period when the population has increased. Our analysis includes the possibility of an upward shock to waste arisings e.g. resulting from more pronounced population growth.

Your letter of 5 July

(i) Waste Arisings & Recycling Data and Trends

You raise concerns about some of the assumptions underpinning our analysis and in particular the possibility of changing waste trends in the future. I can reassure you that we have given full consideration to such factors in our forecasts of progress towards meeting the EU landfill target for 2020.

There is of course uncertainty in predicting future waste and recycling trends and infrastructure delivery. For this reason, we use an approach that applies ranges for the various uncertain factors using a 'monte-carlo' technique. This method runs thousands of simulations of possible outcomes, to establish the possible range of outcomes from varying the uncertain factors simultaneously. Our analysis published in February shows that over 90% of these model runs predict capacity that is at least sufficient to meet the target.

We are continuing to reduce the amount of waste sent to landfill and household recycling rates in England are increasing. However, our analysis of future infrastructure requirements does not rely on a continuation of these trends at previous rates. Our projections take into account the potential for waste and recycling trends to change as well as uncertainty concerning infrastructure delivery. On this basis we are confident that the EU landfill target for 2020 will be met.

You draw attention to recent data from some Local Authorities. The latest national waste statistics for England were published recently, on 8th August. This data shows that:

- 5.3 million tonnes of household waste was collected between October and December 2012, down by 0.9 per cent compared with the same period last year (this includes waste destined for recycling, compost and reuse).
- 2.0 million tonnes of Local Authority managed waste went to landfill between October and December 2012, down by 7 per cent when compared to the same period last year.

- 43.6 per cent of household waste was recycled, composted and reused in the 12 months to December 2012, increasing from 43.0 per cent in the 2011/12 financial year.

There is generally a degree of volatility in quarterly data and therefore limited conclusions should be drawn from any one quarter. Nevertheless these data are consistent with continued progress and lie well within the range of our predictions consistent with meeting the landfill target for 2020.

(ii) Commercial and Industrial Waste

You state that our report published last February raises concerns about the reliance on data from the 2009 "Commercial and Industrial Waste Generation and Management Survey". Our report does not state that there is concern over placing any reliance on data from the 2009 C&I survey in predicting future performance. Rather it notes that a lack of regular data makes predictions more difficult. The 2009 survey is the best available data on commercial and industrial waste arisings at the national level for England. The forecasting methodology was independently reviewed by economic consultants and suitably broad ranges are applied to incorporate uncertainty about future C&I recycling rates, waste growth and the municipal content of C&I waste.

The proportion of C&I waste that is municipal is based on evidence from the 2009 survey. The central assumption for the proportion of biodegradable content is consistent with the assumption used by the Environment Agency. Ranges are applied around these assumptions to reflect uncertainty, as outlined in our February report.

(iii) Programme Wide Assessment of Risk

As I explained on 19 August, the RAG rating system in the model should not be taken as an expression of Defra's preference for one project over another. It exists to address the need that you identify elsewhere in your letter to assess the possible difference between consented and delivered capacity. As I also explained, the review of the Norfolk project has been required as a result of the breach of the terms of the Waste Infrastructure Credit letter. It is this rather than a RAG status for the project that has resulted in the review.

(iv) North Yorkshire Project

As I explained at our meeting on 19 August, there was no inaccuracy with the status of the planning permissions for the North Yorkshire project used for the purposes of our modelling. This is because at the time of the assessment and when the decision was announced, satisfactory planning permission had not been achieved as the period allowed for legal challenge had not expired.

(v) Overall Waste and Recycling Performance Interactions

The report published last February provides sensitivity testing to highlight how changes to specific factors could influence the likelihood of meeting the target. Additionally, the methodology for the main analysis already allows the various factors to vary together. This method runs thousands of simulations of possible outcomes, to establish the possible range of outcomes from varying the uncertain factors simultaneously. Our analysis published in February shows that over 90% of these model runs predict capacity that is at least sufficient to meet the target. Our projections therefore take into account the potential for waste trends to change at the same time, as well as uncertainty concerning infrastructure delivery.

(vi) Difference between consented and delivered capacity

You are right to highlight that there is likely to be a difference between the amount of treatment capacity that has received planning consent and that which will eventually become operational. We have reflected this in our analysis. We have adopted a cautious approach which takes into account the risks to projects delivering their proposed capacities.

(vii) Funding certainty

Our analysis includes the possibility of risks that could affect all projects (through a programme level risk adjustment). We have taken a very cautious approach to merchant projects (i.e. those without a local authority anchor contract) assigning most of these projects a very low probability of delivery by 2020.

(viii) Energy Security

The government is legally committed to meeting 15% of the UK's energy demand from renewable sources by 2020. Achieving this will help us to achieve the UK's energy security and carbon reduction objectives. It has however, to be recognised that within this very short time period the contribution from all PFI waste projects will be small - estimated to be less than 1% of government's overall target.

(ix) Infrastructure Delivery

I recognise your concern about the potential impact that any decision to withdraw WICS from your project could have on investor confidence in the waste sector and more broadly. Ministers will take this into account, along with other factors, including the extent of infrastructure needed in England to enable the UK to meet the EU target of reducing the amount of Biodegradable Municipal Waste (BMW) sent to landfill.

Finally, you will be aware of the response of David Heath, Minister of State for Agriculture and Food, to the letter from ADEPT dated 23 July, which also raises a number of these issues:

Yours sincerely

A handwritten signature in black ink, appearing to read 'Nigel Atkinson', with a horizontal line extending from the end of the signature.

Nigel Atkinson

Programme Director

Waste Infrastructure Delivery Programme

Telephone: [REDACTED]

Email: [REDACTED]

From: [REDACTED] on behalf of Jackson, Mike
Sent: 11 September 2013 11:28
To: 'Atkinson, Nigel (Defra)'
Cc: [REDACTED]
Subject: Norfolk County Council - Residual Waste Treatment Contract
Attachments: Defra 110913 FINAL.pdf

Defra officials:
Eden Church
Peter Uwin

Dear Nigel
Please see attached letter.
Regards
Mike

Mike Jackson
Director, Environment, Transport and Development
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Textphone: 0344 800 8011

c.c: Colin Church, Peter Unwin

Your Ref:
Date: 11 September 2013

My Ref: E/35/0/Waste Project/PFI/3.0/JH
Tel No.: 
Email: 

Dear Nigel

Norfolk County Council: Residual Waste Treatment Contract

Thank you for your letter dated 05 September 2013. However, on the basis of the information you have provided, and our recent meeting, there are still significant issues raised in Defra's assessment that we believe have not been adequately addressed.

1. Defra Modelling

You state that in your analysis published in February 2013 over 90% of the model runs predict capacity that is at least sufficient to meet the target.

Firstly, this outcome is not surprising, given that the model is based on trend analysis that extends from a period of declining waste arisings. It is this starting point which drives the model results. The issue that I and an increasing number of other qualified observers are making is that this approach is fundamentally flawed, as the period on which the trend data is based covers three to four years of exceptional policy intervention to reduce arisings, followed by the longest and deepest recession since the 1930s.

In relation to the lack of a causal link point, it is understood that the Defra model does link commercial and industrial waste arisings with economic growth. Our specific concern was your very clear statement that the Defra model makes no causal link between economic growth and *household* waste arisings. North Yorkshire CC, APSE and others have produced good evidence of the links between economic growth and waste volumes, including household waste.

Continued....

While other factors may dampen this relationship, as the economy starts to recover, linked to rapid population growth, the evidence is that we can expect *underlying* waste volumes to grow again. Any realistic modelling of future volumes must take this as its starting point. That is the approach that DfT take in relation to forecasting traffic growth – which, like waste, is a 'derived' good. I would appreciate an explanation of the evidence that justifies Defra's alternative approach to modelling.

We have noted that you have taken into account the possibility of an increase in waste arisings as a sensitivity, described as an 'upward shock'. But that does not address our fundamental concern that Defra's central case projections for household waste arisings do not reflect the very real prospect that household waste arisings will increase as a result of economic growth (indeed we believe the data already gives a strong indication of this – see below).

Secondly, I underline the point that even by Defra's own calculations it is only around 90% certain of meeting the 2020 targets, based on these central assumptions that are being questioned.

2. Data

Linked to concerns about the data modelling is concerns about the data Defra is using. Defra is not using the most recent data available. As we have set out in previous letters, data for 2013 shows that some authorities' residual waste arisings are already starting to grow.

Although not yet fully representative data, the results we have seen from the first quarter of 2013/14 further support this with many authorities seeing a real year on year increase in first quarter residual waste tonnages. This is reflected in data that ADEPT is collating which shows increases for authorities such as Essex, Gloucestershire, North Somerset, Shropshire, Wiltshire/Devon Council and Lancashire.

There is therefore already enough evidence to suggest that, at the very least, there can be no confidence in the Defra forecasts and that it would be risky and premature to make any decisions on investment until the forecasts have been reviewed in the light of post-recession data.

3. Street Sweepings

We are also concerned about the particular effect of the reclassification of street sweepings. Many authorities have been recording street sweepings as being composted, resulting in 100% of the tonnage being deemed to have been biodegradable waste diverted from landfill. However, as a consequence of the reclassification street sweepings are now gradually coming back into the residual waste stream. For example, Oxford City Council are now reportedly forecasting a 6% drop in their recycling rates and have stated that their targeted 50% recycling rate is 'no longer possible in the near future' and 'difficult to see how (it could be achieved) in the longer term'.

Continued....

How the reclassification of street sweepings will affect residual waste levels in England overall remains to be seen, but in Norfolk alone we estimate the impact could be in the region of 8,000 tonnes per annum. I am interested to know how these changes have been taken in to account in your calculations.

4. Recycling

As you will recall, our concerns went further than household waste arisings and also concerned the projections for recycling in England by 2020. Given your reference to emerging third quarter data in your letter I feel I must clearly reiterate the points we made. Data for the whole of 2012/13 indicates that a large number of authorities appear to show reduced recycling levels compared with the previous year. We were making the point that, with a number of authorities experiencing setbacks in improving their recycling performance, England's household waste recycling progress is in serious danger of stalling. Indeed, early data for the whole of 2012/13 is pointing towards a 43.1% recycling rate in England for 2012/13. Given that this is just 0.1% higher than the previous year you can understand the growing anxiety that rates of recycling may be plateauing.

I would welcome your view on whether you think it is appropriate to make strategic investment decisions based on a long term view, at least until November's statistical release is available.

5. Delivery

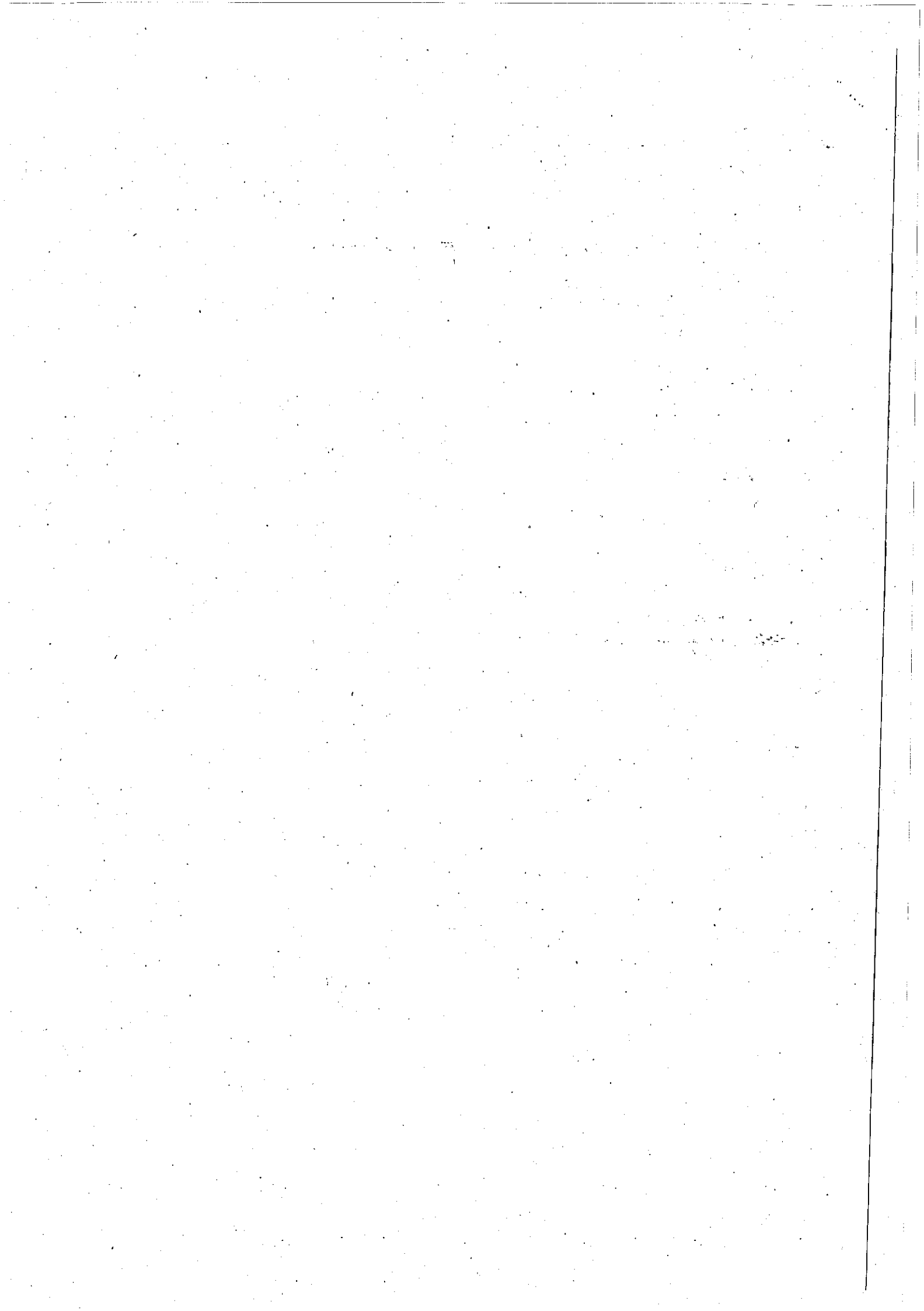
Finally, it is helpful to know that impact on delivery and certainty of funding will be a consideration in any decision. Can you explain how you have reflected this in advising ministers and what weight it will be given? I'd also be grateful if you could let me see details of any representations Defra has had on this issue from other Government departments.

I look forward to your response to the issues raised in this letter and the questions I have raised.

Yours sincerely



Mike Jackson
Director of Environment, Transport and Environment



From: [REDACTED]
Sent: 12 September 2013 14:06
To: 'nigel.atkinson@defra.gsi.gov.uk'
Cc: [REDACTED] Defra Officers
Subject: Norfolk County Council: Contribution to Defra Efficiencies Programme
Attachments: Defra Efficiencies - 12-09-13.pdf

Dear Nigel

Please find attached a letter from Mike Jackson, Director of Environment, Transport and Development at Norfolk County Council.

Best wishes

[REDACTED]
PA to Mike Jackson - Director, Environment, Transport and Development
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via e-mail
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Widp Programme Director
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SW1P 2AL

NCC contact number: 0344 800 8020
Textphone: 0344 800 8011
Email: ~~XXXXXXXXXXXX@norfolk.gov.uk~~

12 September 2013

Your Ref:

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

Dear Nigel

Norfolk County Council: Contribution to Defra Efficiencies Programme

Mindful of Widp's challenging efficiencies target relating to its waste infrastructure programme of contracts, I am keen to establish ways in which the Norfolk project can contribute.

1. Voluntary Code of Conduct

Norfolk County Council has not had a letter from Defra in relation to the Voluntary Code of Conduct that the Treasury is keen to see private and public organisations sign up to that are party to PFI-style contracts.

We would welcome such a letter in relation to the Residual Waste Treatment Contract, as although you may not view this contract as 'operational', this is a scheme we are keen to participate in and have already received correspondence from another Government department in relation to this initiative on another PFI contract.

2. Norfolk Contribution to the Defra Efficiencies Target

I previously provided a copy of the Norfolk draft Revised Project Plan and gave an indication of our negotiation approach with our contractor. Whilst there has been no active interest in this process by Widp, I am pleased to say that I currently expect to be able to identify significant savings from this process of circa £~~10m~~ that could be eligible for inclusion in your efficiencies programme and would be happy to provide more information on this.

Continued....

3. Contract Review Request to Identify Further Efficiency Opportunities

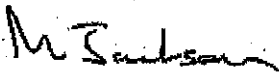
I would also like to explore Widp's ability to undertake a review of the Residual Waste Treatment Contract to identify further potential for savings that could contribute to your efficiencies programme, for instance in relation to Combined Heat and Power or residual value. I understand that there is a cost for this service but being aware of the benefits you have helped deliver elsewhere, I am keen to benefit from your team's input. I would be grateful if you could send further details.

4. Inter-Authority Costs Saving Initiatives

To maintain strong public sector interest across the programme in the most efficient way will require increased collaboration and sharing of advice in relation to the large number of contracts. For instance, legal advice when a future change of law applies to a number of contracts could be sought once, shared as a definitive position and then adhered to, thereby saving the future costs of repeated advice being sought on the same matter across the country. I am interested to see how this collaboration can be delivered and am keen to work with Widp in achieving this goal, which would undoubtedly deliver significant ongoing savings and ensure that value for money positions are maintained across the Widp programme.

I look forward to your response to the opportunities raised in this letter.

Yours sincerely



Mike Jackson

Director of Environment, Transport and Development

cc

~~XXXXXXXXXX~~, Defra
~~XXXXXXXXXX~~, Defra

From: [REDACTED] on behalf of Jackson, Mike
Sent: 18 September 2013 12:58
To: 'Atkinson, Nigel (Defra)'
Cc: [REDACTED]
Subject: Norfolk County Council - Residual Waste Treatment Contract
Attachments: Defra 180913 FINAL.pdf

Defra officers
Peter Unwin
Colin Church

Dear Nigel
Please see attached letter.
Regards
Mike

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

c.c: Colin Church, Peter Unwin

Your Ref:
Date: 18 September 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

Following on from points raised most recently in my letter dated 05 September 2013, and concerns raised directly in writing with Lord de Mauley by the Leader of Norfolk County Council about Defra's central assumptions on waste growth, I note with interest reported comments relating to a presentation by Colin Church to the recent RWM Conference.

It is reported by Letsrecycle.com that a steady future increase in waste arisings was one of three scenarios facing England identified by Colin.

This suggests that within Defra the possibility of future waste growth is being acknowledged as a very real prospect. That seems sharply at odds with the published Defra forecasts, and the modelling approach as you have described it to us.

While we believe that a growth in waste arisings is indeed a real prospect, this apparent inconsistency appears to further underline the need for a review of the fundamental assumptions, based on the very latest data. In the meantime, I would like an explanation of how these other scenarios identified are taken in to account in your current assessment process and reflected in the information that is being provided to Ministers.

I look forward to hearing from you on this matter, and in relation to the issues raised in my previous letter.

Yours sincerely



Mike Jackson
Director of Environment, Transport and Environment

From: Allen, Mark
Sent: 20 September 2013 17:43
To: Nigel Atkinson [REDACTED]
Subject: RE: Norfolk's Waste PFI
Attachments: cabinet020913minspdf[1].pdf; cabscrut170913agendapdf[1].pdf
Nigel

It was good to speak to you again today – I hope you feel better soon.

As discussed today, and at our recent meeting in London the adoption of Policy is normally a full County Council decision, usually based on a recommendation from Cabinet. Any Cabinet decision can be "called in" by Cabinet Scrutiny Committee, who have the power to refer the decision back to Cabinet for re-consideration.

At it's meeting on 2 September 2013 (minutes attached) Cabinet RESOLVED TO RECOMMEND TO COUNCIL the Waste Site Specific Allocations Development Plan Document and the accompanying Policies Map with additional modifications be adopted, (with the Director of Environment, Transport and Development authorised to make any minor formatting, layout and/or page numbering changes judged necessary prior to printing and publication of the final document).

This decision was then "called in" (report attached) the decision by Cabinet to recommend to Council that the Waste Site Specific Allocations Development Document be adopted. At it's meeting on 19 September 2013 Cabinet Scrutiny Committee decided not to refer this decision back to Council, and so the full County Council will consider it's adoption at it's next meeting on 25 November.

Please do contact me if you have any questions on this.

Kind regards

Mark

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

Defra Official
NCC 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]
Subject: Norfolk's Waste PFI

Defra Official
NCC 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
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Environment, Transport & Development
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E-mail: [REDACTED]
Norfolk County Council
General enquiries: 0344 800 8020 or information@norfolk.gov.uk
www.norfolk.gov.uk

5 PUBLIC QUESTIONS

5.1 One questions from Mr Alan Hall

When will the investigation report by Tim Byles in relation to David White's termination payments be published?

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

Thank you for your question.

The report by Tim Byles was published in full on Thursday 1 August. Copies were circulated to all Members of Norfolk County Council and made available to the local Media. It was also posted on the County Council's website where it is still available via a link from 'Committees and Panels' page, or by searching for 'investigation report'.

5.2 Two questions from Mr John Martin

- A. In relation to the waste PFI contract, has the Schedule 26 Revised Project Plan yet been approved by NCC?

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

No, the Revised Project Plan has not yet been accepted by NCC.

- B. What is the predicted unitary charge for each year of the contract?

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

The unitary charge will only be finalised when the Revised Project Plan has been accepted.

5.3 Two questions from Mr Ron Cornell

- A. In relation to the waste PFI contract, will the Cabinet please confirm that :

The NCC press release issued on the 10th June 2013 is true and accurate.

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

The press release issued on 10 June 2013 followed the Cabinet decision to appoint a QC and financial adviser to carry out the independent review requested by the Cabinet Scrutiny Committee. It indicated that Cabinet had agreed to accept in full the recommendations of Cabinet Scrutiny Committee and went on to describe the process by

CHAIRMAN



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to date plan possible. Adoption would provide more certainty for residents, operating companies and local councils of the future locations of minerals extraction sites in Norfolk.

13 Norfolk Waste Site Specific Allocations Development Plan Document (DPD): Adoption

The Cabinet received a report (item 13), which reported that the Waste Site Specific Allocations Development Plan Document had met the criteria for soundness set out in National Planning Policy Framework and could now be formally adopted by County Council so that it formed part of the Development Plan for Norfolk.

Detailed discussion was carried out at item 12 (above).

Decision

RESOLVED TO RECOMMEND TO COUNCIL the Waste Site Specific Allocations Development Plan Document and the accompanying Policies Map with additional modifications be adopted, (with the Director of Environment, Transport and Development authorised to make any minor formatting, layout and/or page numbering changes judged necessary prior to printing and publication of the final document).

RESOLVED that the content of the Inspector's Report on the examination of the Minerals and Waste Site Specific Allocations Development Plan Documents be noted.

Alternative Options: Refer to the Cabinet report.

Reason for Decision

Following the receipt of the examination of the Norfolk Waste Site Specific Allocations Development Plan Document (DPD), the independent Planning Inspector acting on behalf of the Secretary of State had found the plan sound and recommended adoption. Prompt adoption of the Plan was the next step and meant that the plan could become a statutory part of the development plan for the County and full weight could then be attached to it in the consideration of planning applications (as part of the plan-led system based on the most up to date plan) although significant weight could be attached to the Inspectors report and decision on soundness. Government policy contained in the National Planning Policy Framework and the 'Planning System: General Principles' stated that in decision making plans should form the 'essential framework' of planning decisions and that these plans should be kept 'up to date'. Prompt adoption of the Waste Site Specific Allocations would accord with these policies and therefore allowed all current and future applications to be made on the basis of the most up to date plan possible.

It follows that to defer a decision on adoption would be contrary to these principles and the Inspectors recommendation. Adoption would provide more certainty for residents, operating companies and local councils of the future locations of waste facilities in Norfolk.

The meeting ended at 11.25am.

question had been approved for any particular proposal and were still subject to individual planning permission. The waste sites were suitable for a range of processes.

The Cabinet Member for Adult Social Services noted that this was a thorough process which had been ongoing for eight years. She asked for confirmation that full approval or no approval had to be given to the recommendations and that certain sites could not be removed. The Director confirmed that this was the case. She noted that the plan only stated that site 65 (Saddlebow) was suitable for waste treatment, the type of waste treatment had not been determined.

The Cabinet Member for Public Protection stated that the documents were very comprehensive and he supported them being recommended to full Council for adoption.

The Cabinet Member for Environment, Transport, Development and Waste noted that with regards to site WAS65, Council would be approving that it was suitable for waste treatment, not specifically an incinerator, and so there was no reason to delay the process.

The Chairman concluded that an inspector had stated that the plans should be adopted. Any further debate should be carried out in full Council in order to give all Members the opportunity to comment.

Decision

RESOLVED TO RECOMMEND TO COUNCIL that the Minerals Site Specific Allocations Development Plan Document and the accompanying Policies Map, with the additional modifications be formally adopted (with the Director of Environment, Transport and Development authorised to make any minor formatting, layout and/or page numbering changes judged necessary prior to printing and publication of the final document).

RESOLVED that the content of the Inspector's Report on the examination of the Minerals and Waste Site Specific Allocations Development Plan Documents be noted.

Alternative Options: Refer to the Cabinet report.

Reason for Decision

Following the receipt of the examination of the Norfolk Minerals Site Specific Allocations Development Plan Document (DPD), the independent Planning Inspector had found the Plan sound, subject to the inclusion of main modifications. Prompt adoption of the Plan was the next step and meant that the Plan would become a statutory part of the development plan for the County and full weight could then be attached to it in the consideration of planning applications (as part of the plan-led system based on the most up to date plan) although significant weight could be attached to the Inspectors report and decision on soundness.

Government policy contained in the National Planning Policy Framework and the 'Planning System: General Principles' stated that in decision making plans should form the 'essential framework' of planning decisions and that these plans should be kept 'up to date'. Prompt adoption of the Minerals Site Specific Allocations would accord with these policies and therefore allow all current and future applications to be made on the basis of the most up

2. Note the changes in timetable and agree to delegate the final sign off for the deal be delegated to the Leader and Acting Managing Director, should it need to be submitted before the Cabinet meeting in October.
3. Agree a further update be presented to Cabinet in October

The Chairman noted that the bid was a working document which was changing daily and therefore it would be sensible to do as had been proposed.

Decision

RESOLVED that:-

1. The progress to date, including the continuation of the negotiation with the Government to devise the deal, be noted.
2. The changes in timetable be noted
3. The final sign off for the deal be delegated to the Leader and Acting Managing Director, should it need to be submitted before the Cabinet meeting in October
4. A further update be presented to Cabinet in October

Alternative Options: Refer to the Cabinet report.

12 Norfolk Minerals Site Specific Allocations Development Plan Document (DPD): Adoption

The Cabinet received reports (items 12 and 13), which reported that the Minerals and Waste Site Specific Allocations Development Plan Documents had been found 'sound' by the Secretary of States public examination of the proposals and met the criteria for soundness set out in National Planning Policy Framework. These could now be formally adopted by County Council so that they formed part of the Development Plan for Norfolk.

The Director of Environment, Transport and Development advised that items 12 and 13 would be presented together as they had been worked on together at all stages. He reported that both plans had been through a long process of public consultation and an independent inspector had overseen the finished reports. The inspector and the Secretary of State had concluded that the reports were sound and advised that the County Council should move forward and adopt the plans.

The Assistant Director – Public Protection advised that the sites were very important as they would give certainty to communities, developers and landowners as to which sites would be suitable for mineral extraction and waste treatment until 2026. The planning process for these documents had been thorough, starting as far back as 2005. The public had been consulted extensively in 2008, 2009, 2011 and 2012. Proposals had then been discussed with a member working group at key stages and finally the full examination by the inspector, with representations by all interested parties to ensure that the plans were sound, would meet statutory requirements and the needs of Norfolk. None of the sites in

Decision

RESOLVED that

1. The planning application for the NDR continue to be developed and be submitted in November 2013, subject to any changes following the NSIP consultation that will be reported in October to Cabinet.
2. The relocation of airport radar as a compensatory element of the NDR project be part-funded.
3. The original Cabinet decision to dual the entire route be confirmed and that the following recommendation be deleted:-

To consider amending of the section of the NDR west of Fir Covert Road to single carriageway, subject to the findings of the NDR NSIP consultation, to mitigate the costs of recommendations 1 and 2 above.

Reason for Decision

The NDR was an essential element of the NATS Implementation Plan (Transport for Norwich) and formed a key part of the Joint Core Strategy for the Norwich Policy Area. The decision to continue the planning application for the project was essential to be able to realise the full benefits of the Implementation Plan, to provide the transport infrastructure for Norwich to enable its prosperity into the future, taking account of existing transport problems and accommodating future growth in housing and employment, which were essential to economic growth in Norfolk and vital to achieving LTP targets.

11 Greater Norwich City Deal Update

The Cabinet received a report (item 11), which recorded the current position of negotiations with central government and identified the likely key components of a City Deal, which would require Member approval by Broadland District Council, Norwich City Council, South Norfolk Council and Norfolk County Council, at a later date.

The Assistant Director – Economic Development and Strategy explained that since the report had been written a number of things had changed. The negotiation document would now be submitted on 6 September 2013 rather than 27 August and the Ministerial meeting organised for 10 September would now become a "challenge" meeting with Gregg Clarke, Minister for Cities. The date of the Ministerial visit had yet to be confirmed. As such, a one-page summary of the bid (attached as Appendix C) had been tabled to Cabinet, rather than the negotiation document. As a consequence of these changes the recommendations had been re-written, as follows:-

Cabinet is asked to:

1. Note the progress to date, including acknowledge the continuation of the negotiation with Government to devise the deal.

10. Norwich Area Transportation Strategy (NATS) Implementation Plan (Transport for Norwich) including Norwich Northern Distributor Route (NDR) and Postwick Hub Update

The Cabinet received a report (item 10), which updated on further progress with the NATS Implementation Plan (Transport for Norwich). The report included a suggestion that a section of the NDR could be built as a single carriage way to mitigate other costs.

The Director of Environment, Transport and Development informed Cabinet that since the report had been written the Secretary of State had approved the County Councils application under Section 35 of the Planning Act and had given explicit recognition that the northern distributor route (NDR) was a scheme of national significance and could continue in the national area transportation strategy implementation plan, which was very positive for the implementation timetable. He advised that at point 2.3.5 contained an error and that the consultation would actually close on 20 September 2013; this would not affect the implementation timetable.

The Cabinet Member for Environment, Transport, Development and Waste noted that he was delighted that the scheme would go ahead and that the planning procedure should be completed to the proposed timetable.

The Cabinet Member for Education and Schools was delighted at the potential of the scheme for Norfolk as the NDR was a key component for the future. He believed that the entire route of the NDR should be fully dualled.

The Cabinet Member for Public Protection agreed that full dualling of the NDR was required and that it was important to get the full benefit from the scheme in order to justify the disruption that the work would cause to local residents. A single-carriage way section would diminish the argument for the scheme as a whole. He was very pleased that the views of local residents in Taverham and Drayton had been listened to and that a roundabout would be incorporated in this area.

The Cabinet Member for Adult Social Services agreed that the policy should be for full dualling of the NDR. This would be justified by the amount of traffic that it would take away from other areas. The aim would be for full dualling to take place eventually so there was no reason for this not to happen now. The Cabinet Member questioned whether the cost that the County Council would have to pay to relocate the airport radar had been fully challenged.

The Director of Environment, Transport and Development responded that negotiations had taken place with the airport over the relocation of the radar and the costs involved. An independent report had been carried out and all parties were satisfied that the agreed upon figure (8/20ths of the cost) was reasonable. Regarding the suggestion that part of the route be single-carriage way, this was purely a financial suggestion in order to off-set the costs of the radar relocation.

8. 2013/14 Integrated Performance and Finance Monitoring Report

The Cabinet received a report (item 8), which presented a summary of performance for Norfolk County Council in quarter one 2013/14. The report demonstrated that the County Council was on track to report a revenue expenditure net underspend of £1.787m and a capital expenditure net underspend of £0.119m.

The Cabinet Member for Finance, Corporate and Personnel commented that work had been put in to make the report more transparent and understandable. It would continue to evolve and more comparative information would be introduced.

Decision

RESOLVED that the information contained within the report be noted.

Alternative Options: Refer to the Cabinet report.

9. Service and Financial Planning 2014-17

The Cabinet received a report (item 9), which set out updated information on the County Council's funding gap over the next three years 2014-17.

The Head of Finance reported that, since the Cabinet meeting on 5 August 2013, consultation papers had been received from the Department for Communities and Local Government. These had been reviewed and as such the County Council's funding gap had been increased from £182m to £189m. No additional changes were expected until the provisional grant settlement was received at the end of the year.

The Cabinet Member for Finance, Corporate and Personnel noted that the increase was bad news but progress was being made in preparing for the funding gap which would see the County Council through the period. There would be no way to avoid difficult decisions from being made.

Cabinet noted that it was the last Cabinet meeting for the Head of Finance and thanked him for his hard work in his time with the County Council and the help he had given to Members past and present.

Decision

RESOLVED that the contents of the Cabinet report, including the increase in the projected overall funding gap, 2014-17 from £182m to £189m, be noted.

Alternative Options: Refer to the Cabinet report.

Reason for Decision

The reason for this decision was to ensure that there was a consistent service and financial planning approach for the County Council and that planning was based on latest available information.

3. Declarations of Interest

No declarations of interest were made.

4. Matters of Urgent Business

The Cabinet Member for Public Protection notified the Cabinet that the Fire Brigade Union had voted on taking industrial action in response to changes to their pension scheme. He noted that this was a national dispute and was therefore no reflection upon the Norfolk Fire Service or the previous or current administration and that he regretted any actions which could cause unnecessary risk to the public. It was unknown as yet what form the action would take but residents of Norfolk could be assured that contingency plans were underway.

5. Public Questions

- 5.1 Appendix A to these minutes sets out the public questions and replies received for this meeting.

6. Local Member Issues/Member Questions

- 6.1 Appendix B to these minutes sets out the Member questions and replies received for this meeting.

7. Overview and Scrutiny Panel Issues

The Cabinet Member for Education and Schools reported that Sheila Lock had commenced in post as Interim Director of Children's Services. She was very clear on what the department needed to do in order to improve and would be concentrating on basics such as partnership working, leadership and management in order to bring about results. A decision had been taken to drop the internal restructuring. A senior team from Children's Services would be meeting with the Minister for Schools on 11 September 2013. Finally he reported that the Overview and Scrutiny Panel had looked in detail at their scrutiny forward plan and would be prioritising it for the forthcoming year.

The Cabinet Member for Communities advised that she would be presenting certificates to children in three libraries for the summer reading challenge, which had received an excellent response. She urged Members to attend their libraries where possible to also hand out certificates.

The Cabinet Member for Adult Social Services notified that the social enterprise, discussed and agreed at the meeting on 5 August 2013, had moved into the implementation stage. An Enterprise Development Board was in the process of being set up.

CABINET

MINUTES OF THE MEETING HELD ON 2 SEPTEMBER 2013 AT 10.30AM IN THE EDWARDS ROOM, COUNTY HALL.

Present:

Mr M. Castle	Education and Schools
Mr D. Harrison	Environment, Transport, Development and Waste
Mr J. Joyce (In the Chair)	Safeguarding
Mr S. Morphew	Finance, Corporate and Personnel
Mr D. Roper	Public Protection
Ms S. Whitaker	Adult Social Services
Mrs M. Wilkinson	Communities

Members Also Present:

Mr R Bearman	Mrs J Leggett
Mr B Borrett	Mr A Proctor
Mr A Dearnley	Mr B Spratt
Mrs S Gurney	Dr M Strong
Mr T Jermy	Mrs C Walker
Mr C Jordan	Mr B Watkins

Officers/ Others Present:

Mr D Allfrey	Major Projects Manager
Mrs D Bartlett	Head of Planning, Performance and Partnerships
Mr P Brittain	Head of Finance
Mrs H Bodmer	Director of Community Services
Mr D Collinson	Assistant Director - Public Protection
Mr R Drake	Planner
Mr M Jackson	Director of Environment, Transport and Development
Ms F McDiarmid	Asst Director Economic Development & Strategy

The Cabinet Member for Safeguarding announced that the Leader had appointed him as Deputy Leader for the duration of the Cabinet meeting.

1. Apologies

Apologies were received from the Leader of the Council.

2. Minutes

The minutes of the meeting held on 5 August 2013 were agreed and signed by the Chairman.

which independent legal and financial advisors would be appointed to conduct detailed investigations into the Willows power and recycling contract.

For practical reasons, Cabinet chose to take a different approach to the appointment and commissioning of independent advisors to that proposed by Cabinet Scrutiny, both by inviting opponents to the Willows energy from waste proposal to take the lead in selecting and appointing the advisors and by including the requirement for a waste management report in the brief for the financial advisor. I do not accept the suggestion implicit in the question, that this renders the press release untrue or inaccurate.

- B. The reports referred to will be published on the NCC website.

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

We will publish the reports redacting only any information that we are legally and contractually obliged to do.

5.4 Two questions from Mrs Carolyn Martin

- A. In relation to the proposed adoption of the Waste Site Specific Allocations Development Plan ("the Plan") Is the Cabinet in recommending adoption of the Plan – including Policy WAS 65 – seeking at a late stage to move the goalposts, and skew the decision of the Secretary of State?

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

No. The process for the development of the Waste Site Specific Allocations Development Plan has been ongoing for several years and has taken its course. There will be no last minute alterations.

- B. Is the Cabinet aware that such adoption, prior to the Secretary of State determining the Cory Wheelabrator planning application, could result in the Secretary of State reopening the planning inquiry?

NB See Rule 17 of the Town and Country Planning (Inquiries Procedure) (England) Rules 2000

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

We have no reason to believe this would be the case. The Secretary of State has the power to reopen any public enquiry, if he thinks fit.

5.5 Two questions from Ms Marion Ross

- A. In August, Cllr. Harrison said he would make sure the County Council's exposure to termination costs is not increased. As failure to reach the Planning Longstop Date is a Contractor's Default, and as such incurs far lower compensation payments than if the

client terminated the contract, would he therefore confirm his August statement with an assurance that NCC will not be permitted to change this date under the RPP, thereby preventing a change in ownership of default liabilities?

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

The position on liabilities has been discussed in previous council reports and is also the subject of an independent review. It would be premature to give any assurance in advance of that review.

- a. In August, Cllr. Harrison said he would make sure NCC's exposure to termination costs is not increased. As failure to reach the Planning Longstop Date is a Contractor's Default, and would surely incur far lower compensation payments, would he therefore confirm his August statement with an assurance that NCC officials will not be permitted to quietly accept the RPP behind closed doors, thereby preventing a change in ownership of default liabilities?

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

The position on liabilities has been discussed in previous council reports and is also the subject of an independent review. The previous Cabinet on 7 March 2011 agreed to delegate to the Director of Environment, Transport and Development in consultation with the Leader and Cabinet Member for Sustainable Development, the approval and entering of the Private Finance Initiative contract with Cory Wheelabrator and all associated documents together with any additional acts and instruments required to give effect to the project including, without limitation, direct agreements with funders.

5.6 Two questions from Mrs Olive Gold

- A. Forex risks are generally taken by the contractor. With regard to the Waste PFI Contract, was it NCC's decision to take the Forex risks themselves in an effort to gain financial benefit from the exchange rate changes, or was this condition imposed on them by CW?

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

Both parties agreed this mutually beneficial arrangement which is standard in contracts of this nature.

- B. To a question I asked in July, Cllr Morpew said the figure has not changed as mitigation measures were in place to address any changes beyond the contract award date, although regrettably, he did not expand on what these mitigation measures are. Will the increase in costs simply be added to the Unitary Charge?

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

The cost of the significant delay will undoubtedly be having an impact on the contractor but we do not anticipate or expect them to be simply added to any updated total – as you would expect, they will be the matter of detailed and robust negotiation.

5.7 Two questions from Ms Jenny Perryman

- A. The WSSA DPD highlights policy DM 13 - all planning applications for waste operations must ensure they would not impact negatively on existing AQMAs, with WAS 65 highlighting two existing AQMAs currently exceeding limits of NO2. CW's planning application acknowledges an increase. The fact that CW and all statutory bodies have made light of this, claiming the negative impact as insignificant, and the shameful award of an Environmental Permit, is immaterial to stipulations in DM13.

NCC Planning Committee therefore approved the application knowing it contravened DM13. How can NCC expect Eric Pickles to grant planning permission for Saddlebow when it contravenes the very plan they are recommending for adoption?

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

I am very confident that the Communities Secretary is more than capable of forming his own view on the planning application following his consideration of the very extensive evidence gathered by the Planning Inspector through the public inquiry process.

- B. Would the Leader of the Council familiarise himself with Einstein's quote, to the effect that a problem cannot be solved on the same plane as it was created, particularly pertinent when those NCC officials who have saddled Norfolk taxpayers with enormous financial liabilities, whether the proposed incinerator is built or not, are still involved and entrusted to look for, or advise those seeking a solution to the problem. Rather than continuing to pass further blame to the former Conservative administration, will he take on board this current line of approach by the 'new' administration, which many regard as negligent, will do nothing but further the divide with West Norfolk?

Response by Mr James Joyce on behalf of Mr George Nobbs, Leader of the Council.

About the first distinction I learned on being elected as a Councillor was that while officers present policy options, it is Councillors who take decisions, and therefore earn the praise when they get things right and the criticism when they don't.

Like it or not the former Conservative Administration entered into the contract with Cory Wheelabrator as a result of a political decision. The electorate commented on that decision in May and this Administration is trying to rectify the massive democratic deficit around that decision. But we must not, and will not, tolerate any attempts to rewrite history to turn that decision into an officer decision – it was taken solely by the previous Conservative Cabinet.

5.8 One questions from Mr John Beveridge

- A. On 29th July, the Monitoring Officer advised the Chairman that four motions set down for debate that day should not be debated, as doing so might increase possible compensation

claims, by Cory Wheelabrator, against the Council. It is improbable that open debate of the motions by an elected body could have that effect and as no grounds were given for that oral advice, nor advance notice, so that any amendment could be made, is the Leader satisfied that such advice was competent and proper and what steps is he taking to ensure that open debate on a matter of public interest will not, in future, be curtailed?

Response by Mr James Joyce on behalf of Mr George Nobbs, Leader of the Council.

Thank you for your question.

I am satisfied that the advice given by the Authority's Monitoring Officer was both competent and proper and Members decided to accept that advice.

Where public debate and openness on the Willows contract and decision are concerned, this administration fully accepts that public interest requires further scrutiny and debate. You will know that an independent review in line with an early Council agreement on these matters is already underway.

The Monitoring Officer did not advise the Chairman that four motions set down for debate that day should not be debated. She was asked for her advice on likely risk to the Council, which she provided. The Chairman took the decision that Cllr Dobson's three motions should not be debated, both in the light of that advice and in the light of the views expressed by Members. In the case of Cllr Coke's motion, Members sought advice and drew their own conclusion.

The Monitoring 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.

5.9 Two questions from Ms Christine Hall

- A. Has NCC been contacted formally by the Information Commissioner in relation to the complaint made to him by Derrick Murphy?

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

In answer to your question the Information Commissioner has notified the Authority of Derrick Murphy's complaint.

- B. Does NCC anticipate having to pay compensation in relation to that complaint?

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

The matters to which the complaint relates considerably predate this administration and we will have to wait for the Information Commissioner's conclusion.

5.10 One question from F A Eagle

Following the major security breach at NCC as shown on You Tube, where there was complete lack of security at NP Law and the fact that the architect of the new standards regime for local government, Bob Neil MP, has stated that the NCC Standards Regime is not fit for purpose, does the Leader of the Council have any confidence left in the Monitoring Officer?"

Response by Mr J Joyce on behalf of Mr George Nobbs, Leader of the Council.

The security breach to which you refer took place many months ago under the previous Conservative administration. Since then rather more stringent security measures have been set in place which seem to be proving more effective.

Like wise the comments by Bob Neil on the Standards Regime were made during the previous Administration. I am told that the authority wrote to Bob Neill to advise him that that his comments contained a number of factual inaccuracies and pointed out that in fact, the Code the Authority adopted on 8 May 2012 is based on the short, light touch Code recommended by the Local Government Association and that is itself very similar to that promoted by Bob Neill MP when he was a Minister in the Communities department.

Since this Administration was elected I am very pleased to say that we have enjoyed high quality support from our officers, including the Monitoring Officer, who continue to work diligently to support the decisions made by elected members. Long may that continue.

5.11 Two questions from Ms Denise Carlo

- A. Re. the Secretary of State direction issued to Norfolk CC on 9 August and published via Archant on 19 August.

The reasons given were not cited in the original NDR business case, nor the development pool bid, nor the NDR Scoping Report (Feb 13), nor the current NDR public consultation and Preliminary Environmental Information Report.

What is the evidence base for the reasons cited and where has the information been published previously?

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

I have no idea on what basis the Secretary of State took this decision. However, our application under Section 35 of the Planning Act is available on the Council's website at: <http://www.norfolk.gov.uk/ndr>

Post Meeting Note: the full answer should read as follows:

Other than as set out in his Direction of 9 August, I have no idea on what basis the Secretary of State took this decision. However, our application under Section 35 of the Planning Act is available on the Council's website at: <http://www.norfolk.gov.uk/ndr>

- B. Will the Council re-run the consultation, together with the full evidence base, to take account of the new additional supposed justification for the NDR in an

extended consultation area that includes the A47 TEN-T corridor and Great Yarmouth and the whole of Greater Norwich?

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

No.

5.12 Two questions from Mr Steve Fox

- A. Will the Leader please explain why (despite the legal advice from the Authority's Head of Law to the contrary) he intends to allow Cabinet to recommend the Norfolk Waste Site Specific Allocations Development Plan, including WAS 65 (Saddlebow), to the forthcoming Full Council, thereby interfering with the due course of the ongoing Public Inquiry and thus (in the words of Ms McNeill) potentially exposing NCC to greater financial penalties should the Secretary of State decide not to grant Planning Permission?

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

Thank you for your question. Cabinet has yet to consider the Norfolk Waste Site Specific Allocations Development Plan. However, I should point out that the advice sought from the Head of Law that I assume you are referring to did not relate to the Plan but to the Waste Contract. Approval of the Plan is an entirely separate matter which has been the subject of a separate Public Inquiry.

- B. Will the Leader please give an assurance that the full plan is NOT adopted at this time (without resorting to his usual tactic of blaming the previous administration) thereby ensuring that the Public Inquiry does not have to be reopened at a later date?

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

Any decision to adopt the full plan is a matter for Full Council.

5.13 One questions from Mr Ashley Collins

A referendum in West Norfolk showed that 92% of those who voted were against a mass burn incinerator in King's Lynn. To what extent does the leader believe that the legal advice given by the Chief Monitoring Officer for NCC not to participate in this referendum contributed to this overwhelming no vote?

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

Thank you for your question Councillor Collins. The answer is that I genuinely don't know.

6. MEMBER QUESTIONS

6.1 One question from Mr Bill Borrett

A. Please will the Leader of the Council list his engagements for the day

Response by Mr James Joyce on behalf of George Nobbs, Leader of the Council.

Councillor Nobbs will, I understand, be spending the rest of the day attending to the aftermath of a family funeral before returning to County Hall tomorrow.

Mr Borrett asked a supplementary question. He asked the Chairman for his opinion on whether reducing one-third of the Northern Distributor Route to single carriage way would be a false economy. The Chairman responded that this would be discussed in detail during the relevant agenda item.

6.2 One question from Ms Alexandra Kemp

I proposed a motion, which was CARRIED, to recommend REJECTION of the Waste Allocation Inspector's report at Friday 16th August's Waste and Minerals Reference Group. The motion to recommend approval was LOST. A motion to defer approval was also CARRIED. Will Cabinet consider my reasons for recommending rejection which have been left out of the cabinet agenda?

Reasons for Rejection of Waste Site Specific Allocations Local Plan Inspector's Report of July 2013As I am advised that it is not possible to amend the Waste Allocation Inspector's Report and I do not agree with his conclusions on acceptability and deliverability of Site 65 which is the report's major strategic issue, the correct route is to recommend refusal, in view of my duty to provide advice on public priorities, acceptability and concerns. Failure of Planning Permission1. The Willows site is currently undeliverable without planning permission pending the outcome of the Public Inquiry. Failure of Environmental Permit2. Even with planning permission, the Environmental Permit is unsound and as it fails to take account of -(a) human receptors at workplaces within 250 metres of the site including members of Norfolk Constabulary employed at the Police Investigation Centre and(b) staff at the future Centrica B and (c) the risk of damage to infrastructure, energy efficiency and generation at Centrica B due to the proximity of the Willows proposed open-air dust-handling area adjacent to Centrica's condensers and(d) Future impact on the Wash, an internationally protected Ramsar site and Site of Special Scientific Interest, to which the County Council owes a duty of care under the Habitats Regulations(e) Failure to address Flood Zone 3 risk in the area that was the prime target of 1953 floods and the subject of recent on site-flooding. Failure of the Proximity Principle3. The WASA Inspector erred at section 60 in his interpretation of the proximity principle by expanding it to include a "good communications" doctrine whilst failing to consider the two main arteries into King's Lynn (a) the A10 at West Winch and Setchey long in need of a by-pass and (b) the A47 which is not dualled and that therefore his doctrine of good communications is not in any event applicable. Failure of Norfolk County Council to Cooperate4. The County Council at the time it chose the Willow site failed in its duty to cooperate as it -(a) refused to take part in the referendum when it was offered the chance to state its case and(b) attempted to

undermine the referendum by not taking part and(c) announced before the referendum had taken place that it would not take any account of it.5 Breach of EU LawThe project agreement would breach EU law by necessitating the incineration of recyclable materials.

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

Yes, Cabinet will take note of your reasons as I am sure will your colleagues when the matter comes before Full Council for decision.

6.3. One question from Mr Cliff Jordan – will be present

How many expressions of interest, backed up with sustainable business cases, has the Cabinet Member received for 'Train Wood'?

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

The invitation was for expressions of interest from community groups that want to keep Train Wood for community use. The requirement is that there should be a sustainable business plan before any grant of a lease. The sustainability of any business plan will be contingent on the terms of the lease and whether the proposed community uses are acceptable. So the expressions of interest were intended to trigger discussions but not be the final word.

Two expressions of interest were received. One will not proceed as the proposed use would not be possible, but the ideas from the group are worthy of further discussion.

The other was from the Friends of Train Wood and Marriott Way. With their expression of interest they provided a high level aspirational summary of their business plan and I hope to meet with them soon to discuss how it can be developed. It includes some interesting and exciting ideas that would provide opportunities to promote community involvement and wider community use. It also includes suggestions for fund raising that would support the project and could be of useful economic value.

However I confirm no lease will be granted until we are satisfied there is a sustainable business plan.

Mr Jordan asked a supplementary question. He asked whether the Cabinet Member had evaluated either by percentage or by monetary terms the amount that the County Council would contribute from earned income to the funding gap.

The Cabinet Member for Finance, Corporate and Personnel responded that he could not give a full answer as yet as this would be part of the overall budget consultation. However he would be considering how much income would be generated from selling assets as well as how much value the County Council would gain from assets in other ways, such as by communities taking on assets which would save the County Council money.

6.4 One question from Mr Richard Bearman

Can the Leader explain the reasons for the "surgical removal" of recommendation 1(C) from the Cabinet Scrutiny meeting of June 4th. Namely "an additional waste management report identifying other potential costs or savings associated with terminating the contract in order to pursue alternative solutions".

Response by Mr James Joyce on behalf of Mr George Nobbs, Leader of the Council.

Recommendation 1 (C) has not been removed. Cabinet agreed that the waste management report would be commissioned from the independent financial advisors.

Mr Bearman asked a supplementary question. He noted that he was pleased that all of the recommendations had been accepted and requested that a detailed explanation, which would set out the timeline, be emailed to all Members. The Chairman agreed to this.

6.5 Two questions from Ms Elizabeth Morgan

- A. The current consultation on the NDR is confusing the Public. It started under the Planning Act 2008 on grounds that the NDR would connect to the national Strategic Road Network: this is no longer legal after July 25th. Since August 9th, the consultation is for "national significance" on grounds that are not given in the Statement of Community Consultation. Can the consultation be restarted on grounds that are fully clear to the Public?

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

I am sorry if this is the case for some people because where the proposals are concerned nothing has changed.

The County Council's Cabinet decided in December 2012, before the consultation started, to use the NSIP legislation as the basis for taking forward the necessary statutory processes for the NDR project. This has not changed.

The basis on which we are seeking views through the consultation (as set out in the Statement of Community Consultation), the scheme proposals and the case/evidence for the scheme have not changed. It is this information on which we are seeking views and therefore there is no need to restart the consultation.

- B. The main consultation area shown in the current NDR consultation excludes most of Norwich. The Secretary of State has deemed the NDR of 'national significance', amongst other reasons because of its network linkage to Norwich airport, A47 TEN-T and Gt Yarmouth/Lowestoft Enterprise zone. Can the consultation be restarted to include the whole of the GNDP Norwich Policy Area, East Norfolk and Great Yarmouth?

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

The basis on which we are seeking views through the consultation (as set out in the Statement of Community Consultation), the scheme proposals and the case/evidence for the scheme have not changed. There is no reason for the consultation to be re-started or for its scope to be amended.

6.6 Two questions from Mr Adrian Dearnley

- A. Will Cabinet accept this modified recommendation at Item 13 [on page A248] as follows:

"That Cabinet recommends County Council to resolve to formally adopt the Waste Site Specific Allocations DPD and the accompanying Policies Map with additional Modifications, except for WAS65. Cabinet recommends formal adoption of WAS65 is deferred and considered at the first Full Council meeting following the Secretary of State's determination of the Willows Incinerator Planning Inquiry"

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

No, the Planning Inspector has examined the Waste Site Specific Allocations in their totality. His recommendation, that the Plan is sound and 'legally compliant' and should be adopted, is based on the whole document as submitted. Section 23 (subsections 2,3 and 4) of the Planning and Compulsory Purchase Act 2004 is clear that the authority must not adopt a Development Plan Document (DPD) unless it is in accordance with the Inspector's recommendation.

- B. If Cabinet will not accept the suggest recommendation at question 1, please indicate what legal opinion has been sought and given relating to the reasons for proceeding with WAS65 now, whilst the Secretary of State is in the process of determining the Cory Wheelabrator planning application.

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

The County Council was represented by Counsel at both the public inquiry and public examination. The allocation WAS65 was discussed in detail at the public inquiry into the Willows EFW and the application for the Willows EFW was discussed in detail at the public examination. Therefore both Inspectors were cognisant of the issues in relation to WAS 65. The Inspector who examined the site allocation documents has judged our plans to be sound and recommended that we adopt them. The Government advice on this matter is unequivocal in that we should make every effort to ensure that waste plans are put in place as quickly as possible.

6.7 One question from Mr Martin Wilby

Does the Cabinet Member not agree that the long-term ambition for the NNDR is to provide a fully-dualled distributor road from the southern by-pass in the West to the Postwick hub in the East and therefore asking the Cabinet to approve that part of the current project is delivered as single carriageway will not only add significantly to the cost, but is an unnecessary delay for this nationally significant infrastructure project?

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

In April 2012, following reconfirmation of the Government funding for the NDR, the Cabinet agreed that the NDR should continue beyond the A140 junction (the limit of the Government funding) and that the section from the A140 to the A1067 should be a dual carriageway. Cabinet are now being asked to consider, taking account of some additional scheme costs, whether the very last section of the NDR, from Fir Covert Road to the A1067, should be reduced to a single carriageway. This decision is still to be made, however this does not generate any delay to the delivery of the currently promoted NDR project.

Mr Wilby asked a supplementary question. He asked the Cabinet Member for Environment, Transport, Development and Waste when he had abandoned his election manifesto for a full, dualled Northern Distributor road. The Cabinet member responded that he had not abandoned it.

6.8 Two questions from Dr Andrew Boswell

- A. Will the Cabinet Member make available to all Councillors, the full, unredacted "Letter of Understanding in Relation to the Revised Project Plan" which was sent by the Director ETD on behalf of the Council to Willows Power and Recycling Limited on 10th June 2013. If necessary, councillors who wish to see the full letter could do so after signing an appropriate non-disclosure agreement.

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

No. The redactions made relate to commercially sensitive information relating to either redacted parts of the contract or the draft Revised Project Plan. Scrutiny leads have already been given access to the unredacted contract. The QC conducting the independent review will have access to all documents in full.

- B. Following discussions on the Revised Project Plan with Willows Power and Recycling Limited, what external and internal, financial and legal advice will the Cabinet Member seek before making the decision on whether the Incinerator Revised Project Plan is accepted by this Council.

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

I will take the advice I deem necessary and appropriate at the time.

Appendix C

Greater Norwich City Deal - Essence

Greater Norwich is uniquely placed to make a significant contribution to the recovery and future growth of the UK economy.

Through the commercialisation of ideas, world class research and innovation, Norwich will help put the UK at the forefront of meeting global challenges of food and energy security, healthy ageing, sustainability and environmental change.

We will do this by exploiting the potential of our national flagship and international super cluster for Agri science, life-sciences, and technology – Norwich Research Park.

To maximise the major and sustained growth of Greater Norwich we will roll out our commercialisation model across all our emerging growth sectors, including advanced and aeronautical engineering and digital and creative industries, as well as across our established sectors, like finance and business. We will target and help existing business to expand and create new small and medium sized enterprises to capture and commercialise their ideas

We will **improve the skills** base of the area by creating higher value jobs, increasing apprenticeship opportunities and giving private business a bigger say in training programmes

We will provide essential housing, transportation and utility services necessary to meet the **infrastructure** needs of a growing and expanding local economy

Greater Norwich is ready to 'hit the ground' running to roll out the LEP led Local Growth Deals

This will deliver:

- **13,000 additional jobs** (over and above an existing ambitious target of 27,000 new jobs) which will deliver an additional
- **5% increase** above trend in GVA
- A capital pot of **local infrastructure funding** to unlock private investment and support growth.
- Use of Council **land and property** holdings to create more investment opportunities.
- Acceleration of the local house building releasing £125m private-sector infrastructure investment to help build **20,000** new homes
- **2000** affordable homes – guaranteed

We want

- £5 million to help us to commercialise ideas (the not the growth hub proposal!)
- Approval for phased borrowing of up to £60 m for investment in transport infrastructure; £20m to support private housing development and up to £236m to deliver affordable housing.



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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: 25 Sept 2013

Dear Mr Jackson,

Norfolk County Council: Residual Waste Treatment Contract

Thank you for your letter dated 11 September and your letter to Colin Church dated 18 September.

The matters you raise again at points 1, 2 and 4 in your letter to me of 11 September are ones that I addressed fully in my letter to you of 5 September and during our meeting of 19 August. However, I would like to make one point of clarification. You refer to the use in the model of an upward shock as a "sensitivity". The possibility of an upward shock is included in the main analysis which produced the results outlined in Section 4 of our February report, showing an estimated likelihood of meeting the 2020 landfill target of over 90%. Additional sensitivity tests applied to alter the upward shock are also outlined in Section 6.3 of our February report.

Your point 3 relating to street sweepings is also one we discussed at our meeting on 19 August. Street sweepings are not appropriate inputs to composting operations that are producing quality compost (e.g. in accordance with the PAS 100 specification) for subsequent spreading on agricultural land. However, there are alternatives to composting including treating street leaf sweepings to produce a lower grade 'Compost like output' (CLO) that can be used in the reclamation or redevelopment of some previously developed land; pre-treating sweepings by washing and mechanical separation prior to recovery of the separated fractions; reducing collection in the first place where it is safe to do so; or by dedicated collection to minimise the amounts that become contaminated. In addition, leaf litter waste collected from parks and gardens which is relatively free from contaminants remains an ideal feedstock material to produce quality compost. Therefore, only a very small proportion of the waste collected by local authorities for composting need be affected.

The Environment Agency will continue to work with individual authorities to advise them on other options for dealing with seasonal street leaf sweepings, and if in the future the changing nature of vehicles, fuels and emissions allows more waste recovery from street sweepings, the Environment Agency would reassess its approach.

The ranges Defra uses for forecast waste arisings and recycling are wide and intended to take account of uncertainties such as this. Defra will continue to keep its forecasts under review as progress is made to 2020 and new data becomes available.

Regarding the final point in your letter of 11 September, it is for Ministers to consider what weight to attach to the issues arising from this review.

I am obliged to deal with your request for information about representations that Defra has had from other Government departments under the Environmental Information Regulations 2004 (EIRs). I will reply to you separately on this.

Regarding your letter to Colin Church, I can confirm that the slides that Colin presented are consistent with the forecasts we published last February, see section 2 of our report:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/221027/pb13883-forecasting-2020-waste-arising.pdf

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
[REDACTED] – 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

~~CONFIDENTIAL~~

From: Allen, Mark
Sent: 26 September 2013 16:12
To: Nigel Atkinson ~~CONFIDENTIAL~~
Subject: NAWDO note
Attachments: Defra update.pdf

Nigel

I trust that you are well (or at least feeling better).

A colleague of mine has shared the attached Defra update. I have seen similar Adept updates, and I'm sure you share these with other groups too.

In order to avoid any future embarrassment you may want to remove the "lines to take" part of page 12.

I hope that's helpful.

Kind regards

Mark

Red Tape Challenge

The Red Tape Challenge identified that many small businesses find the production, completion and storage of Waste Transfer Notes burdensome. Therefore we are looking at alternative ways for businesses to provide the information required when waste changes hand e.g. by allowing them to use other forms of documentation as evidence. We plan to consult on changes to the Waste Transfer Note system in autumn 2013. We are looking to consult in Spring 2013 on repealing the legislation on site waste management plans. Consultation to remove the requirement for relevant planning permission to be in place as a pre-requisite to the Environment Agency's grant of an environmental permit was published in February.

National Waste Management Statistics/ WasteDataFlow - Update on Waste Review Action

The recycling rate of household waste and wider statistics on local authority managed waste between October and December 2012 in England was published by Defra in August based on the WasteDataFlow data collection system.

The Waste Review action to look at reducing the response burden of WasteDataFlow is on-going. Until decisions have been taken on the review of the Waste Framework Directive we cannot be certain about how WasteDataFlow will need to adapt to reflect them. We need to ensure we retain the ability to monitor our progress against legal targets, and equally importantly, continue to realise the added value benefits of the data as an open, transparent national resource for LAs, the wider waste community and the public.

How will non-LA collected MSW will be reported for EU purposes

There is a legal requirement to report on biodegradable municipal waste to landfill which requires estimates of all municipal waste to landfill. Landfill operator site returns are used to produce these reports along with biodegradability factors for each different type of waste material. MSW covers mostly EWC Chapter 20 and parts of Chapter 19, with a small number of others such as packaging codes.

The biennial Waste Statistics Regulation return requires estimates of all types of UK waste by economic sector and waste material. It includes and goes beyond municipal waste. The 2009 C&I survey is used to estimate the MSW component, but the analysis involves a number of assumptions. We are investigating how to make sensible estimates for 2012 without running another C&I survey in England. In the future EDOC should provide data on waste arisings by industry but it is voluntary and depends on take-up by the waste industry.

Waste Prevention Programme & Reuse

Defra is currently developing the Waste Prevention Programme for England, to be published by December 2013, working with businesses, communities, civil society

groups and local authorities. The programme will set out actions to enable better resource efficiency and reduce the amount of waste produced across the economy. The Waste Prevention Programme consultation was launched on 6th August. The consultation will run for 7 weeks and close on 23rd September. The findings from the consultation exercise and responses to the Call for Evidence earlier this year will be used to inform the final programme which will be published by the end of 2013.

Food Waste

Tackling food waste is essential to the Waste Review's vision of a 'zero waste economy'. Over the long term we want to:

- Substantially reduce the amount of food waste arising;
- Ensure food waste that does arise is recognised as a valuable resource;
- Ensure no food waste goes to landfill.

The Review emphasises Government's commitment to 'helping businesses and consumers do the right thing' with their waste and outlines several new/further actions towards tackling food waste, including:

- Continuing to support development of the evidence base on food waste.
- Tackling food waste in the public sector.
- A new voluntary agreement, launched in June 2012, with the Hospitality and Food Service Sector to reduce food and packaging waste and ensure a greater proportion of the waste that does arise is recycled, composted, or sent to anaerobic digestion.
- Continued encouragement and technical support and advice to local authorities on sustainable food waste management.
- Continuing to make it easier for business and consumers to reduce and sustainably manage their food waste.

And we are continuing to work with industry and householders to reduce food waste via *The Courtauld Commitment and Love Food Hate Waste*. The latest results of the Courtauld Commitment Phase 2 released by WRAP in October 2012, show that the targets are on course. Signatories have so far achieved a 8.2% carbon reduction in packaging against the target of a 10% carbon reduction. On the supply chain product and packaging waste the signatories have achieved 8.8% reduction against a 5% target. The second year results are encouraging given they have been achieved alongside an increase in volume sales among signatories. Final results of Courtauld 2 will be available in Autumn.

On 9th May WRAP announced the start of the third phase of the Courtauld Commitment. The grocery sector continued to show its commitment to reducing food and drink waste as 45 signatories have so far joined Courtauld 3. The ambitious new targets, listed below, need to be achieved against a back drop of sales growth and an increase in the amount of food produced in the UK.

Courtauld Commitment Phase 3 targets are:

- Reduce household food and drink waste by 5% - this represents a 9% reduction in real terms to counter the expected increase in food purchased.
- Reduce traditional grocery ingredient, product and packaging waste in the grocery supply chain by 3% - signatories will have to make an 8% reduction in real terms to counter the expected increase in production and sales.
- Improve packaging design through the supply chain to maximise recycled content as appropriate, improve recyclability and deliver product protection to reduce food waste, while ensuring there is no increase in the carbon impact of packaging - signatories will have to make a 3% reduction in real terms to counter the expected sales increase.

On 15th September 2011, Defra published date-marking guidance that will help ensure dates are applied consistently, making it easier for consumers to understand.

On 15th November 2011, WRAP announced that UK household food waste has fallen since 2006/07 from 8.3 million tonnes to 7.2 million tonnes per year - a decline of 13%. This reduction in food waste could help realise up to £80million savings on disposal costs for local authorities in reduced landfill tax and gate fees.

Undoubtedly various factors have caused the 13% reduction in household food waste announced by WRAP. Tighter budgets may be a cause, but we must recognise the actions taken by WRAP and its partners. We have evidence demonstrating an increase in behaviours that reduce food waste such as planning meals and checking cupboards.

Construction and Demolition Waste

Until recently the overriding policy target has been to halve the amount of CD&E waste going to landfill by 2012 against a 2008 baseline, as established in the Sustainable Construction Strategy (2008). This year will see the final set of figures being reported against that target which we expect to see in late September.

Having reviewed the benefits of Site Waste Management Plans as part of the Government's wider 'Red Tape Challenge', Defra have recommended that the regulations be repealed, subject to consultation. The consultation has now closed and a Government response has been released.

Governments plan to help local authorities improve access for SMEs at Civic Amenity sites and kerbside collections

The recycling and waste services commitment was launched on 19th October 2011, fulfilling a key action announced in the Waste Review. The commitment lists the principles which local authorities will apply when providing recycling and waste services to their business customers. Local authorities are invited to sign up to the commitment to help send a strong message of:

- How they are working to make it easier for businesses to do the right thing;
- A willingness to consult fully, to listen and work with businesses and to encourage them to put forward their ideas.

The Commitment is accompanied by a resource pack which enables those councils who work hard to meet their business customers' needs to share good practice, and access sources of advice to help with putting the principles into practice. Businesses will be clear about the services they can expect for their money, and will be offered help with managing their waste, and identifying and accessing recycling and waste management services in their local area.

Specific proposals which we think can make the difference include collective contracting, making it more cost effective for groups of small businesses to have a collection service. Also WRAP research into opening up Civic Amenity sites should provide a more competitive market in SME recycling.

<http://www.wrap.org.uk/sites/files/wrap/Commercial%20and%20industrial%20bring%20centre%20guidance.pdf>.

Enforcement Powers – Domestic Waste Collection

In July 2012, we published the Government's response to a public consultation on amendments to Section 46 of the Environmental Protection Act 1990, which allows local authorities to specify how householders present their waste for collection.

As stated in the Waste Review, we will remove the potential for a householder to face a criminal sanction and £1000 fine if they present their waste in the wrong way. Instead, enforcement will be targeted at the small minority who harm the local neighbourhood. Civil sanctions will be available to deal with these. We are making these changes (removing the criminal sanction and introducing the "harm to local amenity test" etc.) through the Cabinet Office Deregulation Bill. This was announced in the Queen's Speech on 8th May.

As an interim measure, we have reduced the maximum level of fines applying under the current regime to a fairer level. Legislation reducing the level of fines came into force on 30th May 2012.

Reward & Recognition

Brook Lyndhurst have been assessing and evaluating the 8 projects that have completed their interventions from round 1. We are working on publishing an interim report based on these 8 schemes in the autumn. We continue to provide support to the rest of the schemes.

The Waste (England and Wales) Regulations 2011 as amended by the Waste (England and Wales) (Amendment) Regulations 2012 on the separate collection of recycling

The Regulations transpose the revised Waste Framework Directive 2008/98/EC. A Judicial Review challenged the transposition of the requirements of the Directive on the separate collection of recycling. Defra and the Welsh Government recognised that the drafting of the Regulations needed amending. The court granted a six-month stay of the Judicial Review proceedings to do this. The 2012 Regulations came into force on 1st October 2012.

We successfully defended the amending Regulations against the Judicial Review. The amending Regulations follow closely the language of the Waste Framework Directive. They set out duties for the separate collection of waste paper, plastic, metal and glass for recycling by 2015. This obligation is qualified, by "practicability" and "necessity", i.e. separate collection is required if it is technically, environmentally and economically practicable (TEEP) and necessary to facilitate or improve recovery (meeting appropriate quality standards).

We have started work on guidance to provide clarity to local authorities about what the requirement to collect separately means. We are planning to consult on guidance in the autumn. As part of assessing how these legal duties apply to them, it will be for local authorities to weigh up the evidence of what is practicable. The High Court ruling made it clear that whether separate collection is technically, environmentally and economically practicable depends upon a balancing exercise that is both sophisticated and context-specific.

Guidance will help provide a clear national view on TEEP. It will also provide a clear steer to the Environment Agency (who enforce these duties) and help the Agency to link enforcement to the Materials Recycling Facilities Code of Practice, and target practices that have serious environmental consequences.

Joint Municipal Waste Management Strategies (JMWMS)

The Waste Review Action Plan records that Defra will consider reviewing the statutory duty on local authorities to produce JMWMS. We understand that a number of local authorities are due to review their current JMWMS, but wonder whether their reviews should be delayed until the future of JMWMS is more certain. It is for local authorities to take their own legal advice and assess any risks, but the duty to review JMWMS (as set out in section 32(2) of the WET Act) is framed in general terms and not tied to any particular timeframe.

Landfill Allowance Trading Scheme

As first announced in the 2011 Government Waste Review, the Landfill Allowance Trading Scheme (LATS) will end after the 2012/13 scheme year in England. Legislation ending the Scheme was laid in Parliament on 30th January 2013. The legislation came

into force on 31st March 2013. The Environment Agency wrote to local authorities about this in February.

The legislation reflects that the Scheme will continue as normal until trading closes at the end of the reconciliation period on 30th September 2013. All local authorities must continue with current LATS arrangements until that time – the Scheme will continue to be enforced for that period.

We will retain WasteDataFlow (WDF) once the Scheme has ended. It is clear that WasteDataFlow (WDF) is valued by local authorities, and it serves a number of purposes other than reporting on Landfill Diversion Targets. For example, we have an ongoing European legal obligation to report on the household recycling rate target, and WDF provides the means to monitor this. The legislation laid on 30th January retains the current legal obligation for Waste Disposal Authorities to report into WDF.

Reporting on waste sent to landfill will be based on landfill operators' returns covering the waste being sent to their sites.

Resource Management Sector

To promote quality in the way recyclable materials are sorted, particularly at MRFs, we have consulted on the draft Materials Recovery Facilities (MRF) Regulations that we intend to incorporate into the Environmental Permitting (England and Wales) (Amendment) Regulations 2013. This will require operators of MRFs to test the composition of samples of the material the put into the sorting process, the residues and the useable output.

The mandatory Code of Practice will establish a consistent, industry-wide method for sampling and testing the quality of input and output material streams:

- MRFs – tool for managing input and output quality.
- Reprocessors – improved ability to confidently identify MRFs producing good quality material.
- Local authorities – help demonstrate that their collection and sorting systems are meeting the quality standards of the relevant recycling sectors (linked to 'separate collection' requirement under the Waste Regulations 2011).
- Helps implementation of a range of policy measures that will drive an improvement in quality (e.g. waste shipments, end of waste, differential PRNs, separate collections).
- A consultation on the MRF Code of Practice was launched on 1st February, and closed on 26th April. Also launched on this date was the Quality Action Plan.
- The Quality Action Plan sets out our vision and ambition of where we want to get to on improving the quality of recyclates, and how we can help grow the recycling industry.

We will look to publish the government's response later in the year, where we would also hope to bring in the regulations (subject to clearances).

Packaging

New packaging recovery and recycling targets for 2013-17 came into force in December 2012. The new targets will mean an increase in recycling for plastics, aluminium and split targets for glass based on the end use (i.e. remelt or aggregate).

- These are challenging targets, most notably for plastics, which will mean greater challenges for certain sectors and will require the whole of the supply chain – from Local Authorities to Waste Management Companies to recyclers to plastic converters – to work more closely. WRAP are leading work with the plastic packaging supply chain and have developed an "action plan" to help ensure the new plastics recycling targets are met.
- The Alliance for Beverage Cartons and the Environment (ACE UK) in partnership with paper and packaging producer Sonoco-Alcore, ACE UK has established the UK's only beverage carton reprocessing facility which will be capable of recycling up to 40% (25,000 tonnes) of the cartons manufactured each year for the UK food and drink market. This means that cartons collected in the UK will no longer need to be exported for recycling and has the potential to reduce landfill taxes and gate fees for local authorities by £3.6million.

Producer Responsibility Review

The Waste Review made a commitment to look at the existing Producer Responsibility regimes (Packaging, Batteries, WEEE and ELV). This will continue the work of the Red Tape Challenge and support the Coherence agenda (EU and domestic). The Review is a joint Defra/BIS project with the Devolved Administrations and Environment Agencies, represented on the Steering Group. The review and possible changes are intended to be UK wide.

The purpose of the review is to:

- Continue the process of improving and streamlining the existing Regulations to ensure effective delivery;
- Identify potential amendments to the Regulations which will improve the cost-effectiveness of the system; and
- Improve coherence with other Producer Responsibility regimes: packaging, batteries, WEEE and End-of-Life Vehicles.

An informal consultation on the coherence elements of the review closed on 31st May 2013, and the Government response is expected to be published in September. Following this, Defra expect to consult on draft batteries and packaging regulations in due course. BIS will be taking forward changes to the WEEE regimes. No changes to the End-of-Life Vehicles regime is anticipated as a result of this exercise.

EU progress on development of bio waste (compost and digestate) quality criteria, when these may be available and any plans for application in England

The Revised Waste Framework Directive introduced the requirement to develop end of waste criteria. The Joint Research Centre (JRC), part of the European Commission, has undertaken a technical assessment of end-of-waste criteria for composts and digestates (bio-waste). Following a third workshop with experts in February 2013, the JRC have circulated a draft of their report to the Commission for final comments. They will then submit the report to the European Commission this summer. There are differences between the proposals that the JRC have been developing and the current UK specification that could cause us problems. We and the industry are lobbying the Commission and the JRC on this issue. The European Commission will decide when it receives the JRC report, whether to make a formal proposal. Any proposals would need Member State agreement before they come into effect.

Anaerobic Digestion

Defra published in August 2013 a second annual report on progress since the Anaerobic Digestion Strategy and Action Plan was published. The report highlighted the continuing increase in the number and capacity of AD plants since the Strategy was published. Most of the 56 actions in the action plan have now been completed.

Reporting Recycling Rates for Compost and Digestate

Under the revised Waste Framework Directive (WFD), the UK has a target to recycle 50% of waste from households by 2020. There is a need to clarify when compost or digestate will count towards the 2020 target. The EU WFD targets are being reviewed in 2014. Defra is not proposing any changes to reporting of organic waste recycling under WasteDataFlow at present.

Energy from Waste (EfW)

Defra's Energy from Waste team published a cross government guide on Energy from Waste (<http://www.defra.gov.uk/publications/2013/02/27/pb13892-energy-from-waste/>) in February, fulfilling one of the commitments made in the 2011 Review of Waste Policy. The aim of the guide is to support constructive debate and ensure proposals address the concerns of local residents and enable them and their representatives to make decisions best suited to their specific needs. It is targeted specifically at those with an active interest in energy from waste, those that tend to engage in the debate on local proposals, and is pitched at the level of technical knowledge and issues we tend to receive in correspondence. We have tried to bridge the gap between existing introductory material and the highly technical information that is often used and misused in the debate. It is not a policy document in the sense that it contains no new policy or requirements of local authorities. It does however, set existing policy from the 2011 waste review, planning reforms, renewable energy and elsewhere in the context of the wider debate on EfW and highlights the implications for decision making. We hope that it will be a valuable resource for anyone with an interest in energy from waste, including

local planners, decision makers and local communities. One thing the guide does not do is provide long-term policy direction. We are currently working on a call for evidence which will bring together and request more evidence to give the industry the long-term policy direction it requires to aid with long term investment decisions. The call for evidence will be published in the Autumn.

Defra and DECC are working with the industry to address barriers to EfW in the context of the Government policy of getting more energy out of genuinely residual waste. As part of the work, DECC and Defra Ministers are holding roundtable discussions with the industry and Local Authorities in the Autumn. A roundtable discussion with the industry will take place on 11th September and a roundtable discussion with the Local Authorities will take place on 23rd October.

Waste Crime – Fly-tipping

The draft *Fly-tipping Partnership Framework*, launched at the Ministerial Summit on Fly-tipping in July 2012 (and available on the Government website at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/166297/fly-tipping-partnership-framework-discussion-20120822.pdf) is being revised in the light of comments received during consultation. It is hoped to publish the finalised document later in 2013. The *Framework* sets out a range of principles and best practice covering the prevention, reporting and investigation of fly-tipping and the clearance of fly-tipped waste. It may be used directly or adapted by local groups and partnerships to tackle fly-tipping in a way that suits local circumstances and will be supported by case studies of effective and innovative solutions to tackling the problem.

In tandem with this, Defra has awarded funding for two fly-tipping partnership pilots to test the best practice options in the *Framework*. The pilots are being led by Suffolk County Council on behalf of the Suffolk Waste Partnership, and Swindon Borough Council, and will run until March 2014. (Contact flytipping@defra.gsi.gov.uk for more details).

Waste Regulation – Protocol to improve the sequencing of planning and Environmental permitting for certain waste operations

The Environment Agency and, in limited circumstances, local authorities determine applications for permits for waste management activities under the Environmental Permitting (England and Wales) Regulations 2010. For certain waste activities that were previously regulated through the waste management licensing system up until 2007, an environmental permit cannot be issued unless relevant planning permission is in place. This maintains the arrangement that has existed since waste licensing was first introduced and reflects the complementary roles of planners and the Environment Agency in delivering the health and environmental objectives of the Waste Framework Directive.

We have just consulted on removing the requirement for waste businesses to have to secure planning permission for certain waste operations before an environmental permit can be issued. We are currently analysing the responses.

In parallel with this work, Defra and DCLG have closely examined the interface between the planning and environmental permitting regimes in order to develop a protocol on the considerations for the sequencing of applications under the current legislation. This will be published shortly to help businesses, planners and regulators. In parallel with this the EA has published a working draft of Planning & Permitting Guidelines as a source to help business, planners and regulators understand the same interface and what the EA's role is in each decision. The combination of the protocol and EA guidance will help address the issues that might arise if operators are free to choose to sequence planning and permitting applications in any way they see fit.

Landfill Tax

Landfill tax is principally a matter for HM Treasury and HM Revenue & Customs (HMRC). The Landfill tax briefings issued by HM Revenue & Customs (numbers 15/12 and 18/12 – available on the HMRC website www.hmrc.gov.uk) along with the interim advice issued by HMRC (<http://www.hmrc.gov.uk/landfill-tax/lft-interim-guidance.pdf>) seek to clarify the existing landfill tax arrangements made under the Landfill Tax (Qualifying Materials) Order 2011 which determine when the lower rate of tax (£2.50 per tonne) applies.

Both of these briefs and the interim advice issued by HMRC emphasise that to be eligible for the lower rate of landfill tax a waste load must only consist of material listed in the Landfill Tax (Qualifying Materials) Order 2011. Furthermore all loads must be described in a manner that clearly evidences their content on a waste transfer note or other commercial documentation. This requirement applies regardless of whether the load concerned may be considered to contain only an 'incidental' amount of standard rated waste.

There has been no change to the scope of materials eligible for the lower rate of landfill tax instead the briefings issued by HMRC seek to clarify that mixed loads e.g. containing residues from waste transfer stations, trommel fines and screenings can be variable in their nature and it can be difficult to determine their exact content and origin and therefore loads of this type may not qualify for the lower rate of landfill tax.

Defra is aware from studies undertaken by the Environment Agency that fines and other residues from waste transfer operations and construction and demolition waste processing can contain variable quantities of organic waste, sometimes significant quantities of gypsum (which should only be land-filled in separate cells away from biodegradable waste) and other contaminants including asbestos.

Defra is keen to ensure that waste is characterised correctly before land-filling in accordance with the requirements of the Landfill Directive and accurately described to ensure it is handled appropriately and ends up at the right type of site. Naturally

occurring rock and sub-soil and stone continue to be taxed at the lower rate providing there is sufficient evidence of their nature and origin. This can most easily be achieved by reference to the relevant waste codes in the List of Wastes (England) Regulations 2005.

While it is recognised there will be a need for short-term adjustment for some businesses, the aim of government continues to be to divert as much waste material as possible away from landfill and also meet our target to halve the land-filling of construction and demolition waste, save for genuine inert wastes that are needed to restore quarries and mineral workings. We understand HMRC will be issuing further guidance later in 2013.

Infrastructure (residual waste) and Waste Infrastructure Credits

Background and Key Facts on waste infrastructure

The EU Landfill Directive set targets for each member state to reduce the amount of Biodegradable Municipal Waste (BMW) sent to landfill. The EU may apply infraction penalties if targets are not met. Defra established the Waste Infrastructure Delivery Programme (WIDP) in 2006 to help ensure that England diverts sufficient BMW waste from landfill. WIDP does this by accelerating the building of waste infrastructure needed to treat residual BMW without compromising the aim of dealing with waste higher up in the waste hierarchy. This is done by using the mechanism of Waste Infrastructure Credits (previously called, Private Finance Initiative (PFI) Credits)

Defra is investing £3.6 billion in 29 waste infrastructure projects. This will reduce the amount of waste sent to landfill, promote recycling and stimulate economic growth.

Defra, through WIDP, provides commercial and technical support to local authorities as their residual waste infrastructure projects move from procurement to operational phases. Examples of support include contract management reviews and training.

Review of Projects earlier this year

Defra now expects to have sufficient infrastructure in England to enable the UK to meet the EU target of reducing waste sent to landfill. Consequently, on 21 February, the decision was taken not to fund the remaining three projects. These projects are Merseyside & Halton, Bradford Metropolitan Council & Borough Council of Calderdale, and North Yorkshire and City of York.

Since the decision was taken,

- o the Merseyside and Halton project is continuing without Defra funding, and
- o Bradford Metropolitan Council & Borough Council of Calderdale and North Yorkshire County Council (NYCC) have been granted permission for a Judicial Review of this decision.

PFI Projects Snapshot

The following table provides a snap-shot of the 29 projects that are either fully operational, in construction or where local authorities have awarded construction contracts.

Fully operational - all facilities are up and running and processing waste.	13
In construction/commissioning - the waste facilities are in construction or commissioning.	10
Signed contract - relates to projects that have awarded their contract but have not yet started construction	6

Possible Areas of Interest and Lines to take (if pressed)

February decision to withdraw the provisional offer of financial support

- Do not get drawn into a conversation about Bradford & Calderdale and NYCC due to the Judicial Review, it is not appropriate to comment while the legal process is on-going.
- We withdrew the provisional offer of funding from three projects earlier this year (February) as we expect to have sufficient infrastructure in England to enable the UK to meet the EU target of reducing waste sent to landfill
- Withdrawal of the provisional allocation of waste infrastructure credits, will not necessarily mean these three projects will stop. That will be a decision for the Local Authorities concerned.

Defra is currently reviewing funding for the Norfolk PFI waste project

- If asked about whether Defra is reviewing the funding on the Norfolk project, please refer them to Defra.

Planning and Infrastructure

Waste Management Plan for England (WMPE)

The revised Waste Framework Directive requires a Waste Management Plan for England to be produced by 2010. Waste is a devolved matter so each of the devolved administrations will produce waste plans.

The consultation on the Waste Management Plan for England closed on 9th September. The scheduled delivery date for the WMPE is end of 2013.

The Waste Strategy 2007, in conjunction with Planning Policy Statement 10 (PPS10), will continue to fulfill the role as the waste management plan for England until such a time as a new Waste Management Plan for England is adopted. The Waste Review 2011 sets out this Government's views on waste and will, in due course, form part of the

new/revised WMP for England. PPS10, which sets out current national waste planning policy is being streamlined in line with other planning policies and the streamlined PPS10 will form part of the WMP for England. There is a risk of EU infraction proceedings being taken against the UK if we do not comply with the revised WFD by publishing the WMP for England.

It is unlikely that the Commission will be in a position to move forward with infraction proceedings until the Plan is published.

The intention is for the WMP for England not to contain any new waste policies but to bring current policies together in one place. This will help industry, planners and local authorities access government waste policies by providing them with one easy to use document.

Transposition of the Revised Waste Framework Directive

The European Commission has published overarching guidance on the Directive. Defra has produced guidance on the waste hierarchy available at:
(www.defra.gov.uk/publications/2011/06/15/pb13530-waste-hierarchy-guidance/).

And on the legal definition of waste:
(www.defra.gov.uk/environment/waste/legislation/eu-framework-directive/).

The Environment Agency has published further advice on how to show compliance with the waste hierarchy, available at:
(www.environment-agency.gov.uk/business/regulation/129223.aspx).

For more information of the implementation of the Waste Framework Directive, please contact Jane Stratford at: Jane.Stratford@defra.gsi.gov.uk.

Resilience within the Waste Management Sector

Defra and CLG have been examining the resilience in the waste collection and disposal systems. Overall it is believed that the waste management arrangements across the public and private sector are resilient with a low risk of significant disruption. However, we will be looking to engage further with local councils over the uptake of business continuity plans that include contingencies in respect of the provision of waste management services.

Interim findings from composting trials of street leaf sweepings

Environment Agency has been working with the Organics Recycling Group (ORG, the main trade body for the composting industry) and 21 local authorities to carry out more extensive trials to determine if street leaf sweepings collected in rural areas could be considered contaminant free and a suitable compost to meet quality protocol criteria.

This work has now been completed and the Environment Agency has evaluated the results from the local authority trials. The main initial conclusion from these trials is that contamination levels in the street leaf sweepings are too high to produce quality compost that can be spread to agricultural land. This is due to the high and variable levels of polycyclic aromatic hydrocarbons (PAHs) both in the street leaf sweepings and in their composted outputs.

Although street leaf sweepings cannot be used to produce quality compost, they may be suitable to produce a 'compost-like output' (CLO) which is used in the reclamation or redevelopment of previously developed land. This CLO remains a waste and therefore continues to be subject to waste controls. Street leaf sweepings can also be washed and mechanically separated to recover grit and sand. None of these findings affects leaf litter collected from parks and gardens which may continue to be used to produce quality compost.

It is important to guard against the cumulative effect on soil and the environment that might arise from spreading on agricultural land of material containing hazardous contaminants. Controlling the nature of waste inputs to composting operations also gives confidence to the waste industry that outputs will be of a suitable quality and will encourage sustainable markets for quality compost to develop.

The EA will continue to work with individual Local Authorities to advise them on other options where seasonal street leaf sweepings can be collected and safely used to produce compost.

Defra
September 2013

From: Allen, Mark
Sent: 10 October 2013 14:00
To: Nigel Atkinson [REDACTED]
Subject: Monday 14th October
Nigel

I trust that you are well.

I am meeting John Burns in London on Monday 12.30-1.30, and wondered if you'd like me to pop into see you afterwards for an update on Norfolk's project?

Kind regards

Mark

Mark Allen
Assistant Director
Environment & Waste
Environment, Transport & Development
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Norfolk County Council
General enquiries: 0344 800 8020 or information@norfolk.gov.uk
www.norfolk.gov.uk

From: Allen, Mark
Sent: 10 October 2013 14:52
To: Atkinson, Nigel (Defra)
Subject: RE: Monday 14th October
Nigel

Great, I'll give you a ring once we've finished to see if you're still available.

Mark

From: Atkinson, Nigel (Defra)
Sent: 10 October 2013 14:03
To: Allen, Mark
Subject: RE: Monday 14th October

Hello Mark
I have another meeting at 2.00. If you finish on time with John we might be able to grab a few minutes.
Nigel

From: Allen, Mark
Sent: 10 October 2013 14:00
To: Atkinson, Nigel (Defra)
Subject: Monday 14th October

Nigel

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I am meeting John Burns in London on Monday 12.30-1.30, and wondered if you'd like me to pop into see you afterwards for an update on Norfolk's project?

Kind regards

Mark

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Department for Environment, Food and Rural Affairs (Defra)

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15/11/2013



Norfolk County Council

at your service

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Textphone: 0344 800 8011

Mr Nigel Atkinson – Deputy Director
Head of Sustainable Development & Head of Waste
Infrastructure Policy/Delivery
Defra – Nobel House
17 Smith Square
LONDON
SW1P 3 JR

Your Ref:

Date: 11 October 2013

My Ref:

Tel No.:

Email:

ma/ps

Dear Nigel

Defra's Waste Programme

Firstly, as you may know, I am seeing John Burns on Monday and am very pleased that Defra has taken up our offer of being able to contribute to the Defra Efficiencies Programme, identified in our letter to you dated 12 September 2013.

Whilst in this letter I do not intend to offer a detailed response to your letter of 25 September 2013, I would briefly draw your attention to the emerging Waste Data Flow returns relating to the first quarter of 2013-14. These appear to suggest an increase in household waste arisings in England of nearly 1% compared with the first quarter of 2012-13. I do urge you, once again, to review the foundations of your model which currently predicts waste arisings being lower in 2020 than in 2012.

I also note from recent waste industry news that Covanta has been given permission for a Judicial Review into their losing out on the Merseyside bid. In Defra's re-assessment of Norfolk's credits, Defra assumed a contribution from Merseyside (the contract is over 400ktpa). Please can you confirm that Defra is now remodelling its projections, and if so when this re-modelling will be complete?

Finally, I understand from waste industry colleagues that Defra is considering compensating parties for sunk commissioning costs due to abandonment of any projects in procurement, linked to the withdrawal of a PFI. As you know the County Council is beyond that stage and its decision to award a contract was specifically given on the basis that a Waste Infrastructure Grant was awarded (Point 4 in our letter to you dated 20 June 2013). Whilst neither the County Council nor its contractor or previous bidders for the contract wish to find themselves in a compensation situation, please can you confirm that all parties, ie the County Council, its contractor and those companies involved in the procurement would be eligible for compensation from Defra, in the undesirable event that the grant is withdrawn and the contract was subsequently had to be abandoned.



I look forward to hearing from you.

Yours sincerely,

Mark Allen
Assistant Director Environment and Waste