

Cabinet

Monday 7 February 2011

PRESENT:

Councillor Mrs Pengelly, in the Chair.

Councillor Fry, Vice Chair.

Councillors Bowyer, Brookshaw, Jordan, Michael Leaves, Sam Leaves, Monahan, Mrs Watkins and Wigens.

Also in attendance: Adam Broome (Director for Corporate Support), Carole Burgoyne (Director for Community Services), Bronwen Lacey (Director of Services for Children and Young People), Anthony Payne (Acting Chief Executive), Tim Howes (Assistant Director for Democracy and Governance), Jayne Donovan (Assistant Director for Environmental Services), Rachel Galbraith (Partnership PFI Project Co-ordinator), Martin Pollard (Partnership Programme Manager) David Shepperd (Head of Legal Services) Alwyn Thomas (Senior Specialist Procurement Lawyer) and Mark Turner (Partnership Project Director).

The meeting started at 1.00 pm and finished at 2.25 pm.

Note: At a future meeting, the Cabinet will consider the accuracy of these draft minutes, so they may be subject to change. Please check the minutes of that meeting to confirm whether these minutes have been amended.

100. **DECLARATIONS OF INTEREST**

There were no declarations of interest in accordance with the code of conduct from councillors in relation to the item under consideration at this meeting.

101. **QUESTIONS FROM THE PUBLIC**

There were no questions submitted by the public, for this meeting, in accordance with the Constitution. The questions received were out of time and would be responded to by the officers, in writing.

102. **APPROVAL OF SOUTH WEST DEVON WASTE PARTNERSHIP - FINAL BUSINESS CASE FOR THE PROCUREMENT OF WASTE TREATMENT SERVICES**

The Director for Development and Regeneration submitted a report on the background to and on the Final Business Case (redacted version) for the procurement of waste treatment services. A similar report had also been considered by Devon County Council which had agreed to delegate approval of the Final Business Case to Plymouth City Council's Cabinet. A similar report and recommendation was being made to Torbay Council which would be considering the report later in the day.

The Chair advised Cabinet Members that the report represented a key milestone in a project involving three Councils who had joined forces to make sure that a collective solution was found to deal with the residual waste.

The partnership had asked the sector to put forward solutions and the proposal submitted was an excellent solution for waste from both a monetary and a technical perspective.

She commended the presentation to the public and hoped that over the coming months, more people would have an opportunity to see the proposals and how the solution would benefit local council tax payers, Plymouth and the dockyard.

The first stage of the process was approval of the Final Business Case. The next stage would be the submission of an application for planning permission and alongside this, MVV Umwelt would be submitting an application to the Environment Agency for an environmental permit.

MVV Umwelt had already been selected as the preferred bidder through the procurement process. The Cabinet was considering today whether the case being put forward was affordable and if it was, the partnership could proceed with the Final Business Case to secure Defra PFI credit support as well as move the project forward.

Mark Turner (Partnership Programme Director) gave a presentation –

- (a) on the South West Devon Waste Partnership;
- (b) on the Outline Business Case which was approved in April 2008;
- (c) on the residual waste treatment solution;
- (d) on the partnership's project timetable;
- (e) on the partnerships' Final Business Case;
- (f) providing a summary of key performance measures for –
 - waste minimisation,
 - recycling and composting;
 - diversion from landfill;comparing the Final Business Case with the Outline Business Case;
- (g) indicating that the partnership's preferred bidder was MVV Umwelt;
- (h) on the high efficiency energy from waste facility to be located at North Yard, Devonport Dockyard;
- (i) on the environmental benefits and impact of the facility;
- (j) indicating the expected emissions against waste incineration waste directive limits;
- (k) showing the affordability for the partnership and partner Councils;
- (l) on the recommendations before Cabinet.

Mark Turner also indicated that the presentation slides would be placed on the partnership's website. He also drew Members' attention to the report of the meeting of the Joint Scrutiny Panel which had met on 31 January (which had been published) and to the proposed response, which had been circulated at the meeting.

The Chair reported that in accordance with Procedure Rule 2.2 of the Constitution, Non Cabinet Members had sought permission to address Cabinet.

The Chair proposed, Councillor Monahan seconded, and it was Agreed that the Cabinet would hear from six councillors: three from the ruling group and three from the opposition group, with a maximum of five minutes for each councillor to speak.

Councillors Ball, Bowie, Coker, Evans, Martin Leaves and Mrs Nicholson attended and addressed Cabinet.

In their representations, a number of comments were made in respect of the proposal, including –

- (m) that the information presented was incomplete;
- (n) that the recommendations were contrary to the priorities in the corporate plan;
- (o) the benefits, including a guaranteed long term relationship with the Ministry of Defence for a combined heat and power plant leading to green energy, considerable savings and cheaper energy bills;
- (p) that the siting of the incinerator was in a densely populated area;
- (q) the impact on health and life expectancy;
- (r) 180 lorry movements on a daily basis, 365 days a year;
- (s) noise and air pollution;
- (t) visual impact;
- (u) the impact on property prices in the vicinity;
- (v) the environmental benefits and reduced carbon footprint;
- (w) the state of art technology to achieve a higher rate of waste diversion and energy recovery;
- (x) that MVV Umwelt had received national recognition and had considerable experience;
- (y) the change of design of the building from consultation stage to now;
- (z) the need for proper consultation;
- (aa) the need for all councillors to scrutinise the suitability of site;
- (bb) the frustration of the Joint Scrutiny Panel at the lack of all details due to its commercial sensitivity;
- (cc) the developing technology during the contract period;
- (dd) the viability of the proposal if recycling increases.
- (ee) that landfill was not an option.

The Chair thanked the councillors for their contributions.

Councillor Michael Leaves (Cabinet Member for Community Services (Street Scene, Waste and Sustainability)) introduced the report and drew Members' attention to the gains arising from the acceptance of the Final Business Case which included MVV Umwelt's energy from waste proposal.

In 2008, Plymouth, Devon and Torbay Councils joined together to look for a local answer to the waste issue, to replace the environmentally damaging and expensive practice of burying waste.

The South West Devon Waste Partnership had been able to access significant private finance credits that would not have been available had the Council worked alone.

By pooling resources and expertise, the procurement process had led to a solution which aligned to the Council's adopted waste strategy and the Cabinet believed had significant financial and environmental benefits.

The company behind the bid would also use the waste as an energy source that would provide heat and electricity to Devonport Naval Base.

The dockyard had an important role in the city's economy and to have a plant that would supply energy directly to the dockyard would help make the base more cost-effective, greener and helped it to meet carbon reduction targets.

The Cabinet was being asked if it considered that the final business case was within approved affordability. Once approved, the planning application process would follow. Running parallel to this would be for the company to obtain an environmental permit from the Environment Agency.

MVV Umwelt had not yet submitted a planning application and would be holding roadshows to explain their proposal and listen to what the public had to say before formally submitting their plans.

The recommendations had been revised because of the absence of the Chief Executive, and were presented to Cabinet for approval, as follows –

Recommendation 1: To agree that the total cost of the solution proposed by MVV Umwelt is within the affordability criteria set out in the Outline Business Case including headroom; to agree the redacted version of the draft Final Business Case set out at Appendix B and to delegate the approval of the Final Business Case for the Procurement of Waste Treatment Services to ~~Plymouth City Council's~~ the Chief Executive as ~~Chair of the Project Executive~~, or *the person authorised to act in his absence*, in consultation with each partner Council's Lead Officer on the Partnership Project Executive (Devon County Council, Deputy Executive Director for Environment, Economy and Culture ~~Plymouth City Council, Director for Development~~ and Torbay Council, Environment Commissioner).

Reason: The Final Business Case must be submitted to Defra. It contains highly sensitive commercial and confidential information and it is thought that the most expedient manner of dealing with the final sign-off is to delegate the task to the Chief Executive ~~as Chair of the Project Executive~~, or the person authorised to act in his absence.

Recommendation 2: That the Council formally confirms to Defra that it is committed to meeting its share of the cost of this project over the lifetime of the PFI contract. The most realistic sensitivity scenario included in the Final Business Case revenue cost estimates is an 18-month delay and a foreign exchange rate Euro movement to 1.05. It is recommended that this scenario be allowed for as headroom over the whole life of the project which equates to £33million for the partnership as a whole; £16million for Plymouth City Council, £5 million for Torbay Council and £12million for Devon County Council.

Reason: As stated, Defra require members to be aware of the potential cost implications of sensitivities affecting the project cost before entering into the PFI contract. The Council recognises that while many costs will be fixed at financial close, certain cost risks will remain with the Council throughout the life of the contract such as those set out within sensitivity analysis scenarios.'

The proposals were seconded by Councillor Bowyer (Cabinet Member for Finance, Property, People and Governance).

In response to questions by Cabinet Members, Councillors Michael Leaves, Bowyer and Mark Turner responded as follows -

- (ff) the purpose of the Final Business Case was to give an update and comparison to the Outline Business Case which was more theoretical and allowed the Councils to see if objectives and cost limitations set out in the Outline Business Case had been met;
- (gg) before it was sent to Defra in the next few weeks, the Final Business Case would need to be updated to include Council minutes from this approval process together with minor changes resulting from finalising the contract with MVV Umwelt. Defra would then provide their final approval in March and confirm the award of PFI credits;
- (hh) if Cabinet did not approve the Final Business Case, the Council would be breaching the Joint Working Agreement which said that approval could only be withheld on grounds of affordability, which has been shown not to be the case. Failure of any one Council to approve the Final Business Case would result in that Council being liable for the losses of the other two councils. Plymouth City Council would also have to carry on sending its waste to landfill while another solution was found;

- (ii) the Final Business Case cost projection updated the Outline Business Case cost projections with new information and included the residual waste treatment solution proposed by MVV Umwelt. These costs were still based on assumptions such as future waste tonnages, inflation rates, and expected recycling rates;
- (jj) the projected cost in the Final Business Case was significantly lower than the estimate in the Outline Business Case because the latter was based on a theoretical solution and waste growth projections at that time. The Final Business Case included slightly reduced tonnages and reflected MVV Umwelt's solution which was offering the partnership very good value for money, partly due to the significant economic advantages linked to selling the energy to the Naval Base;
- (kk) Plymouth City Council had a larger head room allowance than the other Councils because it had the largest waste tonnage forecast and any costs payable would be based on the actual tonnage delivered to the facility;
- (ll) costs may change over time as actual costs would be based on actual tonnages being dealt with in terms of recycling and residual waste delivered to MVV Umwelt. Inflation could also be a factor in changing costs and so may changes in new legislation;
- (mm) each Council, including Plymouth, had already exceeded the recycling targets established in the Outline Business Case with 31 per cent in 2009/10. Updated modelling suggested that recycling would continue to improve with Plymouth reaching over 45 per cent and the partnership as a whole achieving over 55 per cent;
- (nn) the recycling rate was lower than that in Devon and Torbay as there were key differences between the areas, with Plymouth being a more urban area than Devon and Torbay. Plymouth also had more logistical problems such as storage and access for recycling containers in many properties such as high-rise flats, terraced housing and multiple occupancy houses;
- (oo) with regard to recycling and being a green city, the Councils were performing better than average against recycling targets nationally and in order to obtain Defra funding approval, an ongoing commitment to reducing waste and improving recycling had to be demonstrated. MVV Umwelt's solution was for residual waste only and updated modelling suggested that recycling would continue to improve. The facility offered by MVV Umwelt had a maximum capacity and would produce green sustainable energy. It was intended only for the waste that was not reused or recycled;

- (pp) with regard to looking at alternative technologies, the Cabinet meeting was looking at the affordability of the Final Business Case, following approval of the preferred solution as part of our waste strategy and Outline Business Case. All the authorities involved individually and collectively, having looked at a range of different technologies, came to the same conclusion that an energy from waste solution was the likely to be the best answer. The partnership approached the specialist waste management industry without prescribing energy from waste and the market confirmed this was the most appropriate solution for the partnership. Energy from waste was a safe, tried and tested technology subject to rigorous environmental controls and created a usable product in the form of energy;
- (qq) the environmental benefits of MVV Umwelt's solution were that it guaranteed to divert at least 97 per cent of residual waste from landfill. It had very high energy efficiency projections by using the heat as well producing electricity. Fifty per cent of the energy produced would be classed as green sustainable energy which would help offset the Naval Base's carbon footprint and reduce their own emissions by not having to produce their own heat on site from their boiler houses;
- (rr) the community would be able to have their say and learn more about the project at a series of road shows, planned for February. The planning and environmental permit application processes would both involve public consultation exercises;
- (ss) MVV Umwelt envisaged that the planning and permitting applications would be made in March/April 2010. It may take a considerable time before these applications were determined, possibly at the beginning of 2012;
- (tt) if planning permission was not agreed, depending on the reasons for refusal, the partnership and MVV Umwelt would consider the basis of the decision and then decide whether to appeal or develop an alternative project plan for consideration by the partner Councils;
- (uu) with regard to the redacted version of the Final Business Case, the officers were seeking to put as much information as possible in the public domain. The full document was aimed at Defra and included commercially sensitive information;
- (vv) the North Yard site was not available for consideration when Council planners reviewed and shortlisted potential waste sites within Plymouth, but the Waste Development Plan Document did contain policies for unallocated sites to be considered against. This would be considered as part of the planning process;

- (ww) the Cabinet was being asked to delegate authority to the Chief Executive to sign off the Final Business Case in view of the commercially sensitive information.

Agreed –

- (1) that the total cost of the solution proposed by MVV Umwelt is within the affordability criteria set out in the Outline Business Case including headroom (see (4) below);
- (2) the redacted version of the draft Final Business Case set out at Appendix B;
- (3) to delegate the approval of the Final Business Case for the Procurement of Waste Treatment Services to the Chief Executive, or the person authorised to act in his absence in consultation with each partner Council's Lead Officer on the Partnership Project Executive (Devon County Council, Deputy Executive Director for Environment, Economy and Culture and Torbay Council, Environment Commissioner);
- (4) to formally confirm to Defra that the Council is committed to meeting its share of the cost of this project over the lifetime of the PFI contract. The most realistic sensitivity scenario included in the Final Business Case revenue cost estimates is an 18-month delay and a foreign exchange rate Euro movement to 1.05. It is recommended that this scenario be allowed for as headroom over the whole life of the project which equates to £33million for the partnership as a whole; £16million for Plymouth City Council, £5 million for Torbay Council and £12million for Devon County Council.