

Council

SPECIAL MEETING OF BELFAST CITY COUNCIL

Held in Adelaide Exchange on Tuesday, 9th June, 2009
at the hour of 5.00 o'clock p.m., pursuant to Notice.

Members present: The Right Honourable the Lord Mayor
(Councillor Long) (Chairman);
the Deputy Lord Mayor (Councillor Lavery); and
Councillors Adamson, Attwood, Austin,
M. Browne, W. Browne, Campbell, Convery,
Crozier, Cunningham, N. Dodds, Ekin, Empey,
Hartley, Humphrey, Jones, B. Kelly, N. Kelly,
Kirkpatrick, Maginness, C. Maskey, McCarthy,
McCausland, Mhic Giolla Mhín, Mullaghan, Newton,
O'Neill, O'Reilly, Rodgers, Rodway and Stalford.

Summons

The Chief Executive submitted the summons convening the meeting.

Apologies

Apologies for inability to attend were reported from Councillors D. Browne, Hendron, McKenzie, Patterson and Stoker.

Arc21 Residual Waste Treatment Facilities – Community Consultation Results

In accordance with its decision of 5th May, the Council met to consider the undernoted report in relation to the Community Consultation Results regarding the possible provision of land for the arc21 Residual Waste Treatment Facilities at the North Foreshore:

“1.0 Purpose of report:

- 1.1 At its meeting on 22 August 2008, the Committee considered a report on the proposal to make land available at the North Foreshore to arc21 for potential use for the development of a Mechanical Biological Treatment (MBT) facility or an Energy from Waste (EfW) incineration facility. The Committee decided that, to take an informed decision, there should be consultation with the local community to establish whether the location of an EfW incinerator on the site would be appropriate. Following that decision Social Market Research (SMR) was appointed to conduct the public consultation exercise.**

1.2 Following completion of the survey the Committee considered a further report at its meeting on 24 April 2009 and decided to recommend to the Council that the matter be referred to a special meeting of the Council on 9 June for final decision. The Committee also agreed that, in addition to issuing a full report in advance of the special Council meeting, Party group briefings should be held if required. The purpose of this report is to remind Members of the process to date and the key issues and financial implications surrounding the decisions and to present the consultation findings so that the Council can decide whether and, if so, on what conditions, to make land at the North Foreshore available for this purpose.

2.0 Previous Committee discussion:

2.1 The 22 August report was prepared following completion of a series of briefings to the Party groupings as requested by the Committee on 25 January 2008 when it had deferred consideration of an update report on the contract for the proposed transfer of the land. The 25 January report, which is attached for convenience as Appendix 1, was submitted in the context of the Committee's earlier decision, on 19 October 2007, to grant approval to make the land available to arc21. The Chief Executive's letter, dated 17 January 2008, to arc21's Chief Executive conveying this decision, subject to further political direction, is also attached as Appendix 2.

Members will note that the January 2008 report had highlighted that arc21's site selection process had established a shortlist of sites on which it was interested in siting either an MBT or EfW plant. It had also drawn to the Committee's attention that arc21 had written to the landowners, including the Council, asking each party to commit to the sale of the particular lands identified, at a value assessed by the Land & Property Services Agency. In the case of Belfast, the Council had been asked to commit to entering into a contract for the sale of *'circa 17 acres of land to arc21 for the sum of £850,000 per acre, for use by arc21 as the site of a residual waste treatment facility'*. The letter at Appendix 2 was the Council's qualified response.

As Members are aware, the MBT and EfW facilities were previously identified in the arc21 Waste Plan as the most appropriate options for the region for the treatment of residual waste (ie mainly black bin waste) not captured for recycling or composting. The arc21 Waste Plan was adopted by the

Council and determined by the Minister in 2003/04 and subsequently reviewed in 2006. It is the Council's, and indeed all eleven arc21 councils', formal policy for dealing with our wastes and its principal objective is to identify the options for managing waste which draw the right balance between:

- meeting strategic targets for reduction, recycling and recovery;
- the protection of the environment for present and future generations; and
- the provision of sufficient disposal and treatment capacity to deal with the waste produced.

The development of the Plan and its subsequent review involved extensive stakeholder engagement and public consultation. The Plan was developed to address, among other things, the key targets within the EC Landfill Directive, which were implemented in domestic legislation through the Northern Ireland Landfill Allowances Scheme (NILAS), to achieve the progressive diversion of biodegradable municipal waste (BMW) from landfill. This cannot be achieved through recycling alone. Arc21's focus therefore is currently on securing these facilities so that they will be operational in time to meet the progressively reducing annual landfill allowances specified through NILAS and, particularly, in the three EC Landfill Directive target years of 2010, 2013 and 2020. It has been estimated that MBT capacity will be needed in 2012 and the EfW facility will be required from 2014.

3.0 Party briefings:

- 3.1 The briefings to each of the Council's party groupings as referred to above were led by the Chief Executive during spring and summer 2008 and included input from arc21. During the briefings a number of questions and issues were raised by individual Members and when the briefings had been completed a supplementary briefing note containing additional information in relation to each of those issues was circulated to Party group leaders and made available to all Council Members through the Members Services Unit. Among the matters dealt with in this supplementary briefing note were arc21's site selection process, the process by which the technology solution described in the waste management plan was arrived at, the matters raised in the approval process for Dublin's Poolbeg incinerator, the extent and disposition of municipal waste incineration in the UK and the rest of Europe, additional information about health effects and the compatibility of incineration with recycling in a waste management solution. A summary site selection report as presented to the arc21 Joint Committee on 2 April 2008 was also included in the supplementary material.

3.2 In the course of the briefings, Members received a presentation highlighting the differences between common perceptions of incineration and its reality, the part to be played by EfW (incineration) in the overall arc21 Waste Plan and estimates of the costs to the Council of failure or delay in the provision of residual waste treatment facilities or having to use an alternative, more remote location for an EfW facility. Members were also issued with a series of nineteen factsheets, addressing a range of issues frequently raised in connection with EfW facilities.

4.0 Financial implications:

4.1 The financial implications for the Council arising from any failure to put in place, by 2012, appropriate facilities for the treatment of residual waste were the subject of discussion by the Health & Environmental Services Committee at its meeting of 3 September 2008. Arising from that meeting a report was submitted to the next meeting of that Committee on 8 October 2008 giving more detail of the estimated costs. A copy of that report is attached as appendix 3. In summary, without residual waste treatment facilities in 2012/13 the City Council would be liable to penalties under the NILAS scheme of approximately £3.7 million in that year. The amount of the financial penalty would increase in the following years if appropriate treatment facilities were still not in place. In these circumstances the Council's liability to these financial penalties would grow by almost £400,000 per year. (These cost projections have been amended in line with the most recent NILAS projections presented to the Health & Environmental Services Committee and reflect a reduced rate of growth in municipal waste associated with the economic downturn).

4.2 In the event of delay in providing the residual waste treatment facilities it is also possible that the Council would be liable to additional penalties if, in 2013, the United Kingdom failed to meet its Landfill Directive target and if European Court of Justice infraction proceedings were to follow. In these circumstances very large daily penalties could apply to the UK Government and it is likely that the penalties would be recovered from waste disposal authorities in proportion to their contribution to the UK default. It is impossible to say therefore what level of penalty the Council might be exposed to from this source, but it could be substantial.

- 4.3 Another source of substantial additional cost to the Council, if all of the planned residual waste treatment facilities are not in place, is the additional cost of landfilling of such waste. This risk is of particular significance if MBT facilities are in place but the incineration (EfW) facility is not operational. On current projections this facility is needed by 2014. In the absence of EfW the output material from MBT facilities would have to be landfilled. Taking account of the recently confirmed landfill escalation rate of £8 per tonne per annum, which would increase the tax to £72 per tonne by 2013, the cost differential between landfill and EfW is likely to be in the region of £40 per tonne. This would increase the Council's annual costs by approximately £2.4m compared to treatment of MBT output through EfW as specified in our Waste Plan.
- 4.4 Even if the treatment facilities are delivered on time, a possible additional source of increased costs which is associated with having to locate arc21's EfW plant at another site, arises from potential loss of income and from extra costs. Access to water cooling could have a significant implication in the operation of such plant amounting to an approximate 15% increase in relative efficiency. The loss of income likely to arise would be from reduced opportunity for any domestic, commercial or industrial heat users located close to the plant to use any heat produced. There would also be less prospect of the plant being eligible for additional credits under the renewable obligation certificates scheme with the result that the lower electricity revenues would increase the gate fee required at the EfW plant. Taken together, it is estimated that these factors would increase the gate fee by as much as £34 per tonne. On the Council's present tonnage, this would result in an increased cost of approximately £2.1 million per year for Belfast City Council.
- 4.5 If the Council should decide to sell the 17 acre site to arc21 there would also be a capital receipt. This would be a direct benefit to the Council. Based on the last site valuation the capital receipt would amount to £14.45m. Such a capital sum could potentially provide significant leverage for additional external funding for projects like the development of the North Foreshore, especially if framed in a coherent and cogent business plan.
- 4.6 Development of a residual waste treatment facility on the North Foreshore would also generate an ongoing rates revenue stream. The valuation of such facilities can vary widely but using typical modern comparator facilities in England an annual district rates liability in the region of £400,000 would apply to the EfW facility and around £70,000 to an MBT facility.

- 4.7 There would also be potential for a community gain arrangement associated with such a development. This could take many forms and provide a range of benefits, including significant financial support for local community projects. For example, using the Dublin Poolbeg financial model a single initial payment in the region of £6m could be made by the developer to a community fund, with subsequent annual payments of around £200,000 for the duration of the contract (up to 30 years). Selection and funding of projects would normally be expected to be channelled through a properly regulated and constituted body or trust, which could include the Council.
- 4.8 A second source of community benefit would be the creation of jobs: up to 400 during construction and 40 to 50 once the facility is operational.
- 4.9 Further environmental and cost saving benefits potentially arise from the North Foreshore site as a location for a residual waste treatment facility, given its excellent ease of access from the adjoining motorway network.
- 4.10 Other indirect benefits of locating an EfW facility on the North Foreshore could reasonably be expected, including in particular providing a stimulus for other development which would benefit from the ready availability of heat energy.
- 5.0 Development of the Wider North Foreshore
- 5.1 While the question around the future of waste management at the North Foreshore site is crucial, it is also important that the discussion and decision are conducted in the context of the development of the whole North Foreshore site. Decisions taken around waste management will ultimately have a significant impact on the future possibilities for the whole site and for its legacy.

Belfast City Council took the important decision in 2004 to purchase the site from DSD. It did this with the agreement that the site was one of key significance for North Belfast and for the City as a whole. The Council began planning for the future, designating 40 acres in the South-East corner to be allocated to Arc21 for waste management facilities. In May 2007, a further 48 acres in the South-West of the site were agreed for an Eco Business Park, port-related warehousing and park-and-ride facilities. The remaining 200 acres were allocated to open space development and became the basis of the Giants Park concept. At all times, the Council has worked to establish an integrated concept for the site that maximised the social, economic, environmental and cultural benefits the site could bring.

The costs of generating these benefits will be significant and, in the current climate, substantial thought will be required to produce a robust business plan to realise the benefits. The waste management development could be an important part of pump-priming the resources required to develop the whole site. This, allied with the commercial development of the South-West of the site plus an entrepreneurial approach to park development, requires the maximisation of any income from the site as a whole.

The success of the site will bring major benefits directly to the people of North Belfast and the City as a whole. The site will bring jobs, income streams and world-class open spaces to communities. The inability to find the resources to begin this development will severely limit the possibilities. Consequently, the capital receipt and ultimate rates income stream referred to at 4.5 and 4.6 above could prove to be essential building blocks in realising wider community benefits for North Belfast and the whole city.

More recently the initial Place Shaping workshops with Members identified the North Foreshore as a key development site for the Council and included ideas such as a Sports Village, but also recognised the need to raise sufficient resources to ensure that plans can become reality. As noted above the opportunity exists to raise significant finance for the City Investment Fund that will enable projects such as the North Foreshore to become deliverable. Failure to grasp this opportunity may mean a much longer timeframe and less expansive development programme.

6.0 Development of the consultation process

- 6.1 Following the Committee's decision on 22 August 2008 that a consultation exercise would be undertaken with the local community, a recommended process was presented to the next meeting of the Committee on 19 September 2008. Following discussion the Committee agreed to defer consideration of the matter to enable the proposed consultation process to be validated by a professional consultancy service and recommended that the proposals be considered by a special meeting of the Council in October. Pursuant to the Committee's decision, the Consultation Institute was commissioned to review independently the consultation process and Northern Ireland Environment Link (NIEL) was commissioned to review the content and balance of the information leaflet. The comments and recommendations of

the Consultation Institute and NIEL, together with revised draft consultation documents, were presented to a Special Council Meeting on 30 October 2008. The following recommendations concerning the process for consulting the Council's ratepayers were also considered and adopted:

- *A postal survey to be sent to all household and business addresses in Belfast. A copy of the proposed questionnaire and cover letter has been circulated (subject to possible changes highlighted through testing of the form as part of a focus group)*
- *Results to be segmented by area and other geo-demographic data as appropriate*
- *The postal survey to include the information sheet as amended to explain the proposal and the issues and terms used. A copy of the information sheet has been circulated (subject to possible changes highlighted through testing of the form as part of a pre-consultation focus group)*
- *A series of appropriately segmented Focus Groups to identify and explore in detail local perceptions, views and concerns*
- *A dedicated information webpage be set up on the Council website where people can provide their views by email and get more information*
- *A series of informal information roadshows (staffed by Council employees) to be held at various times and locations across the city to enable local people to drop in and get more information, ask questions and provide more detailed comment about the proposals. The range of locations will reflect the input of elected Members and other stakeholders.*

6.2 The Council also approved the commencement of a tender process for the appointment of consultants to conduct the consultation process and it was reported to the Committee on 23 January 2009 that Social Market Research (SMR) had been appointed following a local procurement exercise.

6.3 SMR convened three pre-consultation focus groups to consider the draft questionnaire and information sheet, incorporating amendments made in consultation with elected Members prior to the appointment of SMR. Following these focus groups and further engagement with elected Members, the final recommended draft of the survey documentation was developed and submitted for consideration by the Committee at its meeting on 23 January. The Committee adopted the recommended questionnaire and information sheet subject to further consultation with North Belfast Councillors. In accordance with this decision a further revised questionnaire and information sheet was drawn up and circulated to Members prior to the Council meeting on 2 February 2009. The Council approved the revised documentation and agreed to proceed to the public consultation stage.

7. Consultation findings:

7.1 The questionnaire and information sheet were issued to all households and businesses in Belfast during February and an online version of the questionnaire was also made available through the Council's website. Over the next four week consultation period, over 8,000 responses were received. In accordance with the agreed consultation methodology SMR also conducted a series of focus groups which have generated a considerable body of qualitative information on the views of participants on the proposed sale of land to arc21. SMR has stated that, in terms of statistical relevance and survey validity, the outcomes from the survey element of the consultation are wholly consistent with the outcomes from the 10 focus groups conducted as part of the consultation. This consistency extends to the level of support for the two options (MBT and EfW) as well as the reasons for both supporting and not supporting both options. Against this background SMR has expressed the view that, taken as a whole, the consultation outcomes represent an accurate and reliable assessment of the public's view on this issue. The SMR report on the consultation process is attached in full in appendix 4 and SMR will be in attendance at your meeting to present the findings if required. The findings of the survey include the following:

- A large majority of all respondents (93%) supported either proposal, ie making the land at the North Foreshore available for either an MBT or an EfW facility.
- Almost 9 out of ten of all respondents (88%) expressed the view that the Council should make the land available for an EfW incinerator.

- Just over three quarters (77%) felt that the land should be made available for an MBT plant.
- The level of support for the proposals, although still a significant majority, was lower in North Belfast (BT14 and BT15) – 67% supporting making the land available for MBT and 76% for EfW.

8.0 Key Issues

- 8.1 The Council has been considering for some time a request from arc21 to make 17 acres of land at the North Foreshore available for use by arc 21 as the site for a residual waste treatment facility [either Mechanical Biological Treatment (MBT) or an Energy from Waste incinerator (EfW)]. Following consideration of the matter in the period from October 2007 to January 2008 a series of Party briefings was undertaken over the spring and summer of 2008. Following a subsequent Council decision to consult the community on the proposals, Social Market Research (SMR) was appointed to conduct the public consultation exercise. SMR has provided a detailed report on the consultation process and findings and this is attached in full at appendix 4. 93% of all respondents supported making the land available to arc21 for either an MBT facility or an EfW incinerator. In North Belfast (BT14 and BT15) a lower, but still substantial, level of support for either proposal was expressed (81%). The level of support for making the land available for EfW was generally higher than for MBT. The survey process also involved the organisation of a number of focus groups. This has yielded a considerable amount of qualitative information. The attached survey report sets out both the quantitative and qualitative findings of the survey and SMR has found a very high degree of compatibility between the views expressed in the survey and those given in the focus groups.
- 8.2 Throughout the period during which the Council has been considering this matter it has been highlighted that arc21 is anxious to avoid unnecessary delay in taking forward the procurement process for the residual waste treatment facilities (MBT and EfW) required by the arc21 Waste Plan. This procurement process has been underway for some time and arc21's position is that the process cannot proceed beyond its present outline solution stage until arc21 is in a position to declare the preferred sites for the required facilities. Arc21 has stated that it now needs to know the Council's decision concerning the availability of the North Foreshore land, to enable completion of the site selection

process, if delays in the procurement process are to be avoided. It must be stressed that delay at this stage has the potential to expose both Belfast City Council and the other arc21 Councils to a materially increased risk of substantial NILAS and EC non-compliance fines.

- 8.3 It must be emphasised that the decision the Council is being asked to take is whether it will commit to entering into a contract for the sale of the land if, after completion of the arc21 site selection process, it is identified as the preferred site for one of the facilities. Sale of the land would also be conditional upon planning permission and necessary permits being obtained. Consequently, a decision by the Council at this stage to make the land available would be the first step in a series of processes, beginning with completion by arc21 of its site selection process. These processes would run in parallel with the arc21 competitive dialogue procurement process which has already progressed to completion of the 'outline solution' stage, but cannot move to the next stage of inviting detailed solutions without declaration of preferred sites.
- 8.4 A specific issue that has been raised by some bidders during the outline solution stage of the procurement process is the potential for co-location of both MBT and EfW at the North Foreshore. Members will recall that the recent public consultation was conducted on the basis that the available remaining land on the area designated by the Council for waste facilities (circa 17 acres) was sufficient for just one of the required facilities. There is a good environmental case for co-location and possibly also favourable value for money implications. Up to an additional 7.5 acres would be required, however, for co-location and there is clearly a risk that the Council's reputation could be damaged by such a fundamental change to the consultation assumptions. Against this, it was a frequently expressed view during the consultation focus groups that the Council should sell sufficient land to allow both an MBT and EfW facility to be located on the North Foreshore and doing so could increase the capital receipt to more than £20m. It is recommended therefore that, should the Council be minded to release land for a residual waste treatment facility, consideration should also be given to whether the Council could allocate sufficient additional land to accommodate both an MBT and an EfW facility on the site.

9.0 Resource Implications

9.1 There is a wide range of financial implications associated with the Council's decision on making the North Foreshore lands available to arc21 and in relation to the timing of that decision. The potential cost consequences have been described above in some detail but the principal sources of additional costs and other direct and indirect financial implications may be summarised as follows:

9.1.1 Having to locate the EfW facility at an alternative site could give rise to additional costs to the Council of up to £2.1M per year.

9.1.2 If delay prevents appropriate residual waste treatment facilities being in place by 2012/13 the Council could be liable to penalties under the NILAS scheme of approximately £3.7M in that year and increasing by almost £400,000 per year until appropriate facilities are in place.

9.1.3 The Council could face EU penalties if the residual waste facilities are not in place by 2013 and in circumstances where the UK also fails to meet its Landfill Directive targets at that time. (It is impossible to predict the level of any such penalty but it could be substantial).

9.1.4 The Council may also have to pay additional costs arising from the likely greater cost of landfill compared to EfW in circumstances where MBT facilities have been provided but EfW is not available to treat the MBT output. In these circumstances the estimated additional cost to the City Council is £2.4M per annum.

9.1.5 Sale of the available (17 acre) site to arc21 would yield a capital receipt. Based on the last valuation the capital receipt would amount to £14.45M.

9.1.6 An EfW facility could be expected to generate an ongoing district rates revenue stream of in the region of £400,000 per annum while an MBT facility would generate approximately £70,000 per annum.

9.1.7 Although not a direct resource implication for the City Council, there would be potential for a community gain arrangement associated with the development of a residual waste facility which could provide ongoing annual financial support for local community projects of, possibly, around £200,000 per annum following a substantial initial capital contribution, potentially of the order of £6M.

9.1.8 A waste treatment facility would provide up to 400 jobs during the construction phase and 40 to 50 once the facility is operational.

9.1.9 It could reasonably be anticipated that an EfW facility would act as a stimulus for other development that would benefit from the availability of heat on site.

10.0 Decisions required

10.1 The Council has previously committed itself to selling the specified 17 acres of land to arc21 for £850,000 per acre subject to a range of conditions as specified in the Council's letter to arc21, as attached at Appendix 2. These conditions included subsequent identification of the land by arc21 as one of the preferred sites for residual waste treatment facilities and, crucially, taking further political direction from the Council.

10.2 A final decision was deferred in January 2008 to allow the Party Groups to be briefed and, later in 2008, to consult the local community. The results of the consultation are appended in full and SMR will be in attendance at your meeting to present the main findings.

10.3 Further delay on the decision concerning the sale of the land could materially increase the Council's risk of liability to substantial NILAS and EC non-compliance fines.

10.4 The Council is requested therefore to decide whether it wishes to confirm its previous commitment to enter into a contract for the sale of the land to arc21 subject to planning permission and other necessary permits and, if so, to decide also whether the land will be made available for either type of facility.

- 10.5** If the Council is minded to offer the land for either MBT or EfW it is also requested to consider whether it wishes to seek to make sufficient additional land available to accommodate both MBT and EfW facilities on the North Foreshore.
- 10.6** If land is to be made available to arc21 for any of the purposes referred to above it is recommended that the Council re-affirms the authority granted by the SP&R Committee at its meeting of 19 October 2007 to the Directors of Improvement and Legal Services to agree suitable terms with arc21 to protect the Council's interests.

11.0 Decision Tracking

The Director of Legal Services will convey the Council's decision to arc21. If the Council decides to make the land available to arc21 he will also prepare suitable contract documents."

Following a presentation on the outcome of the consultation process, it was

Moved by Councillor Ekin,
Seconded by Councillor Jones,

That approval be granted for the disposal to arc21 of an area of land at the North Foreshore for the provision of either or both a Mechanical Biological Treatment or an Energy from Waste Facilities on terms to be agreed by the Directors of Improvement and Legal Services.

Amendment

Moved by Councillor M. Browne,
Seconded by Councillor O'Neill,

That approval be granted for the disposal to arc21 of an area of land at the North Foreshore for the provision of a Mechanical Biological Treatment facility only on terms to be agreed by the Directors of Improvement and Legal Services.

A division on the matter was demanded. A poll having been taken on the amendment there voted for it seventeen Members, viz., the Deputy Lord Mayor (Councillor Lavery); the High Sheriff (Councillor McCoubrey); and Councillors Attwood, Austin, M. Browne, Convery, Cunningham, Hartley, B. Kelly, N. Kelly, Maginness, C. Maskey, McCarthy, Mhic Giolla Mhin, Mullaghan, O'Neill and O'Reilly; and against it sixteen Members, viz., the Right Honourable the Lord Mayor (Councillor Long); and Councillors Adamson, W. Browne, Campbell, Crozier, N. Dodds, Ekin, Empey, Humphrey, Jones, Kirkpatrick, McCausland, Newton, Rodgers, Rodway and Smyth. The amendment was accordingly declared carried.

Substantive Motion

The amendment was thereupon put to the Council as the substantive Motion.

A division on the matter was demanded. A poll having been taken on the substantive Motion, there voted for it twenty-two Members, viz., the right Honourable the Lord Mayor (Councillor Long); the Deputy Lord Mayor (Councillor Lavery); and Councillors Attwood, Austin, M. Browne, W. Browne, Convery, Cunningham, Ekin, Hartley, Jones, B. Kelly, N. Kelly, Maginness, C. Maskey, McCarthy, Mhic Giolla Mhín, Mullaghan, Newton, O'Neill, O'Reilly and Rodway; and against it ten Members, viz., Councillors Adamson, Campbell, Crozier, N. Dodds, Empey, Humphrey, Kirkpatrick, McCausland, Rodgers and Stalford.

The substantive Motion was accordingly declared carried.

Lord Mayor
Chairman