



Subject:	<i>Residual Waste Update</i>
Date:	<i>13 October 2015</i>
Reporting Officer:	<i>Tim Walker, Head of Waste Management</i>
Contact Officer:	<i>Tim Walker, Head of Waste Management</i>

Is this report restricted?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Is the decision eligible for Call-in?	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>

1.0	Purpose of Report or Summary of main Issues
1.1	On Thursday, 24 September 2015 the Minister of the Environment, Mark Durkan issued a Notice of Opinion to refuse the arc21 application for the residual waste treatment project.
1.2	The grounds for this refusal were that in pursuance of powers under the Planning Act (NI), 2011, he instructed the DOE to issue a notice that full planning permission for an mechanical-biological treatment (MBT) plant and an energy-from-waste (EfW) facility (the residual waste treatment project – RWTP) should <u>in his opinion</u> be refused.
1.3	There is an opportunity to appeal this decision which, under the above legislation, rests with either the applicant (arc21/EEW) or with the host council (Antrim & Newtownabbey District Council).
1.4	Arc21 has taken legal advice and is now minded to lodge an appeal, by 21 October. They are seeking support from the six constituent councils on this approach.
1.5	In terms of the current situation, Members are asked to ratify continuing the existing NI Landfill Allowance Scheme (NILAS) compliance arrangements for the treatment and disposal of the Council's residual waste. Waste Management will continue to engage with Legal Services to review the present situation and extension of contracts.
2.0	Recommendations
2.1	In light of the recent Notice of Opinion from the Minister to refuse the arc21 RWTP, the Committee is requested to note the report and to approve the continuation of the existing NILAS compliance arrangements for the treatment and disposal of the Council's residual waste.
2.2	Further updates will be brought when a fuller consideration is taken by arc21 joint committee on 16 October. Arc21 are minded to lodge an appeal and would seek the Council's (alongside the other constituent councils) support in this. The legal position will be provided by the Town Solicitor at the People & Communities Committee meeting.

3.0	Main report
3.1	As a result of local government reform in which Newry, Mourne & Down District Council agreed to join arc21, the Waste Management Plan (WMP), approved by the Health & Environmental Services Committee in April 2014 had to be amended to take account of the geographical changes which have occurred.
3.2	This amended plan was approved by the Department of the Environment (DOE) on 18 September 2015.
3.3	<p>On 24 September 2015, the Minister of the Environment issued a Notice of Opinion to refuse the arc21 residual waste treatment project which has been underway since September 2008. Under the Planning Act (NI) 2011, he instructed the DOE to issue a notice that full planning permission for a mechanical-biological treatment (MBT) plant and an energy-from-waste (EfW) facility (the RWTP) should <u>in his opinion</u> be refused for the following reasons</p> <ol style="list-style-type: none"> 1. The proposal is contrary to the DOE's PPS 11 in that it has not been clearly demonstrated that the proposed method of treatment will not result in harm to human health 2. The proposal would result in an additional waste treatment facility that is not considered necessary in light of other approved developments in the region and would run contrary to the program of encouraging recycling through "zero waste"
3.4	Arc21 had previously reported that the determination process for the planning application of the RWTP had reached the Minister at the end of July 2015 by way of the Final Development Management Report (FDMR), including recommendations, from DOE planning officials.
3.5	Following the Minister's decision, the contents of the FDMR have been released which highlight that, subject to a number of expected conditions, the DOE were recommending approval of the RWTP.
3.6	The Planning Act (NI) 2011, which came into force on 1 April 2015, maintains a special regime under which the DOE makes the decision, rather than councils, for planning applications previously the subject of "Article 31" under the Planning (NI) Order 1991. Under the 2011 Act, the host council (Antrim & Newtownabbey) can refer an application to a Public Enquiry within a set time period on written notice from the Minister that indicates their decision on the application.
3.7	The Ministers correspondence also includes the time limit for lodging an appeal (28 days) in front of the Planning Appeals Committee (PAC).
3.8	In light of this development, arc21 has engaged with the applicant (EEW), is taking legal advice on next steps, and preparing to meet with the constituent councils' CXs to determine what the appropriate way forward might be. A possible next step, should the councils be minded, would be for arc21 to seek to "cause a hearing" (i.e. have the issue referred to the PAC) which would effectively be a Public Enquiry and would require a statement of case to be made and permit third parties to also present. This would take some time to effect.
4.0	<p>Appendices</p> <p>None</p>