

Extract from minutes of:-

HEALTH AND ENVIRONMENTAL SERVICES COMMITTEE

23rd August, 2010

“Waste Management

**Residual Waste Treatment Contract –
Guaranteed Minimum Tonnages**

The Committee considered the undernoted report:

‘Relevant Background Information

Members will recall that the Council’s recent Northern Ireland Landfill Allowance Scheme (NILAS) and recycling rate performance was presented to the Health and Environmental Services Committee meeting on 4th August. This showed that, in the target year 2009/2010, the Council exceeded its landfill allowance by 1,376 tonnes, an overshoot of 1.9%. The primary reason for this exceedence was the step change in the level of allowances between 2008/2009 and 2009/2010. This means the Council will need to transfer in NILAS allowances from each of the arc21 constituent councils and the Council is presently working with arc21 to implement the methodology for these transfers.

In terms of recycling, the Council’s tonnage has continued to grow and reached 34,417 tonnes by the end of March, which is 0.3% greater than the equivalent tonnage last year. The Council’s provisional recycling rate for the financial year 2009/2010 is now 26.6%, subject to Department of the Environment (DOE) ratification.

As outlined earlier this month, Members will be aware that the Council continues to work with arc21 to identify initiatives to divert additional tonnages from landfill for recycling and composting purposes. This is in order to achieve the EU Waste Framework Directive (WFD) and the EU Landfill Directive (LFD) and to close the gap between the current recycling rate and the 2020 EU WFD target of 50%. Depending upon the nature of these initiatives, they could have a considerable impact on the residual waste which the Council is predicted to produce.

The Committee is aware that arc21 is currently procuring a suitable contractor to operate both Mechanical/Biological Treatment (MBT) and Energy from Waste/Incinerator (EfW) facilities to treat the remaining residual waste cannot to be sent for recycling or composting. As part of this procurement process, the Council now will have to declare what its guaranteed minimum tonnages will be to be sent for treatment to these facilities in future years. Following comprehensive modelling and consideration between arc21 and its constituent councils, it has been determined that, subject to the introduction of new recycling and composting initiatives, each council should be prepared to commit 80% of its forecasted residual waste.

This report, therefore, sets out to determine the proposed guaranteed minimum tonnage which the Council will commit to the arc21 residual waste project.

Key Issues

Residual waste treatment tender and minimum guaranteed tonnage

Members will be aware that, in line with the 2006 Waste Plan, arc21 is conducting a procurement exercise, using the EU's Competitive Dialogue procedure, to appoint a contractor to develop and operate appropriate facilities to treat the remaining residual waste not being sent for recycling or composting.

The Competitive Dialogue procedure consists of a number of phases and, as part of the present 'Invitation to Submit Detailed Solutions' (ISDS) phase, arc21 has entered into discussion with both preferred contractors. An integral part of the contract, and essential for the sizing of the contractors' facilities, is determining what the guaranteed minimum tonnage of residual waste will be from arc21 councils to be treated at the MBT facilities to produce a feedstock for the EfW plant.

From the contractors' perspective, the guaranteed minimum tonnage will determine the stage and time at which they can recoup their investment and operating costs; without this, risks to the project would increase and would impact considerably upon their ability to secure the necessary funding from financial institutions to develop the facilities.

Constraints on the guaranteed minimum tonnage

The Council has been liaising with arc21 regarding the proposed guaranteed minimum tonnage over the summer. This has been complicated recently with the new WFD, which has introduced a new target of increasing the Council's household waste recycling and composting rate to 50% by 2020.

In addition, in June the DOE launched two consultation papers (with the aim of diverting more waste from landfill) on (i) 'Meeting the EU Landfill Diversion Targets' and (ii) 'The Introduction of Restrictions on the Landfilling of Certain Wastes' which is seeking to transpose aspects of the WFD into Northern Ireland legislation. Responses to these papers are being prepared by the Council and arc21 and will be submitted to the Committee next month for its consideration.

Members may also care to note that Mr. Poots, Environment Minister, recently wrote to all councils highlighting his intention to commission a review of the recycling policy in Northern Ireland. In this letter, he stated he was 'convinced

that a municipal recycling rate of 60% by 2020 is achievable and fully justifiable'. The implication for councils is uncertain at this stage given that the first consultation paper above is likely to change how Municipal Solid Waste (MSW) is defined, which has traditionally been what councils managed, in order to bring it in line with the EU definition.

The transposition of these pieces of legislation, and potential changes to or a review of DOE policy, will impact on the nature and amount of residual waste which the Council produces and consequently on its guaranteed minimum tonnage. These legislative and policy drivers are also likely to continue to require the Council to amend how it promotes and provides its waste collection and treatment operations.

Guaranteed Minimum Tonnage

During discussions with arc21 over the summer, the Service proposed a number of potential recycling initiatives. These modelled different scenarios in order to assess their possible impact on the recycling rate and to provide assurances that committing to a guaranteed minimum tonnage would not prevent the Council meeting its WFD target.

After considering the different scenarios, it was recognised that the essential element of the modelling was to achieve a 50% household recycling and composting rate in 2019/2020 as required by the WFD. The guaranteed minimum tonnage would be secondary to this requirement. It is anticipated that the 50% recycling and composting rate on the projected waste collected by the Council, will be achieved by the Council based upon maintaining the existing recycling and composting programmes, introducing new initiatives over the next few years (47.1%) and extracting recyclables during the residual waste treatment process (2.9% from the MBT). Having carried this modelling out, it is predicted that just over 68,000 tonnes of residual waste would remain, which would be available to the arc21 residual waste treatment contract.

The guaranteed minimum tonnage, which excludes contamination arising from different recycling/composting operations, is arrived at by taking this remaining projected residual waste available (just over 68,000 tonnes) and applying the agreed percentage of 80% to this figure to arrive at a figure of around 54,400 tonnes. This is the figure which the Council will be expected to commit to arc21. Given that the contract is for a period of 30 years, the 80% factor is to allow for contingency measures, such as risk and uncertainty, over the contract duration. The specific workings relating to the guaranteed minimum tonnage are contained in the 'arc21 Residual Waste Flow Model – ISDS Model Version 2.8' document which has been circulated to Members.

It is important to note that, if a recycling and composting rate of 47.1% is to be achieved by the Council by 2019/2020, and

taking into account the projected recycling/composting tonnages of 38,000 tonnes in 2010/2011, which includes the estimated contribution of food waste into brown bins, the Council will need to implement a number of additional initiatives to divert a further 39,800 tonnes from landfill.

In essence, although the Council's recycling rate has improved considerably over the last five years to increase the recycling rate from 9% to 27%, the half-way point has only just been passed and considerable challenges and investment decisions lie ahead if the Council is to meet these targets. The Service is presently developing a series of new initiatives or approaches to increase the recycling and composting rate for the City and reports will be presented to the Committee for consideration in due course. The Service anticipates that the Member/Officer Waste Working Group approved earlier this month will provide a useful forum to discuss and refine these proposals.

Resource Implications

Financial

In order for the council to reach the 50% recycling and composting target contained within the WFD, new initiatives will need to be implemented which will require appropriate resources.

The feasibility of these initiatives is presently being examined to determine their contribution to the recycling rate and to ensure that they are economically advantageous to the Council.

There are significant financial risks associated with committing the Council to guaranteed minimum tonnages for a 30 year contract based on estimated residual waste levels. Should actual tonnages fall below the guaranteed tonnage level, the Council will still incur charges based on the guaranteed tonnage level, known as a 'put or pay' clause. The Council has reduced exposure to this risk by assuming a significant increase in recycling and calculating the guaranteed tonnage level at 80% of the projected residual waste level.

Human Resources

Similar to the financial implications, new initiatives will need to be implemented to meet the WFD target and these are likely to require additional resources.

There are no human resource implications, however, associated with this report.

Recommendation

The Committee is requested to approve committing a guaranteed minimum tonnage of 54,400 tonnes to arc21 for the residual waste contract.'

A lengthy discussion ensued, during which Members voiced a number of concerns in relation to the potential financial risk to the Council of committing to guaranteed tonnages within the residual waste contract for a period as long as thirty years, especially if tonnages should fail to reach the guaranteed level.

In response, the Director pointed out that that was a fundamental aspect of the procurement process which arc21 had, for the past number of years as part of the overall Waste Plan, been progressing on behalf of its constituent councils and to which the Council had already made a commitment. She explained that the contract was part of a Private Finance Initiative for major infrastructure projects and that it was not unusual for such guarantees to be sought, given the major capital investment involved. She added that the provision of a guaranteed minimum tonnage by each constituent council was essential at this stage in order to enable the bidders for the contract to develop detailed solutions, including the sizing and costs of the waste facilities and the gate fees which were likely to be charged and that, should that tonnage not be provided by the Council at this stage, it would delay the current process. She pointed out that there were many further critical stages in the arc21 residual waste procurement exercise and that further reports would be submitted to the Committee for approval as the process developed. It was anticipated that the final stage of awarding the contract would take place in 2011.

The Head of Waste Management and the Business Support Manager outlined the steps which had been taken by arc21, the Health and Environmental Services Department and the Council's Audit, Governance and Risk Services Section to ensure that the robustness of the Residual Waste Flow Model limited any financial risk to the Council.

Members were of the view that the Committee should be made aware of the additional measures which would be included within the arc21 Residual Waste Treatment Contract to further safeguard the risk to the Council, should actual residual waste levels fall below the guaranteed tonnage levels over the life of the contract and suggested that arc21 should be invited to attend a briefing session at the earliest opportunity.

After further discussion, it was

Moved by Councillor Jones,
Seconded by the Chairman (Councillor Adamson),

That the Committee agrees that the Council commit to a guaranteed tonnage of 54,400 tonnes to arc21 for the Residual Waste Treatment Contract.

On a vote by show of hands, two Members voted for the proposal and one against and it was accordingly declared carried.

The Committee agreed also that arc21 be invited to attend a briefing session in order to provide an update on the progress with the procurement process and to clarify the various elements of the Residual Waste Treatment Contract and that an ongoing mechanism to ensure effective communication between arc21 and Members be re-established."