

County Council Briefing Note - Waste Contract

Members are reminded that on the 10th September 2014, the County Council made three resolutions in respect of Motion 720 on the Residual Waste Contract with UBB.

Part a) concerned sending a letter to the Secretary of State urging him to make a decision without delay about the appeal by UBB. **The Secretary of State published his decision on 6 January 2015 and re-published on 16 January 2015.**

Part c) concerned the publication of the final report by the Plan B Working Group. **The report was published on 1 December 2014.**

Part b) concerned information to be made available to Members.

“That in the event that the Secretary of State rules in favour of the appellant that all councillors be briefed on the economic benefits of the contract with UBB; the potential costs; and the financial consequences to this Council and local taxpayers of cancelling this contract and how officers propose to fund such costs.”

The Chief Executive wrote to Group Leaders on 19 January 2015 with information which may be shared with County Councillors. For ease of reference, the text is repeated below:

You will be aware that we had a Council Motion that requires officers to calculate the cost of exiting the energy from waste contract in the event of a successful planning permission – there have been various follow-up requests for these figures.

I would first like to point out how unusual such a situation would be. We have let a contract to the industry model, endorsed by DEFRA, which gives a financially safe route to one of two outcomes:

- *A successful planning permission, followed by construction and a service contract – in this situation our only expenditure is via a gate fee when waste is taken to a plant.*
- *An unsuccessful planning application, with cost containment of the council’s financial exposure. Figures for such a situation have previously been confidentially shared, and have been in the region of £20m, plus or minus some loan termination arrangements.*

The concept of the Council Motion is a third scenario: a positive planning decision, followed by the Council breaking the contract. You cannot sensibly construct a contract premised on broken intentions, hence there are essentially no financial protections in place. I have heard multiple references to Norfolk’s contract termination – I would want to point out that this is not at all this third scenario – Norfolk chose to terminate a contract prior to a Secretary of State decision.

Since the Secretary of State's decision, we have been working on this calculation but have not yet reached a contract cancellation cost, as it is a very complex. However, as we now have a motion from one group calling for a special Council meeting, I believe the time has passed in terms of investing a lot of time in a finite answer – we are better off sharing a reasonable estimate.

Costs of contract termination would include all of the financial exposure in the planning failure scenario; a claim for loss of profit; a rather untimely exit from the £125m financing that is in place for the construction project; and legal costs. Our raw estimate is in excess of £60m.

However, the costs would not end at this point, as we would be back to square one. The cost of procuring a new contract is likely to be around £5m – potentially more as we will have lost market confidence following our exit from two waste procurement processes. In addition, one of the simple benefits of the energy from waste contract is that it caps our ongoing cost at a gate fee, and is estimated to save £150m over the 25 years – put another way, the savings from landfill tax and energy production equate to say £6m per annum during any gap that is created from a contract cancellation and the establishment of a new contract – in my head this would be about 5 years at £6m per annum.

In essence, to exit a contract after a positive planning decision will cost this Council approaching £100m. In excess of £60m of this would be an immediate exposure and the remainder would impact over, say, 5 years.

I have stopped officers doing further calculations on this matter, as I do not see how we can reasonably share them in that they affect both commercial confidentiality and should this route be pursued further, would undermine our negotiating position.

Costs of cancelling the contract have not been factored into the proposed budget for 2015/16. In the event of a cancellation, members would be required to decide which budgets would be cut to balance the overall budget, beyond the £75m savings already required from 2015/16 onwards in MtC2.

The economic benefits, which flow from the contract with UBB are as follows;

- The council would be protected from the rising cost of landfill and energy prices which would avoid an additional whole life cost of up to an estimated £150 million.
- Over 92% of residual waste would be diverted from landfill which would avoid the production of methane.
- The proposed solution would reduce the effects of climate change, significantly reducing the CO2 emissions when compared to continuing to landfill residual waste
- Electricity will be generated (equivalent to that required to power 25,000 homes) which could be provided to the council, schools and hospitals in

Gloucestershire. This would be a renewable and price-stable source of electricity. Any surplus would be sold to the grid.

- Heat could be provided to both commercial and domestic users as a renewable and price-stable source of energy.
- Incinerator bottom ash, a by-product of the process, would be reprocessed and used in roads and housing, displacing the use of virgin quarried material. Metals would be recycled.
- About 300 new jobs would be created in construction and around 40 jobs over the period of the service of 25 years.