

PLANNING HEALTH FRAMEWORK RESIDUAL WASTE TREATMENT PROJECT

Context

This section sets out the City Council's approach to the planning issues associated with the delivery of the residual waste treatment facilities.

The proposals are being advanced at a time when the development planning context is in a state of transition to the new system of RSS and LDF introduced by the Planning and Compulsory Purchase Act 2004. The following statement describes where we are now in the process of transition and highlights key issues of relevance to the procurement process. This sets the context for the response to the questions given in the 'Planning Health Framework' which follows.

At a regional level Draft RSS for Yorkshire and the Humber was published for consultation in December 2005 and was subject to Examination in Public in autumn 2006. The Panel's report to the Secretary of State was published in May 2007 and the Government Office anticipates publishing proposed changes over the summer 2007.

The Panel report whilst critical of the policies for waste in a number of areas concludes that the policies should be adopted with only a number of minor amendments. Whilst at the time of writing the proposed changes have still to be concluded, the Panel report suggests that considerable weight can be given to the policies of the Draft Plan with a high measure of confidence that they will, with the minor recommended amendments, form part of the final version of RSS for which adoption is anticipated in 2008. This version of RSS is therefore likely to be part of the development plan at the time a planning application for the Council's residual waste treatment facility is considered.

Given this position it is relevant to consider the policies of Draft RSS that are of particular relevance to the emerging Leeds proposals. In particular Policy ENV12C states that:

Local Planning Authorities should support the urgent provision of a combination of facilities and other waste management initiatives which best meets environmental, social and economic needs for their areas based on the following principles:

- (i) Moving the Management of all waste streams up the waste hierarchy
- (ii) Achieving all statutory waste management performance targets during the period to 2016.....

In addition paragraph 15.88 notes that the Region still produces large volumes of waste, "and investment in new waste facilities and initiatives needs to take place at an accelerated rate".

Policy EVN13 provides a more detailed level of guidance indicating in Part A that proposals for new capacity it should take into account the split between recovery/recycling and disposal, LATS, the balance between new and existing facilities and opportunities to provide treatment facilities for multiple waste streams.

Location criteria for waste management facilities are set out in Policy ENV14. These included that: waste should be dealt with locally (Part B); facilities should reflect the proposed housing and economic growth (Part C) and; that priority should be given to established and proposed industrial sites with the potential for the co-location of complementing activities and to previously developed land (Part D).

It is also worth noting that paragraph 15.108 sees the prime strategic role of RSS to provide sufficient opportunities for new waste management facilities of the right type, in the right place and at the right time. Paragraph 15.109 notes the potential for innovative and high quality design and expects the LPA to secure this.

At the local level the Council's waste policies are set out in the UDP Review adopted in 2006. The Council's development plan is also in transition and a number of DPDs are at various stages of preparation as set out in the Local Development Scheme. The current programme is largely as envisaged in the original LDS submitted in March 2005 and subsequently endorsed by GOYH. Because of the advanced stage of work on the UDP Review and a number of major area based regeneration projects that are a Council priority the first LDF documents to get underway in Leeds were a number of AAPs. Of particular relevance to this project is the Aire Valley AAP which is planned for the Regulation 26 consultation on preferred options during September/October 2007. The Core Strategy is still at a very early stage of development with the preferred options stage envisaged in May/June 2008 and is not likely to be adopted until April 2011. The LDS includes production of a Waste DPD for which the Council is proposing to engage consultants. A brief for this work has been written and appointment is anticipated shortly. However, adoption is unlikely before mid-2010.

At a local level the policy base for dealing with a planning application will be the UDP Review policies and the emerging LDF documents.

Like RSS the UDP Review recognised the need to accommodate new waste management facilities (Policy N47). At a strategic level Policy WM1 requires that waste management facilities should generally be provided locally where possible. Policy WM5 goes on to state waste management facilities will be treated as an industrial use and policies regarding the acceptability of manufacturing and distribution will be equally applicable. The supporting text (paragraph A7.4.3) indicates that facilities will be "encouraged in the urban area, ideally on employment land". Policy WM6 requires that proposals provide the most sustainable solution taking into account activity in neighbouring authorities. Policy WM8 sets out a number of factors to be considered at a detailed level and in many respects reflects the matters identified in PPS10. One particular point is the use of combined heat and power where a waste plant produces energy (part iii).

As a development of the Waste Management Strategy the Council has commissioned a district wide site search for major waste management facilities including these with the potential to accommodate a SERP. The site search has been undertaken in full recognition of the policy background described above and the guidance given in PPS10 and its companion guide. The methodology and the factors taken into account are described in full in the Site Search Report. From this site search it became apparent that a number of the most promising opportunities fell within the boundary of the Aire Valley AAP.

In taking the Aire Valley AAP forward through the Preferred Options stage it is therefore considered appropriate that this potential be recognised. This will provide an opportunity for land owners of the sites identified, those with adjoining interests and the public more generally to offer a view of the suggested locations. Widespread consultation will be undertaken consistent with the Council's adopted Statement of Community Involvement. It is considered that this approach is entirely consistent with PPS10 which indicates that 'waste planning authorities should identify in development plan documents sites and areas suitable for new or enhanced waste management facilities for the waste management needs of their areas' (paragraph 17). More specifically the Companion Guide to PPS10 (paragraph 7.4) recognises AAPs as one form of DPD suitable for advancing proposals for waste management facilities by reference to the Companion Guide to PPS12. The alternative approach of producing an AAP that makes no reference to the emerging waste proposals but which relies entirely on the planning application process was considered to be inconsistent with this guidance and confusing, if not misleading, for the public and those with interests in the area.

The Council therefore takes the view that notwithstanding the difficulties created by this transitional period in development plan context and timetables for the production of documents that do not neatly fit with the procurement timetable that there has been a robust site selection process and a solid basis for securing planning permission.

National guidance clearly recognises that LPAs should reflect Municipal Waste Strategies in their DPDs. It also acknowledges that there may be timing difficulties in advancing waste schemes compared with progress on the development plan and hence the need to take account of emerging plans.

The proposals are considered to be consistent with Draft RSS which encourages Council's to make progress with the delivery of new waste management facilities. The provision of new facilities on previously developed employment land, with potential to support complementary uses and well located to serve the needs of the district as a whole is entirely in line with ENV14. The Council's proposals also take account of the projected levels of growth incorporated in RSS.

While the UDP Review policies were formulated prior to the publication of PPS10 they are likely to remain in force until superseded by the Waste DPD. Consistency with the UDP Review policies will therefore continue to be an important consideration particularly as many aspects mirror PPS10 guidance. Although some matters such as visual impact/design can only be properly explored at the application stage it is considered that the proposed Aire Valley site(s) fully reflects UDP Review policies.

The emerging Aire Valley AAP although unlikely to have progressed to adoption will be at a more advanced stage at the time an application is submitted. The AAP process will have provided an early opportunity for engagement with the general public and other stakeholders including key consultees. These will include the Regional Assembly and Government Office. The Council has sought early dialogue with both bodies to explain the proposed process for delivering the waste facilities. To date there has been no indication that either body has any particular concerns about the approach and recognise the position created by progress with the development plan in the region.

Planning Health Checklist

Having set the broad context the following is a response to the questions set out in the Defra guidance.

Overview questions and key aspects of planning context

1. *Is there a Municipal Waste Management Strategy (MWMS) that supports the procurement projects?*

The Council's Executive Board approved the Municipal Waste Management Strategy on 18th October 2006. This sets out the Council's targets for dealing with waste in accordance with the waste hierarchy, and identifies EfW as the best performing residual waste option emerging from its technology options appraisal.

2. *Are the specific site proposals consistent with and/or identified (as relevant) in the current development plan (core strategy or site allocation DPD) and/or the emerging Regional Spatial Strategy and (emerging) Waste Local Development Documents?*

The proposals are considered to be consistent with the emerging RSS, the current development plan and UDP Review, PPS10 and are reflected in the Aire Valley AAP Preferred Options approved by the Executive Board in September 2007 and out for consultation (Reg 26) in October/November 2007.

3. *Have sites been identified for the necessary facilities, which are likely to get planning permission for those facilities within the timetable anticipated for commencement of construction of the proposed facilities?*

A short list of four sites has been identified following completion of a formal site selection study based on national, regional and local planning criteria, and this process is detailed in the site selection report which forms an appendix to the OBC.

4. *What route has been taken to establish the principle of the use of the sites:*

- *already have permission?*
- *already allocated?*
- *seek allocation?*
- *planning application?*
- *planning studies?*

Establishing the principle of the use of the sites is on-going. It has partially been achieved through a formal site selection study based on the principles established by national, regional and local policies. It is being further advanced through the Aire Valley AAP as referred to at 2 above.

5. *What steps have been taken to consult the community on the use of the sites?*

Consultation will take place through the AAP Preferred Options stage consistent with the Council's adopted Statement of Community Involvement (SCI). The Council has also completed a programme of consultation with residents to seek their views on the key criteria used in selecting sites for waste facilities. The reports from this consultation are appendices to the OBC.

6. *Have steps been taken to acquire those sites?*

The reference site is in Council ownership. Discussions are in progress with landowners of the other identified sites regarding potential opportunities. They have expressed an interest in forming consortia to bid for the Residual Waste Treatment Project to exploit potential synergies with existing infrastructure / processes i.e. grid connections, heat/power load requirements.

7. *What is the strategy for acquiring the sites and in relation to planning permission generally such that a planning application may be submitted by the preferred bidder as soon as possible after their selection?*

There is no impediment to the submission of a planning application following preferred bidder selection.

8. *Overall Alignment of timescales for procurement and planning?*

The relationship between procurement and planning has already been covered. In summary, at the time an application is programmed it is anticipated that the RSS review will have been adopted, UDP Review policies remain in force, the Aire Valley AAP will have reached an advanced stage and the Waste DPD will have progressed to production of the submission DPD.

Municipal Waste Management Strategy

- A1 *Is there an up-to-date and policy-compliant MWMS that supports the residual waste treatment proposed in the reference case?*

The MWMS supporting the residual waste management facilities now proposed was approved by the Council's Executive Board on 18th October 2006.

- A2 *If applicable, detail any restrictions suggested by the MWMS on the residual waste treatment technologies that might be acceptable?*

N/A

- A3 *Was the local community actively engaged in the development of the MWMS?*

The MWMS was subject to a range of community consultation activities between January and June 2006. The Council carried out an extensive consultation exercise over a six month period. Views have been sought from statutory

consultees, local residents, elected members and other key stakeholders. Feedback has been obtained through attendance at community-based forums, residents and tenants groups, use of a Citizens' Panel survey, and the distribution of a public questionnaire using a community leaflet and the Council's web site. Support was also been provided by the local media who have printed articles which have encouraged residents to contribute to the debate and to make their views known. Results of the consultation are included within the OBC appendices.

- A4 *Was the MWMS accompanied by a Strategic Environmental Assessment that informed the approach in the adopted strategy?*

The Integrated Waste Strategy for Leeds has undergone a detailed Sustainability Appraisal and Strategic Environmental Assessment (SEA), with the Environmental Report subject to consultation alongside the Strategy itself. The Sustainability Appraisal/SEA is included as an appendix to the OBC.

Development Plan

RSS

- B1 *Has the authority cross-checked policy in RSS to be sure that procurement proposals are consistent with regional policy?*

As explained earlier emerging RSS policies have been taken into account and the current proposals are considered to be consistent with those policies.

- B3 *Is the authority engaging (has the authority engaged) with developing RSS to secure a supportive planning framework at the regional level?*

The Authority provided comments on draft RSS and was an active participant at the examination in public.

Saved development plans

- B5 *Are the proposals consistent with any saved policies in the development plan?*

For the reasons explained earlier the proposals are considered to be consistent with the policies in the UDP Review 2006.

- B6 *Are the sites allocated for waste management purposed in any saved plan?*

The reference site is allocated for employment use within a wider employment area and is thereby generally consistent with the UDP Review and RSS. The UDP Review contains no site specific proposals for waste management facilities.

Adopted Waste DPD

- B7 *Is there an adopted Waste core strategy DPD?*

The Council's core strategy which will deal with waste issues at a strategic level is at an early stage of production.

B8 *If so, are the proposals consistent with the core strategy DPD?*

N/A

B9 *Is there an adopted waste site allocations DPD? If so are the proposed sites allocated in the adopted DPD?*

Consultants have been engaged to prepare the waste DPD which will include site allocations. A brief has been written and scoping work is now underway. Work is therefore at an early stage. However short-listed sites are reflected in the Aire Valley AAP Preferred Options out for consultation (Reg 26) in October / November 2007.

B9 *If so, are the proposed sites allocated in the site allocations DPD?*

See reference to Aire Valley AAP above.

B10 *Are the site allocations suitable for the intended use(s) by the procurement project?*

The sites are identified in the Aire Valley Area Action Plan (AVAAP) and are the result of a specific site selection study, they are considered suitable for use for residual waste treatment.

B11 *Were there significant objections to the allocation (please give, or refer to some indicative statistics to support your responses, e.g. level of consultation and objections)?*

The Aire Valley AAP Preferred Options were approved by the Executive Board with minimal objections in relation to the site proposals. Formal consultation on the Preferred Options will be concluded in November 2007.

Emerging DPD

B12 *Is there an emerging Waste core strategy DPD?*

See B7

B13 *If so, are the proposals consistent with the emerging core strategy DPD?*

On the basis that the DPD will need to be in conformity with RSS and reflect the MWMS this can be anticipated, although the Core Strategy is not yet at a stage where this can be verified.

B14 *If so, are proposed site and usage allocated in the emerging DPD, or have e representations been made to secure those allocations?*

The proposals are reflected in the emerging Aire Valley AAP now at the Preferred Options stage.

- B15 *Have representatives been made on behalf of the WDA to secure a favourable DPD and to ensure that the emerging DPD reflects the MWMS?*

Leeds City Council is both WDA and LPA and there is close working between officers with responsibilities in each area to ensure a joined-up and well informed approach.

- B16 *Detail any known objections (formal or otherwise) to the proposed allocations?*

The position is not yet known as consultation on the AAP is not due to conclude until November 2007.

- B17 *Will planning permission for the proposed sites be sought in advance of the allocation? If so, has the potential objection of prematurity been considered? For example, are there sites proposed for allocation of which the chosen site is not one?*

Based on current timetables it is likely that planning permission will be sought in advance of an allocation, although the development of the AAP will be well advanced. The issue of prematurity has been considered but the Council has had to reconcile the need for rapid progress with the waste facility and the timetable for DPD production. For the reasons given earlier, the Council believes there is good reason to be confident that planning permission will be obtained and that its approach to delivering the site is entirely reasonable in the circumstances. There are no existing allocations for this type of use and no alternatives are apparent in any of the other emerging DPDs.

Sites

- C1 *Do the sites have planning permissions for the intended use contemplated by the project?*

None of the identified sites currently have planning permission for residual waste treatment uses. The Council has commissioned a district-wide site selection exercise to identify sites which could be suitable for major waste facilities. This was carried out by Leeds City Council officers and Jacobs. Sites have been assessed against a range of criteria derived from planning guidance provided by PPS 10, the emerging Yorkshire and Humber RSS and the Review of the Leeds UDP.

The land is however identified for employment in the UDP and within the AVLAAP, it is proposed to retain the land for employment uses.

The short listed sites emerging from the site selection study have been identified in the Aire Valley Area Action Plan at the Preferred Options stage (AVAAP). This was approved by the Council's Executive Board on 11th

September 2007. The relevant extract from the Area Action Plan Preferred Options document can be found at Appendix

- C2 *Are the sites allocated in an adopted statutory plan for the intended use contemplated by the project??*

No. However, it is included as a proposal in the Aire Valley AAP Preferred Options out for consultation in October/November 2007.

- C3 *Are there any adopted development plan policies that favour the use of the site?*

Yes, see earlier section of report.

- C4 *Are there any adopted development plan policies that prejudice the use of the site?*

No

- C5 *How does the site perform against policy expectation in PPS10?*

The position in relation to PPS10 is set out earlier in this report. In summary it is considered that proposals are consistent with the Key Planning Objectives (paragraph 3) and reflect the principles for site selection (paragraph 21) particularly the references to industrial sites, previously developed land and the environmental considerations set out in Annex E.

- C6 *Please detail any relevant history of uses, planning permissions or planning refusals on the site.*

The identified sites former uses are whole sale market, sewage treatment works, former power station now with planning for warehousing.

- C7 *What response has been made by the planning and infrastructure stakeholders to initial consultations with them?*

Consultation with key stakeholders will be part of the AAP process (current consultation due to conclude in November 2007). Initial dialogue with GOYH and the Regional Assembly has been positive.

- C8 *Have desktop studies or a series of such studies been undertaken to identify suitable sites and justify the selection of the chosen site?*

A thorough district-wide site search exercise has been undertaken based on the principles set out in national and local planning guidance. This is included in full as an appendix to the OBC.

- C9 *Have baseline studies been carried out for all significant environmental aspects identified in the EIA Regulations?*

No

C10 *Please describe any issues suggested by those studies that will be difficult or impossible to overcome?*

N/A

Community Consultation

D1 *Has the local community been engaged on the proposed use of the site, for example by the use of leaflets and/or exhibitions? (or any wider processes such as SEA or sustainability appraisal in the context of a waste DPD that made specific proposals for the site (please give, or refer to some indicative statistics to support your response, e.g. level of consultation as a proportion of the affected populations.)*

The Council has carried out a wide range of consultations views have been sought from statutory consultees, local residents, elected members and other key stakeholders. Telephone surveys and community based focus groups have also been undertaken. All residents within a 1 mile radius (approximately 10,000 households) of the proposed reference site have been written to detailing the proposals.

In addition to this the third round of public consultation takes place between 5th October and 16th November 2007 on the AVAAP. A series of manned exhibitions will be held giving the public opportunity to view the preferred options and comment on their preferences. The information gathered at the events will be fed into the Consultation Report / Statement, the draft plan and will also be encompassed in the sustainability appraisal which all contribute to illustrating how the final Aire Valley Action Plan is arrived at.

D2 *Did the consultation involve specific types of technology and/or visual representations of the facilities.*

Focus groups were held with residents of the local community, discussions and views were sought on planning criteria and type of architecture. EfW was the reference technology used as a basis of the discussions and photos of existing plants were used to inform those discussions. .

D3 *What was the scale and nature of the response?*

This will be known on conclusion of the AAP consultation in November 2007.

D4 *What issues were raised?*

As D3

D5 *Can these be overcome?*

As D3

- D6 *Have WDA members considered the response to consultation in endorsing the OBC (i.e. has a report been put to members on the results of consultation, and have they decided that the balance is in favour of proceeding)?*

The consultation on draft Waste Strategy was presented to members and used in approval of the Waste Strategy. Further consultations are being presented to members in conjunction with the OBC. The Issues & Options stage of the AVAAP was consulted and the results of which informed the Preferred Options Paper and were presented to plans panel and Exec Board when that document was approved for consultation. .

Site Acquisition

- E1 *Are the sites already owned by the Council?*

The reference site is in Council ownership.

- E2 *Have options been taken on the sites?*

No. The reference site, which is in Council ownership, will be the site offered to bidders during the procurement. The landowners of the other sites have indicated an intention to bid for the contract as part of consortia and have shown no current interest in offering options on the sites.

- E3 *What time constraints are imposed by the option?*

N/A

- E4 *Have discussions been held with landowners with a view to acquisition?*

Discussions are in progress with landowners regarding these potential opportunities, however the reference site is in Council ownership. See E2

- E5 *What response has been made?*

Landowners of the 3 identified sites not in Council ownership have expressed an interest in forming consortia to bid for the Residual Waste Treatment Project to exploit potential synergies with existing infrastructure / processes i.e. grid connections, heat/power load requirements.

- E6 *In the absence of ownership or option, what is the Council's strategy for acquiring the sites?*

N/A

Way Forward

- F1 *How does the WDA intend to deal with any potential policy conflicts with the current or emerging development plan within the timetable for the procurement?*

There are not considered to be any conflicts with existing policy or with emerging RSS. The Council's Waste DPD is being taken forward in the context of the MWMS already approved by the Council's Executive Board. Emerging work in the Aire Valley AAP has identified opportunities for waste management facilities consistent with the MWMS.

F2 *How will the WDA monitor and respond to the emerging Waste DPD?*

The Waste DPD is being prepared for the LPA by consultants. Officers from the WDA are part of the Steering Group for this project.

F3 *When will any outstanding environmental studies be completed?*

The Council strategy is for bidders to jointly undertake the appropriate elements of the environmental impact assessment (EIA) on a preferred bidder pays basis. This would be available to bidders during the competitive dialogue prior to the submission of final proposals. Bidders would then be expected to provide data to complete the EIA for their own submission. At the start of the preferred bidder period the successful bidder would then submit the application with their accompanying EIA.

F4 *How will the results for all discussions, consultations and site studies be made available to bidders?*

A single process will be undertaken, led by the Council but when appropriate funded by the bidders, with costs shared between the bidders, and the selected bidder meeting all costs and refunding unsuccessful bidders as necessary. Documentation will be released to bidders at appropriate points during the competitive dialogue.

F4 What is the strategy for submitting a planning application (e.g. allocation and application by contractor; application by WDA)?

See F3 above

F5 *If the WDA is to mount an application, are internal and/or external resources available for this support?*

N/A

F5 *How can bidders add value by their track-record and approach to consulting the community?*

Case studies of successful planning applications for waste facilities show that effective consultation with the community is an important element in gaining approval. Bidders with a good track-record in this area will therefore stand a greater chance of obtaining planning permission with minimal delays.

Need more here

F6 How/when will the WDA establish whether the bidders intend to use the identified sites?

Bidders will be asked to indicate in their submission whether they intend to use the Council owned site or a site which they own or have an option on. One consideration of the evaluation will be the deliverability of planning permission on alternative sites and their planning policy status.

F7 If bidders offer their own sites, does the procurement programme provide adequate time for development and processing of corresponding planning applications on an equal basis as for the WDA's own offered sites?

Yes see above on EIA and planning approach.

F8 How will the WDA complete the acquisition of the sites?

N/A Reference site in Council ownership.