



MEETING: CABINET URGENT BUSINESS COMMITTEE
DATE: Thursday 11th March, 2010
TIME: 9.30 am
VENUE: Town Hall, Bootle

Member

Councillor

Robertson (Chair)
P Dowd
Parry

COMMITTEE OFFICER: Steve Pearce
Head of Committee and Member Services
Telephone: 0151 934 2046
Fax: 0151 934 2034
E-mail: steve.pearce@legal.sefton.gov.uk

The Cabinet is responsible for making what are known as Key Decisions, which will be notified on the Forward Plan. Items marked with an * on the agenda involve Key Decisions

A key decision, as defined in the Council's Constitution, is: -

- any Executive decision that is not in the Annual Revenue Budget and Capital Programme approved by the Council and which requires a gross budget expenditure, saving or virement of more than £100,000 or more than 2% of a Departmental budget, whichever is the greater
- any Executive decision where the outcome will have a significant impact on a significant number of people living or working in two or more Wards

If you have any special needs that may require arrangements to facilitate your attendance at this meeting, please contact the Committee Officer named above, who will endeavour to assist.

This page is intentionally left blank.

AGENDA

Items marked with an * involve key decisions

<u>Item No.</u>	<u>Subject/Author(s)</u>	<u>Wards Affected</u>
1.	Apologies for Absence	
2.	Declarations of Interest Members and Officers are requested to give notice of any personal or prejudicial interest and the nature of that interest, relating to any item on the agenda in accordance with the relevant Code of Conduct.	
3.	Minutes Minutes of the meeting held on 25 February 2010	(Pages 5 - 6)
* 4.	Lander Road Primary School, Bootle - Proposed Alterations and Extension Report of the Strategic Director - Communities	Ford; Linacre; Litherland; (Pages 7 - 10)
* 5.	Joint Waste Development Plan: Consultation on Preferred Options Report Report of the Planning and Economic Development Director	All Wards (Pages 11 - 26)

This page is intentionally left blank

THIS SET OF MINUTES IS NOT SUBJECT TO "CALL IN".

CABINET URGENT BUSINESS COMMITTEE

MEETING HELD AT THE TOWN HALL, BOOTLE ON THURSDAY 25TH FEBRUARY, 2010

PRESENT: Councillor Robertson (in the Chair)
Councillors P Dowd and Parry

16. APOLOGIES FOR ABSENCE

There were no apologies for absence.

17. DECLARATIONS OF INTEREST

No declarations of interest were received.

18. MINUTES

RESOLVED:

That the Minutes of the meeting of the Committee held on 21 January 2010, be confirmed as a correct record.

19. JOINT WASTE DEVELOPMENT PLAN - CONSULTATION ON PREFERRED OPTIONS REPORT

The Committee considered the report of the Planning and Economic Development Director which outlined the progress on the preparation of the joint Merseyside Waste Development Plan Document and sought approval and endorsement of the Preferred Options Report, which would include consultation on specific sites that had the potential to accommodate the additional waste management facilities that would be required in the future.

The report was submitted in accordance with a decision of City Region Cabinet that all the authorities participating in the preparation of the joint plan should receive a common report to explain and recommend approval of the Preferred Options Report.

The Overview and Scrutiny Committee (Regeneration and Environmental Services at its meeting held on 2 February 2010 (Minute No. 55) and the Planning Committee at its meeting held on 10 February 2010 (Minute No. 160) had considered a report on the Preferred Options Report and the recommendations of the two Committees were set out in the report.

The Planning and Economic Development Director reported on the consultations held with the Planning Inspectorate and Counsel on the soundness of the Waste Development Plan Document Preferred Options Report and upon the decisions taken by Knowsley, St. Helens, Wirral and

Agenda Item 3

CABINET URGENT BUSINESS COMMITTEE- THURSDAY 25TH
FEBRUARY, 2010

Halton Councils with regard to the Preferred Options Report. Liverpool City Council had still to take a decision on this issue.

RESOLVED: That

- (1) consideration of the recommendations in the report be deferred to enable the Planning and Economic Development Director to submit a report to the Overview and Scrutiny Committee (Regeneration and Environmental Services and Planning Committee on the consultations held with the Planning Inspectorate and Counsel on the soundness of the Waste Development Plan Document Preferred Options Report;
- (2) following the submission of the report to the two above mentioned Committees, a meeting of this Committee be convened to enable further consideration to be given to the action to be taken on the Waste Development Plan Document Preferred Options Report; and
- (3) it be noted that the Chair of the Overview and Scrutiny Committee (Performance and Corporate Services) had given his consent under Rule 17 of the Scrutiny Procedure Rules for these decisions to be treated as urgent and not subject to "call-in" on the basis that Knowsley, St. Helens, Wirral and Halton Councils have all taken a decision on the Preferred Options Report and only Sefton and Liverpool Councils are outstanding. The consultation will not commence until each participating Council has given authority.

Agenda Item 4

REPORT TO: Cabinet Urgent Business Committee

DATE: 11th March, 2010

SUBJECT: Lander Road Primary School, Bootle -
Proposed Alterations and Extension

WARDS AFFECTED: Litherland, Linacre and Derby

REPORT OF: Alan Moore
Strategic Director Communities

CONTACT OFFICER: David Kay
Architecture and Buildings Manager
Tel: 0151 934 4527

**EXEMPT/
CONFIDENTIAL:** No

PURPOSE/SUMMARY:

This report is to advise Members of tenders received in respect of the proposals to provide new and refurbished accommodation at Lander Road Primary School, Bootle as part of the Primary Capital Programme.

REASON WHY DECISION REQUIRED:

To enable acceptance of tenders and to thereby allow the timetable for implementation and expenditure to be met.

RECOMMENDATION(S):

It is recommended that:

- i) Cabinet approves funding in the Children's Services Capital programme sufficient to meet the total cost of this scheme. All funding will be provided from specific resources.
- ii) Subject to (i) above Cabinet approves acceptance of the lowest revised tender submitted.
- iii) Subject to (i) and (ii) above the Legal Director be requested to enter into a formal contract with the successful tenderer.

KEY DECISION: Yes

FORWARD PLAN: Yes

IMPLEMENTATION DATE: Immediately following expiry of the call in period

Agenda Item 4

ALTERNATIVE OPTIONS:

All alternative options have been considered and have been discounted.

IMPLICATIONS:

Budget/Policy Framework: Funding totalling £1,980,030 is currently included in Children's Services Capital Programme to address the proposals for Lander Road Primary School.

Financial: Tenders for the works will be received on 26th February 2010. Details of the tenders received and the overall financial implications will be reported to Members on the day of the meeting.

<u>CAPITAL EXPENDITURE</u>	2009/ 2010 £	2010/ 2011 £	2011/ 2012 £	2012/ 2013 £
Gross Increase in Capital Expenditure				
Funded by:				
Sefton Capital Resources				
Specific Capital Resources				
<u>REVENUE IMPLICATIONS</u>				
Gross Increase in Revenue Expenditure				
Funded by:				
Sefton funded Resources				
Funded from External Resources				
Does the External Funding have an expiry date? Y/N	N/A			
How will the service be funded post expiry?	N/A			

Agenda Item 4

Legal: Not appropriate

Risk Assessment: Not appropriate

Asset Management: Not Applicable

CONSULTATION UNDERTAKEN/VIEWS

The Children's Services Department have been consulted and any comments have been taken into account in preparing this report.

FD 337 - The Acting Finance and Information Services Director has been consulted and his comments have been incorporated into this report

CORPORATE OBJECTIVE MONITORING:

<u>Corporate Objective</u>		<u>Positive Impact</u>	<u>Neutral Impact</u>	<u>Negative Impact</u>
1	Creating a Learning Community	√		
2	Creating Safe Communities		√	
3	Jobs and Prosperity		√	
4	Improving Health and Well-Being	√		
5	Environmental Sustainability	√		
6	Creating Inclusive Communities	√		
7	Improving the Quality of Council Services and Strengthening local Democracy	√		
8	Children and Young People	√		

LIST OF BACKGROUND PAPERS RELIED UPON IN THE PREPARATION OF THIS REPORT

Children's Services Capital Programme

Agenda Item 4

1.0 BACKGROUND

- 1.1 The Primary Capital Strategy for Change funding allocation for 2009/10 of £3,618,029 is included in the Children's Services Capital Programme.
- 1.2 Funding is included within the total allocation to address the proposals for a major refurbishment/remodelling scheme with some new build elements at Lander Rd Primary School, Bootle. Additional funding is provided from the Modernisation programme and through the schools own resources.
- 1.3 The scheme proposals have been developed which extends and extensively refurbishes existing facilities to provide modern teaching accommodation. The proposals necessitate demolition of the adjacent community centre building.

2.0 TENDER ACTION

- 2.1 Tenders to carry out the works have been invited from suitably qualified and experienced contractors, as follows (in alphabetical order):

Walter Carefoot & Sons (Construction) ltd	Preston
E. J. Horrocks Ltd	Knowsley
ISG Regions Building Ltd.	Manchester
North Midland Construction	Sutton
ROK NW Ltd	Rochdale
Wiggett Construction Ltd	Oldham

- 2.2 Tenders will be received on the 9th March 2010. Details of the tenders received will be reported on the day of the meeting.
- 2.3 The tenders will be subject to technical and arithmetical checking and acceptance of the lowest tender will be subject to such checking.

3.0 FINANCIAL IMPLICATIONS

- 3.1 Funding totalling £1,980,030 is currently included in Children's Services Capital Programme to address the proposals or Lander Road Primary School.
- 3.2 The total financial implications of the scheme will be established following receipt of the tenders and will be reported on the day of the meeting.
- 3.3 Subject to the total scheme cost not exceeding the funding available Cabinet is requested to give consideration to accepting the lowest tender received.

4.0 RECOMMENDATIONS

It is recommended that:

- ii) Cabinet approves funding in the Children's Services Capital programme sufficient to meet the total cost of this scheme. All funding will be provided from specific resources.
- ii) Subject to (i) above Cabinet approves acceptance of the lowest revised tender submitted.
- iii) Subject to (i) and (ii) above the Legal Director be requested to enter into a formal contract with the successful tenderer.

Agenda Item 5

REPORT TO: Cabinet Urgent Business Committee

DATE: 11th March 2010

SUBJECT: Joint Waste Development Plan: Consultation on Preferred Options Report

WARDS AFFECTED: All

REPORT OF: Andy Wallis, Planning and Economic Regeneration Director

CONTACT OFFICER: Andy Wallis

EXEMPT/ CONFIDENTIAL: No

PURPOSE/SUMMARY:

Attached is the report to Overview & Scrutiny (Regeneration & Environmental Services) and Planning Committees which addresses issues of 'soundness' and consultations held with the Planning Inspectorate and Counsel as raised at the last meeting of the Cabinet Urgent Business Meeting on 25th February 2010. The comments of the Overview & Scrutiny (Regeneration & Environmental Services) and Planning Committees of 9th and 10th March will be reported verbally.

REASON WHY DECISION REQUIRED:

To address concerns raised by Cabinet Urgent Business Committee prior to proceeding with public consultation.

RECOMMENDATION(S):

- 1) That the consultation undertaken and proposed to take place with the Planning Inspectorate Service be noted.
- 2) That subject to further consideration by Cabinet Urgent Business Committee on action to be taken, the commencement of a six-week public consultation process on the Waste DPD Preferred Options report during 2010 be agreed.
- 3) It be noted that the Chair of the Overview and Scrutiny Committee (Performance and Corporate Services) has being requested to waive the call-in period in accordance with Rule 17 of the Scrutiny Procedure Rules

Agenda Item 5

KEY DECISION: Yes

FORWARD PLAN: Yes

IMPLEMENTATION DATE: The Chair of the Overview and Scrutiny Committee (Performance and Corporate Services) has being requested to waive the call-in period in accordance with Rule 17 of the Scrutiny Procedure Rules

ALTERNATIVE OPTIONS: A delay in the proposed timetable could potentially result in a deferring of consultation until after the May elections. This would have an impact on Adoption of the Development Plan and result in additional costs arising from retention of the Waste team within MEAS. It may also cause further uncertainty within the waste industry.

IMPLICATIONS:

Budget/Policy Framework:

Financial:

	2009 2010 £	2010/ 2011 £	2011/ 2012 £	2012/ 2013 £
<u>CAPITAL EXPENDITURE</u>				
Gross Increase in Capital Expenditure				
Funded by:				
Sefton Capital Resources				
Specific Capital Resources				
<u>REVENUE IMPLICATIONS</u>				
Gross Increase in Revenue Expenditure				
Funded by:				
Sefton funded Resources				
Funded from External Resources				
Does the External Funding have an expiry date? Y/N	When?			
How will the service be funded post expiry?				

Legal:

Risk Assessment:

Asset Management:

CONSULTATION UNDERTAKEN/VIEWS

CORPORATE OBJECTIVE MONITORING:

<u>Corporate Objective</u>		<u>Positive Impact</u>	<u>Neutral Impact</u>	<u>Negative Impact</u>
1	Creating a Learning Community		✓	
2	Creating Safe Communities		✓	
3	Jobs and Prosperity	✓		
4	Improving Health and Well-Being	✓		
5	Environmental Sustainability	✓		
6	Creating Inclusive Communities		✓	
7	Improving the Quality of Council Services and Strengthening local Democracy		✓	
8	Children and Young People		✓	

LIST OF BACKGROUND PAPERS RELIED UPON IN THE PREPARATION OF THIS REPORT

Agenda Item 5

1. Background

1.1 At the Cabinet Urgent Business meeting of 25th February it was resolved that:

- (1) consideration of the recommendations in the report be deferred to enable the Planning and Economic Development Director to submit a report to the Overview and Scrutiny Committee (Regeneration and Environmental Services and Planning Committee on the consultations held with the Planning Inspectorate and Counsel on the soundness of the Waste Development Plan Document Preferred Options Report;
- (2) following the submission of the report to the two above mentioned Committees, a meeting of this Committee be convened to enable further consideration to be given to the action to be taken on the Waste Development Plan Document Preferred Options Report; and
- (3) it be noted that the Chair of the Overview and Scrutiny Committee (Performance and Corporate Services) had given his consent under Rule 17 of the Scrutiny Procedure Rules for these decisions to be treated as urgent and not subject to “call-in” on the basis that Knowsley, St. Helens, Wirral and Halton Councils have all taken a decision on the Preferred Options Report and only Sefton and Liverpool Councils are outstanding. The consultation will not commence until each participating Council has given authority.

1.2 This report addresses the first of those recommendations

2. Soundness

2.1 Planning Policy Statement 12 states that a plan forming a part of the Local Development Framework must be ‘sound’. To be sound any part of the LDF, including a Development Plan Document, should be justified, effective and consistent with national policy. It goes on to state that justified means that the document must be founded on a robust and credible evidence base and be the most appropriate strategy when considered against the reasonable alternatives. Effective means that the document must be deliverable, flexible and able to be monitored. It falls to the Planning Inspectorate Service (PINS) to establish this. In practice this happens through two mechanisms:

- Liaison with PINS.
- The Examination in Public process.

2.2 In anticipation of the scrutiny of the Waste DPD through the Examination In Public process early advice has been sought from Counsel on a range of related issues including evidence base, blight and interpretation of Government planning policy statements but not specifically soundness. Counsel opinion was helpful in informing the Waste DPD process and has been taken into account in preparation of the Preferred Options Report.

3. Consultations with PINS

3.1 From the outset of the process in 2006 the Waste Development Plan Document Team in Merseyside Environmental Advisory Service has engaged with PINS and GONW at every appropriate opportunity to ensure the emerging spatial policies on waste in Merseyside and Halton meet the key tests of soundness described above. In addition, as advised by GONW, the Waste DPD has been subject to scrutiny by 'critical friends' recommended by the Planning Officers Society.

3.2 Apart from regular correspondence and informal contacts two particular events are of note:

- During 2007 and 2008, the robustness of the approach to the WDPD formed part of a Government-led review into joint waste plans in Metropolitan and Unitary Authorities. This resulted in the preparation of a joint guidance note by Planning Officers Society and Greater Manchester Geological Unit (March 2008).
- In parallel with the Art of the Possible exercise with the MWDA, a meeting took place with PINS to address issues of soundness. It specifically considered the issues associated with Energy From Waste (EFW) for municipal solid waste and how the Waste DPD could respond in policy and site terms. In doing this PINS were advised of the evidence base for the DPD and the interpretation of it by the Waste DPD Team. PINS was satisfied with the evidence collected and the proposed approach but advised, amongst other matters, that sites should not be included in the DPD if they were not deliverable. This would include sites where owners' consent could not be obtained or where there would be LPA objection. To proceed on that basis would expose the Waste DPD to subsequent soundness risk.

3.3 After this meeting GONW convened a separate meeting with MWDA to share the main messages from that important discussion with PINS.

Agenda Item 5

- 3.4 In addition, in October 2009 the Waste DPD team sought procedural guidance from PINS. Amongst other matters, PINS advised on the matters of certainty and deliverability in terms of funding. If information on costs and funding is not publicly available then it cannot form part of the DPD. This has direct relevance for the PFI and how the Waste DPD is able to refer to costs associated with that procurement process. PINS also advised that the DPD must demonstrate that sites are suitable, available and deliverable. This has important implications for MWDA contingency EFW sites such as Crabtree Rough and Butler's Farm.
- 3.5 Clearly any advice offered by PINS prior to Examination In Public is without prejudice to that process.
- 3.6 Subject to acceptance by the Districts, the Preferred Options Report will be subject to consultation as required by Government policy. During that period after commitment to consultation by the districts it is standard practice to invite PINS to further assess the robustness of the process. Discussion is currently taking place via GONW to agree a date for this PINS 'front-loading' visit. PINS do not encourage requests to comment on emerging DPDs before the Preferred Options consultation has taken place.
- 3.7 Assuming the consultation commences shortly, the front loading visit may take place in late March / April. The outcome would be reported to all participating Districts.
- 3.8 The whole purpose of the public consultation exercise on Preferred Options is to subject the Waste DPD to critical examination by all relevant parties. As a consequence of that consultation all the comments received will be analysed and reported to Members for approval. Given statutory responsibilities of the MWDA and their known concerns, the Waste DPD team will give very detailed consideration to any comments received.
- 3.9 Any revisions are then incorporated into the Waste DPD. The final DPD is then submitted to the Secretary of State following approval by the Districts.

4. Examination Hearing

- 4.1 The Secretary of State will appoint PINS to hold an Examination Hearing to test the soundness of the Waste DPD. Objectors (and supporters) have the right of attendance at the Examination Hearing and pre-examination meeting. The Examination Hearing is likely to take place in 2011 and is the opportunity for formal appraisal of the plan's soundness. However, throughout the Waste DPD preparation process advice has been sought on this matter.

5. Evidence Base

- 5.1 A key to soundness is the quality and relevance of the evidence base. A comprehensive evidence base has been assembled by the Waste DPD team and by independent consultants. This was initially made publicly available at the Issues and Options stage in March 2007 and a second time at the Spatial Strategy and Sites stage in November 2008. The MWDA did not object to the evidence base at either point. MWDA did welcome the Spatial Strategy and Sites Report, support the resource recovery led strategy and re-stated its site requirement for two residual waste treatment facilities.
- 5.2 In preparation for Preferred Options Report the evidence base has been updated and developed further. Since the Spatial Strategy and Sites stage new facilities have been consented including four Energy from Wastes sites in Merseyside and Halton (Energos in Knowlsey, Ineos Chlor and Granox in Halton, and Biossense in Wirral) and a fifth in Cheshire (Ince Marshes). Two of these facilities are regionally if not nationally significant. These new consents together potentially provide three times the required EFW capacity to meet the identified needs of the area and have therefore been reflected in the need for new facilities in Merseyside and Halton. Detailed dialogue has continued with the holders of the consents during this period and whilst this capacity cannot be guaranteed good progress is being made in bringing some of this capacity on line.
- 5.3 In September 2009 the evidence base was also subject to a further independent quality assurance check by Consultants Griffin Hill, who are used by the Regional Technical Advisory Body in these matters, in advance of developing policies, including EFW and consented capacity.
- 5.4 The whole evidence base will also be available for scrutiny during the Preferred Options consultation and will continue to be updated on the basis of new consents and the availability of those consents to Merseyside and Halton.

6. Conclusions

- 6.1 Notwithstanding the concerns raised by MWDA, on the basis of the information provided on consultation with PINS, officers are confident that the DPD is justified and effective and therefore sound. The concerns of the MWDA and those which may be raised by others through consultation will be reported to Members, and discussed with PINS and GONW. Unresolved objections will then be placed before the Inspector at the Examination Hearing. On this basis Members are recommended to agree to proceed to public consultation.

Agenda Item 5

7. Recommendations

- 7.1 That the consultation undertaken and proposed to take place with the Planning Inspectorate Service be noted.
- 7.2 That subject to further consideration by Cabinet Urgent Business Committee on action to be taken, the commencement of a six-week public consultation process on the Waste DPD Preferred Options report during 2010 be agreed.
- 7.3 It be noted that the Chair of the Overview and Scrutiny Committee (Performance and Corporate Services) has being requested to waive the call-in period in accordance with Rule 17 of the Scrutiny Procedure Rules

APPENDIX

REPORT TO: Overview and Scrutiny Committee (Regeneration and Environmental Services)
Planning Committee

DATE: 9th March 2010
10th March 2010

SUBJECT: Joint Waste Development Plan: Consultation on Preferred Options Report

WARDS AFFECTED: All

REPORT OF: Andy Wallis, Planning and Economic Development Director

CONTACT OFFICER: Andy Wallis

EXEMPT/ CONFIDENTIAL: No

PURPOSE/SUMMARY:

Further to consideration of the Joint Waste Development Plan: Consultation on Preferred Options Report at the Cabinet Urgent Business Committee on 25th February to report on the consultations held with the Planning Inspectorate and Counsel on the soundness of that document.

REASON WHY DECISION REQUIRED:

To address concerns raised by Cabinet Urgent Business Committee prior to proceeding with public consultation.

RECOMMENDATION(S):

That the consultation undertaken and proposed to take place with the Planning Inspectorate Service be noted.

That subject to further consideration by Cabinet Urgent Business Committee on action to be taken, the commencement of a six-week public consultation process on the Waste DPD Preferred Options report during 2010 be agreed.

KEY DECISION: Yes

Agenda Item 5

APPENDIX

FORWARD PLAN: Yes

IMPLEMENTATION DATE: Ongoing

ALTERNATIVE OPTIONS: A delay in the proposed timetable could potentially result in a deferring of consultation until after the May elections. This would have an impact on Adoption of the Development Plan and result in additional costs arising from retention of the Waste team within MEAS. It may also cause further uncertainty within the waste industry.

IMPLICATIONS:

Budget/Policy Framework:

Financial:

<u>CAPITAL EXPENDITURE</u>	2009 2010 £	2010/ 2011 £	2011/ 2012 £	2012/ 2013 £
Gross Increase in Capital Expenditure				
Funded by:				
Sefton Capital Resources				
Specific Capital Resources				
<u>REVENUE IMPLICATIONS</u>				
Gross Increase in Revenue Expenditure				
Funded by:				
Sefton funded Resources				
Funded from External Resources				
Does the External Funding have an expiry date? Y/N	When?			
How will the service be funded post expiry?				

Legal:

Risk Assessment:

Asset Management:

APPENDIX

CONSULTATION UNDERTAKEN/VIEWS

CORPORATE OBJECTIVE MONITORING:

<u>Corporate Objective</u>		<u>Positive Impact</u>	<u>Neutral Impact</u>	<u>Negative Impact</u>
1	Creating a Learning Community		✓	
2	Creating Safe Communities		✓	
3	Jobs and Prosperity	✓		
4	Improving Health and Well-Being	✓		
5	Environmental Sustainability	✓		
6	Creating Inclusive Communities		✓	
7	Improving the Quality of Council Services and Strengthening local Democracy		✓	
8	Children and Young People		✓	

LIST OF BACKGROUND PAPERS RELIED UPON IN THE PREPARATION OF THIS REPORT

Agenda Item 5

APPENDIX

1. Background

1.1 At the Cabinet Urgent Business meeting of 25th February it was resolved that:

- (1) consideration of the recommendations in the report be deferred to enable the Planning and Economic Development Director to submit a report to the Overview and Scrutiny Committee (Regeneration and Environmental Services and Planning Committee on the consultations held with the Planning Inspectorate and Counsel on the soundness of the Waste Development Plan Document Preferred Options Report;
- (2) following the submission of the report to the two above mentioned Committees, a meeting of this Committee be convened to enable further consideration to be given to the action to be taken on the Waste Development Plan Document Preferred Options Report; and
- (3) it be noted that the Chair of the Overview and Scrutiny Committee (Performance and Corporate Services) had given his consent under Rule 17 of the Scrutiny Procedure Rules for these decisions to be treated as urgent and not subject to “call-in” on the basis that Knowsley, St. Helens, Wirral and Halton Councils have all taken a decision on the Preferred Options Report and only Sefton and Liverpool Councils are outstanding. The consultation will not commence until each participating Council has given authority.

1.2 This report addresses the first of those recommendations

2. Soundness

2.1 Planning Policy Statement 12 states that a plan forming a part of the Local Development Framework must be ‘sound’. To be sound any part of the LDF, including a Development Plan Document, should be justified, effective and consistent with national policy. It goes on to state that justified means that the document must be founded on a robust and credible evidence base and be the most appropriate strategy when considered against the reasonable alternatives. Effective means that the document must be deliverable, flexible and able to be monitored. It falls to the Planning Inspectorate Service (PINS) to establish this. In practice this happens through two mechanisms:

- Liaison with PINS.
- The Examination in Public process.

2.2 In anticipation of the scrutiny of the Waste DPD through the Examination In Public process early advice has been sought from Counsel on a range of related issues including evidence base, blight and interpretation of Government planning policy statements but not specifically soundness. Counsel opinion was helpful in informing the Waste DPD process and has been taken into account in preparation of the Preferred Options Report.

APPENDIX

3. Consultations with PINS

- 3.1 From the outset of the process in 2006 the Waste Development Plan Document Team in Merseyside Environmental Advisory Service has engaged with PINS and GONW at every appropriate opportunity to ensure the emerging spatial policies on waste in Merseyside and Halton meet the key tests of soundness described above. In addition, as advised by GONW, the Waste DPD has been subject to scrutiny by 'critical friends' recommended by the Planning Officers Society.
- 3.2 Apart from regular correspondence and informal contacts two particular events are of note:
- During 2007 and 2008, the robustness of the approach to the WDPD formed part of a Government-led review into joint waste plans in Metropolitan and Unitary Authorities. This resulted in the preparation of a joint guidance note by Planning Officers Society and Greater Manchester Geological Unit (March 2008).
 - In parallel with the Art of the Possible exercise with the MWDA, a meeting took place with PINS to address issues of soundness. It specifically considered the issues associated with Energy From Waste (EFW) for municipal solid waste and how the Waste DPD could respond in policy and site terms. In doing this PINS were advised of the evidence base for the DPD and the interpretation of it by the Waste DPD Team. PINS was satisfied with the evidence collected and the proposed approach but advised, amongst other matters, that sites should not be included in the DPD if they were not deliverable. This would include sites where owners' consent could not be obtained or where there would be LPA objection. To proceed on that basis would expose the Waste DPD to subsequent soundness risk.
- 3.3 After this meeting GONW convened a separate meeting with MWDA to share the main messages from that important discussion with PINS.
- 3.4 In addition, in October 2009 the Waste DPD team sought procedural guidance from PINS. Amongst other matters, PINS advised on the matters of certainty and deliverability in terms of funding. If information on costs and funding is not publicly available then it cannot form part of the DPD. This has direct relevance for the PFI and how the Waste DPD is able to refer to costs associated with that procurement process. PINS also advised that the DPD must demonstrate that sites are suitable, available and deliverable. This has important implications for MWDA contingency EFW sites such as Crabtree Rough and Butler's Farm.
- 3.5 Clearly any advice offered by PINS prior to Examination In Public is without prejudice to that process.
- 3.6 Subject to acceptance by the Districts, the Preferred Options Report will be subject to consultation as required by Government policy. During that period

Agenda Item 5

APPENDIX

after commitment to consultation by the districts it is standard practice to invite PINS to further assess the robustness of the process. Discussion is currently taking place via GONW to agree a date for this PINS 'front-loading' visit. PINS do not encourage requests to comment on emerging DPDs before the Preferred Options consultation has taken place.

- 3.7 Assuming the consultation commences shortly, the front loading visit may take place in late March / April. The outcome would be reported to all participating Districts.
- 3.8 The whole purpose of the public consultation exercise on Preferred Options is to subject the Waste DPD to critical examination by all relevant parties. As a consequence of that consultation all the comments received will be analysed and reported to Members for approval. Given statutory responsibilities of the MWDA and their known concerns, the Waste DPD team will give very detailed consideration to any comments received.
- 3.9 Any revisions are then incorporated into the Waste DPD. The final DPD is then submitted to the Secretary of State following approval by the Districts.

4. Examination Hearing

- 4.1 The Secretary of State will appoint PINS to hold an Examination Hearing to test the soundness of the Waste DPD. Objectors (and supporters) have the right of attendance at the Examination Hearing and pre-examination meeting. The Examination Hearing is likely to take place in 2011 and is the opportunity for formal appraisal of the plan's soundness. However, throughout the Waste DPD preparation process advice has been sought on this matter.

5. Evidence Base

- 5.1 A key to soundness is the quality and relevance of the evidence base. A comprehensive evidence base has been assembled by the Waste DPD team and by independent consultants. This was initially made publicly available at the Issues and Options stage in March 2007 and a second time at the Spatial Strategy and Sites stage in November 2008. The MWDA did not object to the evidence base at either point. MWDA did welcome the Spatial Strategy and Sites Report, support the resource recovery led strategy and re-stated its site requirement for two residual waste treatment facilities.
- 5.2 In preparation for Preferred Options Report the evidence base has been updated and developed further. Since the Spatial Strategy and Sites stage new facilities have been consented including four Energy from Wastes sites in Merseyside and Halton (Energos in Knowlsey, Ineos Chlor and Granox in Halton, and Biossense in Wirral) and a fifth in Cheshire (Ince Marshes). Two of these facilities are regionally if not nationally significant. These new consents together potentially provide three times the required EFW capacity to meet the identified needs of the area and have therefore been reflected in the need for new facilities in Merseyside and Halton. Detailed dialogue has continued with the holders of the

APPENDIX

consents during this period and whilst this capacity cannot be guaranteed good progress is being made in bringing some of this capacity on line.

- 5.3 In September 2009 the evidence base was also subject to a further independent quality assurance check by Consultants Griffin Hill, who are used by the Regional Technical Advisory Body in these matters, in advance of developing policies, including EFW and consented capacity.
- 5.4 The whole evidence base will also be available for scrutiny during the Preferred Options consultation and will continue to be updated on the basis of new consents and the availability of those consents to Merseyside and Halton.

6. Conclusions

- 6.1 Notwithstanding the concerns raised by MWDA, on the basis of the information provided on consultation with PINS, officers are confident that the DPD is justified and effective and therefore sound. The concerns of the MWDA and those which may be raised by others through consultation will be reported to Members, and discussed with PINS and GONW. Unresolved objections will then be placed before the Inspector at the Examination Hearing. On this basis Members are recommended to agree to proceed to public consultation.

7. Recommendations

- 7.1 That the consultation undertaken and proposed to take place with the Planning Inspectorate Service be noted.
- 7.2 That subject to further consideration by Cabinet Urgent Business Committee on action to be taken, the commencement of a six-week public consultation process on the Waste DPD Preferred Options report during 2010 be agreed.

This page is intentionally left blank