

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

KEY DECISION: Yes

FORWARD PLAN: Yes

IMPLEMENTATION DATE: The Chair of the Overview and Scrutiny Committee (Performance and Corporate Services) has been 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

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.

- 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.

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