

Minutes

Overview and Scrutiny Committee

16th September 2009



Councillors	Present	Councillors	Present
J. Baugh	Yes	A. M. Meyer	Apologies
G. Cohen	Yes	R. Ramage	Yes
M. Dunn	Yes	D. E. A. Rice	Yes
Dr. R. L. Evans	Apologies	A. F. Shelton	Yes
M. Gage (Chairman)	Yes	Mrs. J. Smith	Yes
J. E. B. Gyford	Yes	F. Swallow	Apologies

The following Councillors were also in attendance to hear the presentation from Paul Frith, Frith Resource Management Ltd in respect of item 5 of the Agenda.

Cllr. P. Hughes
Cllr. R. Mitchell
Cllr. Mrs. J. Money
Cllr. J. O'Reilly-Cicconi
Cllr. Mrs. W. Scattergood

(Cllrs. J. Abbott and R. Walters submitted apologies as they had had originally intended to be present, but were unable to do so due to other engagements).

23. DECLARATIONS OF INTEREST

Cllr. Baugh declared a personal interest in item 5 of the Agenda concerning the Scrutiny of the Municipal Waste Strategy for Essex as he is a member of Essex County Council.

24. MINUTES

DECISION: That the minutes of the meeting of the Overview and Scrutiny Committee held on 22nd July 2009 be approved as a correct record and signed by the Chairman.

25. QUESTION TIME

INFORMATION: There were no questions asked or statements made.

26. SCRUTINY OF THE MUNICIPAL WASTE STRATEGY FOR ESSEX – MECHANICAL BIOLOGICAL TREATMENT PLANTS (MBTs) AND PRIVATE FINANCE INITIATIVE (PFI)

Cllr. Gage the Chairman welcomed those visiting members to the Committee who had attended for this specific item.

He then welcomed and introduced Paul Frith of Frith Resource Management who had

been commissioned by the Committee to provide a critical assessment of the information that had been provided by County Council officers at the meeting of the Committee held on 28/1/09.

Paul Frith then gave a slide presentation giving his independent view on the following:-

- * Mechanical Biological Treatment
- * Private Finance Initiative
- * Comment on the Scrutiny debate on 28/1/09
- * Concluding comments

A copy of the slides are appended to these minutes.

There then followed a question and answer session as follows:-

Question from Cllr. J. Gyford

Why don't the percentages in the comparison between the Ecodeco and the reference project add up to a hundred?

Answer by Paul Frith

Because the balance is moisture that is driven off as a result of the biological process. You will lose about 15% to 20% as moisture and carbon dioxide during the composting process and that is why you will never get 100% out compared to what goes in.

Question from Cllr. M. Dunn

You said that 37 waste PFIs had been approved. Have they all been approved in the last few years, and how successful have they been?

Answer by Paul Frith

They have been approved over the past 5 to 7 years. Whether they have worked or not is partly down to the technologies that have been chosen. There have been some high profile ones that have not worked – Hereford and Worcester, for example, because they did not get planning permission for the plant prior to contract award, and therefore the facility was never built. They have now secured planning permission, but the technology that they propose to use is not bankable.

There are a number of plants and facilities that have been built and working successfully such as the East London facility at Frog Island, Rainham.

Question from Cllr. G Cohen

Approximate calculations seem to indicate that you can convert the waste through solid recovered fuel (SRF) into energy, there is potentially several million pounds worth per annum of energy. Is that then for the benefit of the contractor entirely or does the client also benefit?

Answer by Paul Frith

You still normally have to pay to get rid of the fuel. The only two places at the moment that take SRF are cement kilns and dedicated waste plants. The latter charges a gate fee. Cement kilns charge for accepting waste, because there is a disposal cost for that material and they also have to conform with more stringent emission controls than they would otherwise have to do. There is an investment issue associated with that, and cement kilns also tend to blend the SRF with other fuels in order to use it.

Question from Cllr. G. Cohen

These are long term contracts of 20 to 30 years, people say that there may be problems with electricity generation a few years from now. It seems that incinerating waste as a means of electricity generation will come about so are things likely to change?

Answer by Paul Frith

There are a number of ways in which you can generate electricity or provide a substitute fuel from the waste - one of these is anaerobic digestion. In this process you essentially rot the waste in a sealed vessel, and the methane and the carbon dioxide which is driven off gives you a bio gas which is put into a gas engine to generate electricity. A more efficient way that is currently being developed is to inject the bio gas straight into the national grid.

An alternative way to generate electricity would be through an incinerator which uses an advanced treatment process like gasification or pyrolysis (which is similar to incineration, but smaller scale and better emissions although generally more risky).

The other option would be to be to inject the substitute fuel into a coal fired power station. At the moment the regulations are a barrier to that because of the fact that there will be plastics and other materials in there which when combusted could have noxious emissions. This means that the whole power station would need to have to have more advanced gas cleanup mechanisms than it would currently have, and that has been prohibitive to power stations in taking this proposal forward.

Question by Cllr. J. Baugh

Have there been problems in under capacity or over capacity with MBT plants?

Answer by Paul Frith

Capacity can be an issue, because you are looking at such long term timescales. The last thing you want is undersupply and to be in a situation where you have underestimated your waste and you do not have sufficient capacity. If you have a lot of landfill capacity then it does give you some backup for that eventuality. In making projections 20 years ahead a basic assumption has to be made about waste growth and that will have a very big bearing on the size of your facility. When the facility is built you will have this excess of capacity initially to cope for future waste growth. MBT plants offer a greater degree of flexibility than energy from waste and incinerator plants. With MBTs you can effectively scale up the operation as your waste increases. Initially, you could have the mechanical sorting element working on a two shift system with three compost tunnels, and then, as waste growth develops, you can go to a three shift system on the mechanical sorting element and add a fourth compost tunnel. There is therefore some flexibility, technically, in dealing with the amount of waste.

On energy from waste plants, they have started to develop more strategic facilities. Some facilities have expanded 10 years on to deal either with wider waste streams such as commercial and industrial or other municipal waste that is imported into the facility. However, this will be dependant on what planning restrictions apply. Facilities can be more strategic regional facilities or stay local.

Question from Cllr. D. Rice

Can you give us an example of a facility where there is not only municipal waste, but also commercial and industrial waste as well to give this authority an idea of whether it is workable. I believe that third party waste could exceed municipal waste. My concern is also that once the facility is built there will be a propensity to process third party waste to make it viable?

Answer from Paul Frith

In terms of MBT plants there are not that many at the moment in the UK and most plants are energy from waste facilities.

Most of the energy from waste plants (eg Coventry and Nottingham) process an element of commercial and industrial waste.

The older generation of plants are locked into quite low gate fees with the local authority – approximately £30 to £40 per tonne. These facilities are therefore trying to import more waste because they can charge £50 to £70 per tonne. Generally, the plants are dealing with 80% municipal and 20% commercial and industrial.

Question from Cllr. M. Gage

You have seen what we have done in carrying out our scrutiny study in that we have received a presentation from Essex County Council Officers and have visited an MBT plant, and have received your independent presentation tonight.

How do you feel about the way we have tackled this particular study?

Answer from Paul Frith

I feel that you have examined the subject in greater depth than most authorities would do. Most of my contact has been with waste disposal authorities as opposed to waste collection authorities. However, I can appreciate that the proposed waste disposal facility at Rivenhall would attract a lot of public interest in relation to its size and impact particularly as regards the transportation aspects.

Question from Cllr. R. Mitchell

As regards the SRF risk to the client, do you mean that the Essex County Council could potentially end up with the problem of disposing of the supply of SRF?

Answer from Paul Frith

That is my reading of it. In my experience these things are normally 'boxed off' in that it's a residual treatment and disposal contract. You pass the waste over and it's dealt with in accordance with your output specification. I presume that the reason why the disposal

element has not been included is because of the bankability risk. Perhaps it is entirely unfundable at this point in time with the SRF included. I presume that is why the reference project is based around just producing the material and not having a market for it to go to, and that that will be left subsequently, and that's where I see the risk passing to the client.

You have to specify the quality of the material that comes out as SRF. This is based on two things – firstly, the composition of the waste going in to the plant – secondly, the nature of the process that it goes through. If the SRF does not meet that specification and that causes a problem for whatever market you are sending it to – is that risk going to lie with the County Council as client? It may well do because the contractor could say that the reason it is like that is because the composition is not the same as you said it would be. You could end up with a situation where there is a risk there. Secondly, you could find problems with getting markets for the fuel even if it is produced to the correct specification. The risk again lies with the client. If you award the contract to someone, they produce the waste in accordance with the specification, but no one wants it so it goes into landfill.

Energy does have an increasing value so perhaps some of these barriers would be removed over time. Whilst the liability currently lies with the client – in two to three years time when the contract is actually let the SRF may well have a value that you can utilise.

The risk cuts both ways.

Question by Cllr. Mitchell

Do you foresee that the modern coal burner type power stations with advanced scrubbers are more likely to be able to use SRF?

Answer from Paul Frith

There is a directive being introduced called the Large Combustion Plant Directive which means that a lot of the older generation of coal fired power stations are not going to meet the emissions standard required. So, there is the potential for future development in this area. I understand power companies are keeping an open mind, but they are not committing themselves at the present time.

There could, perhaps, be a scenario where power stations do develop in such a way that they are able to accept SRF in the future.

Question by Cllr. R. Mitchell

As I understood the position, the reference case was working towards MBT and anaerobic digestion (similar to the Leicester plant) where the anaerobic digestion is separate to the MBT part of the facility, but the SRF is effectively an 'add on' to that?

Answer from Paul Frith

The reference project indicates that 48% would go to landfill, but that would be material that would have passed through the anaerobic digestion process so there would be some energy that would come out of that. The SRF was 25% of the waste. The issue there is the viability or the levels of biodegradable municipal waste (BMW) that is left in those waste streams, and how that matches with the Districts recycling diversion of waste from

the household waste stream to see whether you actually meet the landfill diversion targets. Assuming you do not get a market for SRF, for example. At the Leicester MBT plant, the SRF fraction is essentially the paper, card large fraction and the light fraction such as plastic film – those sorts of materials bundled together in bales which are sent off to cement kiln works. If that is going into landfill all the paper type fractions will be 100% BMW and the plastic zero BMW. It depends how that will all play out in the mix of landfill allowances.

Question by Cllr. R. Mitchell

You mentioned in your concluding comments that the location and capacity of plant are uncertain at this stage, but could include an energy recovery plant (>80Ktpa) to be co-located at an MBT site or elsewhere within the county as part of a subsequent procurement. One of the biggest problems that we have in this District is about what is being proposed through the latest planning application for the Rivenhall site and the number of 'add ons' that are being proposed?

Answer from Paul Frith

I am not aware of the local situation. The reason why I said that there were over 80,000 tonnes was that it was just based on the amount of SRF that you would generate from the reference project (Essex Waste). Over 80,000 – if there was a dedicated burner for that SRF fuel. It is the sort of approach that has been taken on the Isle of Wight. There are some bespoke technologies which deal with a small amount of SRF.

Question from Cllr. J. O'Reilly-Cicconi

Which is the best method of disposing of municipal waste in the most environmental manner world wide?

Answer from Paul Frith

It depends on markets. If you could do what you liked with the waste and the markets were there and the money was available, then there is quite an interesting technology which involves a heat treatment process which is basically pressure cooking the waste. You cook the waste for approximately an hour at about 140°C – the cans and the plastics all come out very clean and you can extract those materials for recycling and it's the best way to extract more recyclables from the waste. You are left with the organic material which comes out as a mushy fibre which can be refined and used as an organic bio-mass fuel. There are however a lot of issues in getting funds for this type of plant.

Question from Cllr. A. Shelton

Have we got lessons to learn still from those plants that have been long established in Europe?

Answer from Paul Frith

We are looking at countries that have had polices, similar to the Landfill Directive, in place much earlier so that they have progressed further.

The Netherlands has never been able to undertake much landfilling because of problems with drainage issues so they have been looking at alternatives for quite a while. They

have implemented a lot of energy from waste facilities and also MBTs and anaerobic digestion as well. In terms of the types of technologies in the reference project, it's based more on German technologies. There is a lot of plant in Germany which have this sort of approach, because they have had bans on putting bio-degradable waste into landfill. Germany has had quite a lot of problems with an overcapacity of SRF which had to be stored in warehouses because they did not have the facilities to burn it.

There are basically three approaches with MBT which have been successful. Firstly, the Leicester type plant where you have anaerobic digestion so you are getting some energy out of the waste, and then you landfill the residue. Secondly, where you dry the waste out (eg the MBT plant at Frog Island, Rainham) as a fuel, but you need to have a market for that. A third approach is where you have composting again to put the waste into landfill, but it does not have so many environmental merits as you do not get anything back from it.

Cllr. R. Ramage

When is the EU Landfill Directive due to come into effect?

What is the timescale for building an MBT plant from grant of planning permission to completing the facility?

How crucial is the element of funding?

Answer from Paul Frith

The EU Landfill Directive is already in place and the targets are already with us and will have a major impact between 2009/10 and 2012/13. You will only get fined if you landfill more than you should and you cannot purchase permits/allowances from any other local authority. The fine is £150 per tonne. If the UK fails to meet its obligations and consequently gets fined then that fine will be distributed amongst those authorities that failed to meet their obligations.

Typically the timescale for building an MBT plant following grant of planning permission is 3 to 4 years. It is a quicker timescale than energy from fuel plants.

Funding is a crucial issue. Norfolk changed their reference project from MBT to energy from waste, because of the issue of bankability. The change in the economic climate has meant that the costs associated with MBT were escalating, because of the costs in obtaining the finance. The energy from waste approach avoids the risk issue of the SRF.

At the end of the session, the Chairman thanked Paul Frith for his very knowledgeable, balanced and enlightening presentation.

The visiting members left the meeting at this point.

In discussing the Committee's scrutiny of the municipal waste strategy for Essex there was a general consensus that the presentation from Paul Frith had been very worthwhile, and had provided a great deal of useful information.

At the last meeting of the Committee, members had agreed to seek feedback from one of

the East London Authorities that was served by the MBT at Frog Island, Rainham that had been visited by Members on 20th July 2009. A letter dated 10/9/09 was circulated to members from the Divisional Director of Environmental and Enforcement Services, London Borough of Barking and Dagenham. The Committee noted that Barking and Dagenham had no issues regarding the use of the MBT facility. The refuse collection vehicles turn around time at the plant was very good. Barking and Dagenham was also allowed to count the back end recycling materials such as metals, glass and compost fines towards its recycling targets. This had contributed to an improvement in Barking and Dagenham's recycling rates, from 15% (prior to the MBT plant) to 33% as at August 2009.

The Committee's study on the Municipal Waste Strategy for Essex was now concluded.

27. SCRUTINISING THE CRIME AND DISORDER REDUCTION PARTNERSHIP (POLICE AND JUSTICE ACT 2006)

The Scrutiny Manager presented a report concerning new powers for scrutinising Crime and Disorder Reduction Partnerships (CDRPs) which came into force on 30/4/09. However, the statutory guidance was not issued until July.

Each Council has an element of local discretion to determine how it wants to tackle CDRP scrutiny within the guidelines laid down.

The essential elements are as follows:-

- * Every Council is required to designate an Overview and Scrutiny Committee to scrutinise how the CDRP Partnership Members are discharging their crime and disorder functions, and the Committee has to meet at least once a year. The Committee does not have to be a new O and S Committee or sub-committee – it can be the existing O and S Committee;
- * That Committee:-
 - (i) can require information to be provided by CDRP partners, and it can require partners to attend meetings of the Committee;
 - (ii) can require partners to respond to reports and 'have regard' to recommendations that it makes;
 - (iii) will be responsible for considering Councillor Calls for Action in respect of crime and disorder matters.

It was noted that if the existing O and S Committee was designated as the responsible Committee it would ensure that all Councillor Calls for Action for both crime and disorder issues and other local government matters were dealt with by one Committee.

It was also noted that the guidance suggests that the CDRP Partnership and the Committee may wish to establish protocols setting out how the various arrangements will work in practice.

In considering the proposed amendments to the Constitution, Article 6.02 (b) I) is to be

amended to read as follows:-

"1) to review or scrutinise *at a strategic level the* decisions made, or other action taken, in connection with the discharge by the responsible authorities of their crime and disorder functions;"

Following discussion, it was agreed as follows:-

DECISION

(1) That the Committee **RECOMMENDS** to Cabinet that the Overview and Scrutiny Committee be formally designated as the Crime and Disorder Committee and that the amendments to the Constitution as set out in the Appendix attached to the officer's report and as amended above, be incorporated;

(2) That the Overview and Scrutiny Committee work with the CDRP to develop a protocol on working practices to ensure that the scrutiny process for community safety matters is effective.

28. COUNCILLOR CALL FOR ACTION (POLICE AND JUSTICE ACT 2006 – IN RESPECT OF CRIME AND DISORDER ISSUES) (LOCAL GOVERNMENT AND PUBLIC INVOLVEMENT IN HEALTH ACT 2007 – IN RESPECT OF OTHER LOCAL GOVERNMENT MATTERS)

The Scrutiny Manager presented a report concerning new powers for Councillors called the Councillor Call for Action (CCfA) that came into effect on 1/4/09. Members were reminded that they had received a number of reports on this subject during the past 18 months when the legislation was going through the various consultative stages.

It was noted that CCfAs are intended to help Councillors resolve significant issues and problems on behalf of their residents. Where Councillors are not satisfied that real action has been taken to resolve the issue and the normal methods of resolution have been exhausted, they can as a last resort ask for the matter to be considered by the Overview and Scrutiny Committee with a view to triggering a scrutiny review.

The Officer's report set out the proposed process for dealing with CCfAs and included an Appendix containing a set of draft Guidance Notes for Councillors.

It was noted that the following matters are excluded from the CCfA:-

- * planning or licensing decisions;
- * matters where a person has a separate right of appeal or review;
- * matters which could be dealt with by formal complaints processes (unless systematic failure in a particular service can be demonstrated);
- * vexatious or persistent requests.

The Scrutiny Manager is to provide members of the Committee with a copy of the CfPS/IDeA guidance on the CCfA which includes examples of the types of issue that might be considered under the CCfA process.

Action Point: Scrutiny Manager to action.

Following discussion, it was agreed as follows:-

DECISION

1. The proposals for handling CCfAs as contained in the Officer's report be agreed in principle;
2. The Scrutiny Manager is to consult with the CDRP and other partners, and to report back to a future meeting of the Committee with the results of those consultations;
3. That it be **RECOMMENDED** to Cabinet that the CCfA be incorporated into the Council's Constitution.

29. SCRUTINISING THE CABINET'S PROPOSED BUDGET FOR 2010/11

Following the deliberations of the two informal budget scrutiny groups, members of the Committee had subsequently received a paper setting out the arrangements for scrutinising the Cabinet's proposed budget for 2010/11.

DECISION

That the budget scrutiny arrangements as set out in the paper be endorsed.

30. TASK AND FINISH GROUPS

Cllr. Shelton the Chairman of the Bus and Rail Services Task and Finish Group gave a verbal progress report and advised the Committee that the Group's final report and recommendations had been drafted, and that a final meeting of the Group would take place on 30/9/09 to consider the draft report. It was intended that the final report would be considered by full Council on 26/10/09 and then Cabinet on 7/12/09.

DECISION

That the verbal report be noted.

31. FORWARD PLAN – 1ST SEPTEMBER TO 31ST DECEMBER 2009

Members received the four month Forward Plan for the above period.

DECISION

That the contents of the Forward Plan be received and noted.

The meeting closed at 9.17pm

M. Gage
Chairman