

Dear Sir,

Since my submissions to the WCS, I have recently obtained access to a document which I feel you should be made aware of. It is the Outline Business Case Lite (OBCL); a document produced for the County Council by a company called Entec and is dated September 2009. I firmly believe that OBCL should be in the public domain, as it relates to public finances in relation to waste management in Worcestershire and Herefordshire. However it has been difficult to obtain access to it.

For background purposes, OBCL is based on the proposal to build a mass burn incinerator in Worcestershire. The term 'energy from waste' is a generic term not solely applicable to incineration. Due to the issues raised within the OBCL and its impact on the WCS, it may be relevant to the inquiry as OBCL is apparently the most up-to-date business case document Worcestershire County Council (WCC) has. Entec who wrote it, did not have site of the existing waste contract.

My observations relating to this and other relevant issues are conveyed to you in the following pages and under the headings you require and I draw my conclusions in accordance with your requirements in the Summary that follows here.

SUMMARY

In the Statements from respondents it would be very helpful for me to have a brief concluding section stating:

- What part of the WCS is un sound.*
- Which soundness criterion it fails.*
- Why it fails (point to the key parts of your original representations).*
- How the WCS can be made sound.*
- The precise change and/or wording that you are seeking.*

Whilst I apologise for the lateness of this evidence, I feel it is very relevant to the WCS. I am happy to provide further information should you wish me to do so.

Yours faithfully

Louise Brookes (Mrs)

DETAILED OBSERVATIONS

1. PROCEDURAL AND CONFORMITY MATTERS

Key Issue: Whether the Core Strategy has been prepared in accordance with the relevant legal and procedural requirements

- **I believe that the European commission has recently decided to investigate a possible breach of European procurement law in relation to this waste contract.**
- The Aarhus Convention referred to in PPS 12, may also be in breach as consultation with the public has not been robust re WCS or in regard to the proposal for a mass burn incinerator. This was raised by residents at the recent public inquiry into the proposal. I believe that this is inextricably linked to the WCS.
- Assessment of environmental issues pertaining to the specific site have not been robust, including failure to disclose and consider large numbers of Great Crested Newts on site, or make public the list of toxins listed as destination air in the Fitchner report.

REF OBCL

- What allowances have been made for regulatory and legislative change: Section 27 states that 'Change in legislation ... European, national or regional/local' 'could require revisit of preferred solution.'
 - Does the council assume the risk for these changes and would they have to make recompensary payments to the contractor for variations in the waste management strategy. In particular if the council requests the separate collection of food waste and the provision of AD will the council have to pay the contractor such recompensary payment?
- **Legislative change; Bottom ash: Section 26** states that there is a risk that 'legislative changes will lead to bottom ash/fly ash being reclassified as active waste' and 'new classifications could result in landfill bottom ash attracting landfill tax at a rate of approx. £70 tonne rather than £2.50 a tonne presently predicted' and that 'this is an area that remains under discussion within government'.
 - Does the council or the contractor take the financial risk for the reclassification of bottom ash, i.e. the 25 -30% residue of burning, as active waste and the subsequent landfill tax or other variation charges?
- **Change in waste composition: Sections 20 and 21** states that if the composition of the waste changes calorific value outside certain limits and so makes the incinerator less efficient, this will result in 'additional costs to councils'.
 - If the councils are obliged through legislation to remove certain waste streams such as food waste for AD or plastics due to new carbon weightings will they still face additional costs for not supplying the contracted mix of wastes to the contractor?
- **Recycling: Section 14** states that if the 'Councils significantly exceed their recycling targets' this will result in 'councils do not have sufficient waste to meet minimum tonnage requirements and plant is oversized' with the consequence that 'additional cost to councils'.
 - If the councils exceed the contracted 50% recycling target over the 25 – 30 year life of the incinerator will it in effect be penalised? Will the council also take the risk that there will not be enough C&I waste over this period to make up any shortfall and that if the C&I gate fee is less than the amount that the council has contracted to pay then it will take the risk of the shortfall?

2. INTRODUCTION AND MISCELLANEOUS MATTERS

Key Issue: Whether the Core Strategy is justified, effective and consistent with national policy

- JMWMS is allegedly a review, to obtain **flexibility** of waste management, taking account of changes and advances in waste treatment technologies. The waste policy is to be reviewed every 5 years, further indicating the need for flexibility.
- By 2020 both WCC and HCC aim to recycle only 50% of waste.
- Many councils already recycle over 60 % of waste. Wales has a target of 70 %.
- Innovative companies are creating sustainable jobs in the private sector by building affordable housing from recycled plastic and making roof tiles from disposable nappies, and there are many other schemes developing, creating new sustainable jobs, and protecting resources.
- Ashford in Kent has the worst recycling levels in the country at 15% as it sends 85% of it's waste to the Allington Incinerator in Kent. Incineration is being counted as recycling by the council, when clearly it is not.
 - Recycling only 50% will mean that recyclable materials will be burned. Waste composition needs to be finely balanced to operate the plant.
 - Too little calorific waste such as plastic and paper- can't achieve temperature.
 - Too little biogenic waste means- temperature is too high
 - Too much plastic, paper -too hot (Co2 produced)
- Incineration is always compared to land filling an equivalent waste level, in regard to cost and CO2 emissions assuming that large quantities of biogenic waste would be land filled.
- Separate food waste collections treated with AD would be an excellent way to divert this waste stream from landfill, but this would be a 'compensatory situation' for the contractor, hindering choice of best options to move waste up the hierarchy.
- The contractor's Envirosort recycling plant (cost to taxpayer £12 million) a variation to the contract, has a capacity to handle over 100.000 tonnes , but is running at approximately 50% capacity . Why?
- By contrast, local company Lawrence's (Forge recycling) stated in Worcestershire Life May 2010 that they recycle 225.000 tonnes of household, commercial, industrial and demolition waste, but could recycle 1 million tonnes. This is a huge capacity gap, why is recycling not being optimised?
- Over 60.000 tonnes of waste per annum is imported into the counties landfills including Incinerator Bottom Ash (IBA) from out of county. Clearly demonstrating no urgent lack of landfill space, and little demand for the ash. Only the metal left in the ash is of value, and this should be removed prior to the burning process re waste hierarchy.
- EU commissioner Antonia Mochan has told me in an email that the EU does not want to see more incinerators. Future European legislation is a risk to future costs of this project.

3. ENSURING SUSTAINABLE WASTE MANAGEMENT DEVELOPMENT

Key Issues: Whether there are clear and appropriate development management policies that would govern waste management development at that, amongst other things, do not reiterate or reformulate national policy

See above section also.

- **Estimate CAPITAL COST OF building the INCINERATOR IS £166 MILLION. ALLOWING A TOLERANCE OF 30-50%.)**
- The gate fee for incineration is purported to be £28. OBCL states that this is excluding the capital cost of the facility **£166 million** and lifecycle maintenance costs which cannot be quantified. The Total gate fee could exceed £140 per tonne. Additional charges may also be subject to future variations. There have been 56 variations to the existing contract costing **£49 million. Council representatives seem unclear about costs.**

- **Whether there is clear and effective provision for the safeguarding of existing waste management facilities (Refer to Business Case, Page vii OBC Lite):** A waste short fall would divert waste from existing facilities, incinerators cannot operate on reduced waste levels. A guaranteed level of feedstock would be required for contract term of an incinerator. The huge cost of the old style PFI contract focused on the proposed incinerator leaves the council taking all financial risks, paid for by the tax payer. Capital costs and service charges could multiply 10 fold as with the Royal Worcester hospital PFI.

4. LANDFILL AND DISPOSAL

Key Issue: Whether there are clear and justifiable arrangements for landfilling hazardous, non-hazardous and inert waste including quantification of the facilities that will be required, guidance on opportunities for their location and regard to the timeliness of provision

- Much more waste could be diverted from landfill by separate food collections, and higher recycling levels of 70%, leaving less waste than bottom ash produced by incineration.
- Hartlebury bears a disproportionate burden having 3 problematic landfills. The incinerator construction site is adjacent to a closed landfill where regular slippage and leachate contamination occurs. Digging down 8 metres over such a large area, may cause collapse of clay capping, releasing large quantities of methane into the atmosphere. 1400 cubic metres are drawn off the landfill per hour feeding the national grid to create energy from waste. Slippage/ collapse of the clay has been ongoing for many years, but is now under control. Methane escape has penetrated homes several kilometres away even at night with doors and windows shut. If 500 cubic metres per hour escape, serious problems will ensue. (Incinerator construction will be 3 to 4 years) WCC should take more responsible action and not be governed by the contractors wishes.
- **The LATS tax which made land filling expensive will be abolished by the time the incinerator is constructed, and so is no longer an issue.**

5. SPATIAL PORTRAIT, VISION AND OBJECTIVES

Key Issue: Whether the Spatial Portrait, Vision and Objectives are sufficiently focussed, spatial and locally distinctive; also whether they address adequately matters of equivalency, deliverability and timely provision

- Falling municipal waste since 2009 means that 40% of Commercial and Industrial waste is needed to feed the proposed incinerator, C and I waste has fallen nationally by 29 % over 5 years. Merchant facilities will offer a more competitive gate fee and more flexibility.
- **The current waste contract ends in 2023. WCC may encounter serious re-procurement issues, as the incinerator is out dated technology.**

6. Timely prvision.RE-USE, RECYCLING AND "OTHER RECOVERY"

Key Issue: Whether there are clear and justifiable arrangements for the re-use, recycling and "other recovery" of waste including provision for facilities of the right type, quantification of the facilities that will be required and regard to the timeliness of provision

- **WCC have a legal obligation to move waste up the hierarchy, by increasing reuse and recycling and ultimately waste minimisation. Burning 50 % of waste including plastic,**

metal, paper and biogenic waste is not conducive to this, as it requires a guaranteed feed stock, making the strategy undeliverable, inadequate and untimely.

7. ENERGY FROM WASTE PROPOSAL, HARTLEBURY TRADING ESTATE

Key Issue: Whether the Energy from Waste proposal at the Hartlebury Trading Estate should be the subject of a strategic allocation or otherwise recognised in the Core Strategy

The incinerator cannot be divorced from the rest of the Core Strategy

- It appears that the desire to obtain the last PFI credits, is the driving force behind the 'initiative' to build a mass burn incinerator, to the detriment of cheaper more flexible technologies.
- In 2009 Herefordshire county councillor (HCC) Felicity Norman, was part of community project to build an Anaerobic Digester. HCC would not discuss this project saying that an incinerator was going to be built. **See letter attachment from Cllr Norman**
- WAIL propose alternatives including AD, autoclaving and increased recycling. Well informed communities are being denied the opportunity to shape the strategy for waste management.
- Kenton Vigus who is mentioned in Mrs Norman letter, was the only council representative to attend a poorly advertised meeting in Hartlebury in October 2010. At this meeting he told me that the contractor wants an incinerator, they own the waste upon collection, and there was nothing we could do. *This was during the alleged consultation period.* WCC seem to be unable to consider best methods due to contractual obligations. The cost is kept secret from the taxpayers.

The contract and plant maintenance cost will include:-

- Day to day running maintenance costs /Lifecycle maintenance costs. (OBCL Page 31 ref Monte Carlo exercise.)
- Regular routine maintenance is recommended for many components, but some will be hard to monitor due to being hidden.
- Components will be imported from continental Europe, leaving the council open to fluctuating currency markets, and uncertainty regarding replacement and spare parts.
- Regular structured inspections will be needed, at a cost.
- A major breakdown would result in land filling all waste including large quantities of bio waste for an indefinite period. At what cost?
- Reference is made to storage of waste during **expected and unexpected down time**. When Allington incinerator in Kent, had a major prolonged breakdown, rotting waste was eventually removed for fear of explosion from the build up of methane. An incinerator brings no perceived benefits.

8. LOCATION OF NEW WASTE MANAGEMENT DEVELOPMENT

Key Issue: Whether there is clear and justifiable guidance on the location of new waste management development

- The proposed site is on Green Belt land which also has restrictive covenants.
- The local plan dictates that buildings must not be higher than 15 metres.
- The proposal will have a 75 metre stack and a building of 45 metres high sunk down 8 metres, due to being located inappropriately. This is still far in excess of what is permitted
- **OBCL states site specific costs will be £21 million. (Predominantly due to digging out such a large area.)**

- At the public inquiry, the contractor stated that when the incinerator was not working the local landfill would be accessed, unaware that the junction planned for access does not exist, as it is a flyover, so all traffic would have to pass through the village.
- Protected species such as slow worms and grass snakes have been removed from the proposed site. It has now transpired that a large number of great crested newts have been found there, (over 200) and yet the applicant did not admit there were any until just before the inquiry. Then they admitted **to a very small number of 3 or 4**
- SSSI site Hartlebury common is under restoration to health land.

9. IMPLEMENTATION AND MONITORING

Key Issue: Whether there are clear arrangements for monitoring the Core Strategy and reporting the results as part of a delivery strategy with clear targets and measurable outcomes

OBCL

- Renewal of contract after initial term: Section 26 states that 'an additional contract will be required at the end of the current contract term' in 2023.
- The council will inherit responsibility for the plant including all maintenance costs, will good standards have been maintained?
- Risks are associated with 'costs to 'repair'' and 'reduced market interest in a second term operational contract'.
- Will the councils continue to pay for the incinerator after this date even if a private contractor cannot be found and the incinerator has to stand empty?
- Affordability and Finance: There are many sections which refer to the risk of the project exceeding the council's 'affordability envelope'. These risks include 'commodity and construction prices increasing significantly', 'exchange risk' 'banking margins remaining high' and 'long-term interest rates rise beyond current anticipated levels'.
- What are the estimated costs of the PFI, the unitary charges over the period of the contract and the affordability gap? What proportion of these has to be paid by Hereford council? Are payments for the PFI both inflation-proofed and ring-fenced within the council's overall budget? If the project exceeds the affordability envelope is it the councils who take this risk?
- When these works are understood, and defined and appropriate cost can be provided for that part of the year. **This could be anything.**
- Life cycle maintenance is more difficult to predict as it depends on how long the equipment lasts. Some items can be provided for on a regular basis as they are a likely known event, others may be unpredictable.
- When purchasing a plant the only option is to make provision for the life cycle maintenance. This is based on estimation. It relies on deposits being made into the bank throughout the year, but the report says that exactly how this is done in accounting terms need careful advice.
- Cost data is not known to the councils at this time

In conclusion alternatives of AD and autoclaving have been proposed, and would involve far less financial and environmental risks than the current proposal.

Some recyclables sell for hundreds of pounds. Communities are not benefiting from this value as the contractor owns the waste upon collection.

I would urge the inspector to look into the financial risks, and better alternatives.