

**MINUTES OF THE OVERVIEW AND SCRUTINY COMMITTEE
MONDAY, 20 OCTOBER 2008**

Councillors *Bull (Chair), *Adamou (Vice-Chair), *Aitken, *Dodds, *Egan, *Newton and *Winskill

Co-opted Member Ms Felicity Kally

*Present

Also Present: Councillors Butcher, Gorrie Haley, Meehan, Newton, Scott and Thompson

MINUTE NO.	SUBJECT/DECISION	ACTION BY
OSCO86.	<p>APOLOGIES FOR ABSENCE (Agenda Item 1)</p> <p>Apologies for absence were submitted on behalf of Councillor Alexander (for whom Councillor Newton substituted) and Felicity Kally (Co-opted Member).</p>	
OSCO87.	<p>NLWA PROCUREMENT - AFFORDABILITY ENVELOPE/DRAFT STATEMENT OF PRINCIPLES (2) (Joint Report of the Director of Urban Environment and the Chief Financial Officer - Agenda Item 5)</p> <p>We noted that a report on North London Waste Authority (NLWA) procurement process had been presented to the Cabinet on 14 October 2008. The information contained within the report was deemed to relate to the financial or business affairs of any person and therefore considered to be exempt and not for publication. However, a briefing note had been produced using information that could be used within the public domain. The briefing note would allow the public and press to have an understanding of the main points which enabled the Cabinet to agree to the recommendations and would permit our Committee to debate the matters covered by this note in open session. Our Committee Members had been given access to the full exempt report and papers for debate following the exclusion of the press and public from our meeting. Clarification was sought of the reasoning for much of the report having been classified as exempt and reference was made to a version which had been made available by another constituent Council of the NWLA which contained some of the information which had been considered to be exempt by Haringey.</p> <p>(The Committee adjourned between 7.22 and 7.30 p.m.)</p> <p>On re-convening we were advised that Council officers had confirmed agreement with the advice from NLWA on what information should be exempt, including site acquisition and related negotiations, commercial negotiations relating to London Waste Ltd, matters that might be significant to the commercial interests of the Joint Venture partner, issues that might be pertinent to a competitive procurement process and any borough specific waste collection data/cost projections in</p>	

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relation to a future contract.

The density of sensitive financial and commercial information included in the report made it difficult to extract the commercially sensitive detail and still present a sensible and meaningful report. Releasing this information in advance of embarking on the tender process could distort the competitive bidding process. The fact that the report dealt with sensitive financial information relating to the seven constituent boroughs who were members of the NLWA meant that the Council had to be particularly careful in what information it chose to disclose. Given that the subject matter of the report related to a long term procurement exercise, certain information which was exempt now, would be available to the public in the future.

At our invitation the Cabinet Member for Environment and Conservation highlighted the main aims of the report which had been considered by the Cabinet and which were set out in Section 2 of the circulated briefing note especially in relation to the agreement to a draft affordability letter being sent to the Department for Environment and Rural Affairs (DEFRA) which would set out the Council's commitment to finance the project within the estimated affordability envelope and the agreement to a second Statement of Principles as a basis for further discussions with the NLWA.

Clarification was then sought on whether there had been any discussions with DEFRA concerning the deadline for the current round of PFI credits and we were informed that it remained the understanding that submissions had to be made by 31 October 2008. In response to a question about who would make the overall submission it was confirmed that this would be made by the NLWA in the form of an Outline Business Case. With regard to constituent Council's representation on the NLWA we were informed that while this was a matter for each of the Council's concerned a number of them had appointed their respective Leaders for the current municipal year.

At our invitation the Leader of the Council then outlined the background to the report to the Cabinet and especially the affordability envelope. The waste strategy which was in the process of being adopted by NLWA and the seven constituent boroughs set out a framework of how collectively these authorities would meet European and National statutory performance standards. In order to achieve these standards the constituent authorities within the North London Joint Waste Strategy (NLJWS) had committed themselves to meet a series of recycling targets. We were informed that the NLWA's current waste disposal contract would end in 2014 and a procurement of the new 30 year (2012 – 2042) waste treatment and disposal contract would be key in order to deliver NLJWS objectives. In order to potentially benefit from the current round of PFI credits the NLWA would need to submit its OBC by 31 October 2008 to accompany which constituent Councils each had to submit affordability letters.

At this juncture we noted that a number of detailed questions had

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been submitted by Councillor Gorrie and by Councillor Weber and it was proposed that written responses be provided to these by Friday 24 October. Councillor Gorrie indicated that for his part he was happy with this approach on the understanding that the current scrutiny related only to the Cabinet's decision to agree the affordability letter and the Second Statement of Principles and that there would be further opportunities to consider the procurement process and wider issues.

The Director of Urban Environment having amplified the Briefing Note further clarification was sought by Members of the following points -

- Whether the proposed inter authority agreement in relation to Household Waste Recycling, sale of re-cyclates, collection systems and pooled targets would result in 'winners' and 'losers' and, if so, how would Haringey fare.
- Whether financial options other than PFI had been considered
- Whether the Statement of Principles and the transitional arrangements needed to be scrutinised including the question of the closure of the existing incineration plant at Edmonton scheduled in 2014 or a possible extension of time.
- Whether, given the present market conditions options other than PFI should be considered including prudential borrowing and the establishment of a mutual company with the other authorities involved. Also of whether the question of risk transfer had been considered.
- Whether a more cautious approach was required and bearing in mind the Strategy proposed would extend to 2042 if it would represent Value for Money and if the capacity proposed would be required if Government targets for waste reduction were achieved
- Whether there was any flexibility in the Statement of Principles especially in relation to waste collection systems
- Whether the Council should continue to be a member of the NLWA. Given environmental concerns, the absence of reference to carbon footprint in the report. It was not clear in relation to what the 200,000 tonnes reduction was to be made. The lack of clarity about at which point any future decision would come back to constituent authorities and whether there would be any progress reports in the meantime and absence of statements about key milestones for the project.
- Whether assumptions about co-mingling were correct in the light of the recent analysis conducted by the Welsh Assembly and whether implications other than cost should be considered including employment opportunities.

We were informed that the Memorandum of Understanding provided for constituent Councils to move progressively towards the partnership

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model in the Joint Waste Strategy and agree qualities and quantities of their collected recyclable and biodegradable wastes to be delivered to NLWA facilities. It was accepted that more work needed to be done about financial and performance indicators in order to mitigate costs and these would be the subject of further discussion up to 2014. The NLWA had concluded that it should procure a contract solution involving new build and risk transfer to the private sector on key Design, Build, Finance and Operate issues. On value for money and affordability grounds the NLWA was currently anticipating pursuing the long term contract utilising the Private Finance Initiative (PFI). However, the potential benefits of financing the project through the prudential borrowing route had been analysed and if the market response did not match the value for money analysis that had been modelled, other options including the use of prudential borrowing would be considered.

Concerns about the loss of 'sovereignty' in relation to waste collection arrangements were understandable and that debate needed to take place. It was pointed out that the NLWA was a disposal authority and not a collection authority. Similarly, there would need to be a debate about transitional arrangements in relation to the Edmonton incinerator. The affordability envelope too would require further and full examination over the next six years and officers would need to bring these issues back to constituent Councils for consideration.

The position with regard to the financing of the project had already been outlined and the suggestion of establishing a mutual company could be considered as one of the potential options. In terms of risk transfer, the question had to be seen in the context that waste collection authorities had not been able to own their own waste disposal infrastructure since the late 1980's and the industry was almost entirely privatised. Officers had been seeking to manage the arrangements with a concern to minimise the critical financial risk of the contract.

Officers had been looking at a range of collection and treatment/disposal arrangements and had been guided by landfill costs, the principles of the NLWA and finding sustainable solutions. Costs would increase and Councils would need to work towards minimising waste while ensuring proposals were sustainable and affordable in the longer term. Government policy was fluid and dynamic in this area and it would be important to remain as flexible as possible while pursuing the best environmental option.

There had been some debate about collection arrangements and co-mingling appeared to be the most cost effective option being cheaper than the residual waste option. There were some concerns about the analysis conducted by the Welsh Assembly and there would need to be further discussion on this matter in the run up to 2014 and these would include not only cost implications but also broader sustainability and technological considerations as well as economic and employment opportunities.

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The NLWA was a statutory body established by Act of Parliament and the Council was not able to withdraw from it. Constituent Councils were entitled to expect from the NLWA a timetable for the procurement process which provided progress reports at least every six months and officers should seek an agreement to this effect. The significant additional costs arising from the investment in the waste disposal infrastructure were acknowledged and it was accepted that there needed to be a future debate about the modelled costs impact on Haringey and the implications on the Council Tax at a later date.

The interleaved report was the subject of a motion to exclude the press and public from the meeting as it contained exempt information relating to the business or financial affairs of any particular person (including the Authority holding that information).

(The Committee adjourned between 8.52 and 9.00 p.m.)

On re-convening we received a presentation from Mr Tim Judson of the NLWA on the procurement process that Authority had carried out under the Private Finance Initiative (PFI) to model both the future waste treatment/disposal and waste collection costs over the proposed 30 year contract period from 2012 to 2042. The presentation informed us of the work carried out and the use of the models produced to predict each constituent boroughs contribution to the overall base cost of the project. We noted that in order to help manage the risk of modelling cost over such a long period sensitivity analysis had been undertaken to produce an upper threshold cost and that the range of increased cost between the base and upper threshold represented the Council's affordability envelope.

Questions were then put to Mr Judson and answers given. Mr Judson expressed the view that Haringey had acted prudently in light of the advice received from the NWLA in relation to commercially sensitive information following which we thanked him for his attendance and presentation. At this juncture we also thanked the Leader and the Cabinet Member for Environment and Conservation for their attendance and they withdrew from the meeting.

(The time having reached 10.00 p.m. our Chair exercised his discretion under Paragraph 18 of Part 4 Section B of the Constitution to continue discussion of this specific item).

Debate then ensued about the decisions taken by the Cabinet on 14 October to agree the second Statement of Principles and to approve the draft affordability letter.

Concern having been expressed that the Statement of Principles would determine the method of waste collection for constituent Councils, confirmation was given that the Statement was intended as the basis for discussion only and that any changes to the Council's existing waste collection arrangements would be the subject of a report for decision by the Cabinet which would be subject to the call in

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	<p>procedure.</p> <p>Clarification was then sought of the best way of ensuring that the NLWA did not restrict itself to the PFI model but also gave further consideration to the potential benefits of financing the project through other options and we were advised that one way might be to write to the Chair of the NWLA with such a request.</p> <p>Disquiet was again voiced about the classification of much of the information contained in the report as exempt and clarification sought of how it could be considered commercially sensitive when it was based on a theoretical projection. Clarification was also sought of when that classification would be reviewed and information about the costs made available for the purposes of budget scrutiny and assessment of impact on the Council Tax. Officers referred to the answer given earlier but indicated that they would write to the Clerk to the NWLA to formally ask at what point the information considered to be commercially sensitive might be released into the public domain.</p> <p>RESOLVED</p> <ol style="list-style-type: none"> 1. That the decisions taken by the Cabinet in relation to the proposed North London Waste Authority Procurement Affordability Envelope/Draft Statement of Principles (2) be noted. 2. That the Leader be requested to write to the Chair of the NWLA to confirm that Haringey did not wish to restrict itself to the PFI model but also gave further consideration to the potential benefits of financing the project through other options. 3. That the Director of Urban Environment write to the Clerk of the NWLA to obtain clarification of when the financial information contained in the report including the projected implications for Haringey's revenue budget and possible impact for the Council Tax might be made available in the public domain. 4. That as soon as possible a waste minimisation strategy and plan be produced for consideration including key milestones for achievement. 	<p></p> <p></p> <p></p> <p></p> <p>CE</p> <p>DUE</p> <p>DUE</p>
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COUNCILLOR GIDEON BULL
Chair