

## **Report to the Cabinet**

**Report reference: C/063/2006-07.**  
**Date of meeting: 9 October 2006**



**Epping Forest  
District Council**

**Portfolio: Environmental Protection.**

**Subject: Bobbingworth Tip Remediation Project.**

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### **Recommendations:**

- (1) To note the present status of the Bobbingworth Tip project and the need to commence work urgently;**
- (2) To authorise the completion of the Section 278 Agreement with Essex County Council and;**
- (3) To note that such an Agreement will incur a future financial cost to the Council of a maximum of £65,000 and to agree that up to this amount be charged to the Council's General Capital Contingency budget within the Capital Programme if necessary;**
- (4) To allocate £82,000 of the General Capital Contingency to the project contingency to allow for cost escalation due to delay in implementation of the scheme; and**
- (5) That byelaws be made controlling the use of the site following remediation.**

### **Report:**

*For clarification and avoidance of doubt the two types of contingencies discussed in the report are noted below:*

*Project Contingency: This refers to allocations made by Cabinet in relation to the specific project of management of the Bobbingworth Tip former landfill site at Moreton.*

*General Capital Contingency: This refers to the Council's contingency budget for all projects within the overall Capital Programme.*

1. At its meeting in April 2006 Cabinet resolved to proceed with the remediation scheme on the basis of the then known target price for design and construction. In that report a sum of £225,560 for contingencies related to design and construction was identified.
2. A Target Price was agreed with the project-partnering contractor with an associated programme of works, which envisaged start of construction activity on 1 June 2006. The project missed the start date due in significant part to the need to complete the Section 278 Agreement with the Highways Authority (Essex CC). The County Council wanted the District Council to indemnify it for all damages or deterioration in condition of the section of the road between Ongar and the site due to heavy machinery and

vehicle movement associated with the project. It was an officer view that such an indemnity could potentially expose the Council to greater financial risk specially if major repair and reconstruction works were required.

3. Critical time was wasted, as Essex CC was not prepared to finalise the Agreement without a specific financial liability clause relating to the repair of the road. The Essex CC has now estimated that the cost of repairs to the section of the road at the end of the Project is likely to be approximately £200,000 and has asked the District Council to share up to a maximum of £65,000 of this cost. It is an officer recommendation that to avoid further delay in implementation and resultant cost increases a maximum contribution of £65,000 represents a reasonable way forward.
4. A failure to finalise the Section 278 Agreement with Essex CC could mean further delay in the implementation of this scheme which can expose the Council to the risk of breach of Leachate discharge consent agreement with Thames Water Utilities Limited which could result in additional costs of tankering Leachate from the site to be disposed to another landfill site, there is a risk of action by the Environment Agency in respect of uncontrolled pollution of the Cripsey Brook main river.
5. The delay has impacted the cost of the project. The project is time critical and whereas it will not be possible to work in adverse weather during the winter months, it would be possible to carry out non-weather dependent works during the coming winter and then the significant drainage infrastructure and soil importation works in spring and summer 2007.
6. The contingency referred to in paragraph 1 had been intended to deal with all matters relating to design and construction and any additional planning conditions. Now that the design of the scheme is completed, there is a slippage in the programme and all costs associated with the planning condition are known there is greater clarity on the costs and it is reported that only £32,278 contingency funding remains available within the current budget allocation.
7. The Target Price for the project was agreed earlier this year and was associated with the original programme of works which envisaged a latest start in August 2006 with drainage infrastructure and engineering works being completed before the winter of 2006 and soil importation and surface remediation works to be carried out in the spring/summer of 2007. However, due to the delay in commencement all of the infrastructure and heavy engineering works have been moved to next year, it is likely that the costs will escalate due to inflation, fuel surcharges and abnormal pressure on the south east construction market.
8. There was a contingency allowed in the original budget of £225,560 that was in excess of the normal 10% industry standard. Most of this is required to ensure compliance with planning conditions and associated requirements. Based on industry standards it is recommended to have a contingency of £115,000. With the projected under spend of £32,728 an additional capital sum of £82,000 is required to restore the project contingency and enable speedy implementation of the scheme. The table below sets out the current levels of known and anticipated expenditure and the effects upon the funding.
9. Once the site is remediated it will be important to control the future use of the land, in particular to prevent any activities, which may compromise the works, which have been undertaken. It is suggested that byelaws be made enabling these controls to be enforced. The byelaws will be produced in draft form for Members consideration at a later date.

#### **Financial Status Table:**

Issue	April 2006 £	Current £
Cleanaway target price for design & investigations	331,887	(see note 1) 343,920
Cleanaway target price for construction	1,265,108	(see note 2) 1,230,351
<b>Total Target Price for design &amp; build</b>	<b>1,596,995</b>	(see note 3) <b>1,574,271</b>
<b>Allocated Project Contingency:</b>	<b>225,560</b>	
1) Actual spent on Non Cleanaway	44,445	(see note 4) 62,001
2) Estimated future spend on non-Cleanaway up to end of construction		(see note 5) 58,000
3) Estimated future spend to achieve Compliance with planning conditions		(see note 6) 140,000
<b>Total</b>	<b>1,867,000</b>	<b>1,834,272</b>
Balance of Budget available		<b>£32,728</b>
Recommended Contingency for construction		(see note 7) £114,728
<b>Additional capital provision required</b>		(see note 8) <b>£82,000</b>

Note (1) the increase of target price for design and investigations to £343,920 is due to further unforeseen work required; ecological investigations, management of leachate, information for submission of planning application and further site investigations. This includes a payment so far of £306,195 to Cleanaway.

Note (2) the decrease in target price for construction is a result of obtaining firm quotations from sub contractors, refinement in design and clarity on requirements as a result of planning approval.

Note (3) once agreed the net Target Price will be a contractually binding figure between Cleanaway and the Council. This figure will be subject to the principles of pain/gain share such that if the actual cost was less than the target price then any savings would be shared between the Council and Cleanaway on a 50/50 basis and should the actual cost exceed the target price then the cost would be shared 50/50 with the Council up to a maximum of 110% of the target price and any further increases to be borne by Cleanaway.

Note (4) this figure includes all payments made to parties other than Cleanaway and includes fees for Cost consultants, ATKINS specialist technical advisor, partnering advisor, solicitors fee to agree legal easement for land access, payment to adjoining land owner for access and installation of monitoring equipment, cost of repairs to the Council's equipment within Thames Water Treatment Works, payment to accompany licences and consent applications to external agencies.

Note (5) this is for future expenditure on non-Cleanaway activities and includes consultant fees, third party costs, works to secure site boundary after completion, car park provision, scrub removal, tree planting and staff time recharge for Council's own staff.

Note (6) this figure includes works required to successfully comply with all planning conditions; dust and noise monitoring and mitigation, improvements to site entrances, passing places along access road to the site, traffic management with road warning signs.

Note (7) this is less than 10% of construction cost and is required to cover any unforeseen issues and any cost escalations due to the delay in project implementation. The project's cost consultants have advised that it is likely that the costs will escalate due to increases in fuel surcharges and abnormal pressure on the southeast construction market.

Note (8) this is additional allocation to bring the project contingency to just under 10% of the project construction target price.

**Statement in Support of Recommended Action:**

10. Despite the delay, if the Section 278 Agreement is signed with Essex County Council in the next few weeks, the works to site entrances can be carried out this winter with the drainage and infrastructure works being completed next year. The scheme is required to deal with the issues of pollution to the adjoining watercourse and private land, as well as providing an open space for the use of local residents and visitors. If the scheme were not to proceed the Council may leave itself open to action by the Environment Agency (in respect of pollution) and/or by Thames Water (in respect of exceeding discharge limits to their sewage works). The contingency sought restores the level remaining to the industry standard for a scheme of this nature and will enable speedy implementation of the scheme and minimise further financial risk to the Council due to any delay in requesting supplementary financial approvals.
11. Byelaws will be required to control the use of the site post remediation.

**Other options considered but rejected:**

12. The first option is to approve no additional sums and leave the contingency at £32,728 and wait to see whether any further increase is required. This is not recommended due to the delays which would arise in seeking consent in the event that additional resources were eventually required. The second option is to abandon the scheme which is not recommended for the reasons set out in paragraph 11 above.
13. The site could be left without controls after remediation but this is not recommended since it will be necessary to protect the site works such as the reed beds.

**Consultation undertaken:**

14. None.

**Resource implications:**

**Budget provision:** As set out in the report. Members are to note that the value of the General Capital Contingency is £207,000 in the year 2006/07 and £250,000 in 2007/08 giving a total of £457,000.

**Personnel:** Nil.

**Land:** Remediation works at Bobbingworth Tip.

**Community Plan/BVPP reference:** None.

**Relevant statutory powers:** Environmental Protection Act 1990.

**Background papers:** Previous reports to Cabinet.

**Environmental/Human Rights Act/Crime and Disorder Act Implications:** Remediation of Tip dealing with pollution and discharge exceedances. Provision of open country park for recreational use.

**Key Decision reference (if required):** N/A.