

Report to the Cabinet

Report reference: C/040/2007-8.

Date of meeting: 3 September 2007.



**Epping Forest
District Council**

Portfolio: Environmental Protection.

Subject: Bobbingworth Tip Remediation Project.

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Recommendations/Decisions Required:

- (1) To note the delayed start and continued inclement weather interruptions on the Bobbingworth Tip remediation project and associated cost implications;**
- (2) To agree additional capital provision in the sum of:**
 - (a) £170,000 to meet the costs of direct works; and**
 - (b) £100,000 to re-instate the contingency budget to its recommended level;**
- (3) To delegate authority to the Environmental Protection Portfolio Holder to permit any of the contingency budget to be drawn down;**
- (4) To recommend a supplementary capital estimate to Council to cover the additional capital provision accordingly; and**
- (5) To receive a further report in due course on the progress of the scheme and projected budget outturn.**

Report:

1. At its meeting on 10 April 2006 Cabinet resolved to proceed with the Bobbingworth Tip remediation scheme. A Target Price of £1,574,271 for design, investigation and construction was agreed with Veolia Ltd (formerly Cleanaway Ltd). This Target Price was dependent on an associated programme of works and a start date of construction of 1 June 2006.
2. The price of the works was made up of two elements:
 - (i) Works directly provided by Veolia; and
 - (ii) Works provided to Veolia by third parties.
3. Those included under part (i) are essentially within budget whereas those under part (ii) have increased. These increases are due to the fact that they relate to competitively tendered works including major scheme components:
 - (a) the grout wall; and
 - (b) the reed bed leachate filter.
4. The project missed the start date due in significant part to the need to complete the Section 278 Agreement with the Highways Authority (Essex County Council). All planning

conditions including the Section 278 Agreement with Essex County Council were not finally agreed until 11 November 2006 with Essex CC issuing the works licence on 6 March 2007. Construction activity commenced on 19 March 2007, some 9 months later than the previously mentioned 1 June 2006. This delay, in addition to the heavy summer rainfall, has caused delay in soil importation and construction activity on site.

5. These delays resulted in the estimates for the works referred to in paragraph (2) above expiring. When the works were subsequently tendered costs have come back higher than those original estimates. Other issues associated with the Section 278 Agreement have also added significantly to costs resulting in the need to draw down on the initially agreed contingency sum. The weather and other delays will also result in additional costs feeding through, and whilst these have yet to be quantified it is considered prudent to allow for them now as part of the scheme cost rather than including them in contingency sums in the knowledge that they will arise. The net result of these factors results in the need to seek an additional capital allocation in order to:

- (a) Meet the additional scheme costs arising from delays and increased works costs; and
- (b) Restore the level of contingency to a sum, which accords with standard engineering practice.

6. Table 1 below sets out the financial details:

Item	Cost / estimate (£)	Note
Total project allocation	1,948,875	This is the total allocation for the project from inception stage and include all post tender, design, and investigation related costs. This comprises the construction cost of £1,230,351 and £343,920 for design, investigation, drilling, monitoring and investigation costs plus the additional costs outlined below. The Target Price was agreed between the contractor and the Council and was only subject to change if there was any unforeseen event. This Price was also conditional to a programme of works which envisaged a start date of June 2006
Current agreed target price	1,701,233	Due to the delay in implementation of the programme of works associated with the agreed Target Price the project has encountered additional costs. The total value of these additional items of works is £126,962 above the £1,574,271 agreed by Cabinet in April 2006.
Spent on compliance with planning conditions	131,756	The grant of planning permission was subject to a number of conditions. These included activities like ecological investigations, management of leachate, submission of information to statutory bodies like the Environment Agency, further site investigations around badgers sets, noise, odour and dust related mitigation measures
Payments to third parties	83,311	Not all the payments under the project heading have been made to Veolia. Costs have been incurred in respect of; Consent from Environment Agency, licence costs for agreement with adjoining land owners, consultant fees for; design validation, formalisation of contract, costing valuation by independent specialists.
Balance	32,575	
Estimated Cost consultant fees up to completion	15,200	Services of a cost consultant are utilised to evaluate payments to contractors and agree cost increases due to unforeseen reasons. This allows the Council an independent opinion and enables quicker resolution of cost claims
Increase in Tender returns for Grout Wall	47,000	The Target Price agreed with Veolia included costs for a third party constructing the Grout Wall within the site. Cost estimates were obtained from competent contractors and the lowest figure was used to arrive at the Target Price as agreed with the Council in April 2006. Due to the delay in commencement of the contract the estimates obtained prior to April 2006 are no longer valid and Veolia have carried out an open competitive tendering exercise. The lowest bid is £47,000 more than the lowest estimate of April 2006
Increase in Tender returns for Leachate Treatment Plant	40,000	As Note 7 above, the lowest tender bid is £40,000 over the lowest estimate of April 2006.
Balance available	(69,625) (NB: This is a budget shortfall)	This is the current financial status of the project. The Council's Capital Estimate does not currently show a negative value because not all payments have been made to Veolia. However, if all payments are cleared, by the end of the project the overall budget will be in the negative by the amount shown. Of the agreed Target Price of £1,701,233 a sum of £618,372 has been paid to Veolia so far. This leaves a sum of £1,082,861 to be paid for future works
Anticipated additional spend	100,000	The current programme seeks to complete the heavy engineering works before the winter months, reduce site presence (monitoring and security only) and start surface restoration (soil importation) next summer. This

		delayed programme will result in additional costs, it is not possible to estimate these at the present time (largely dictated by the extent of works completed within the coming months). The requested contingency will be used to pay for any increased costs of remaining works and will be only committed to pay for unforeseen and delay costs, any unspent amounts will be returned back after the final account of the scheme at completion
Recommended contingency	100,000	
Total additional funding	269,625	Made up of the current (negative) balance, plus the anticipated additional spend plus the restoration of the contingency sum

7. Although these delays and associated additional costs are regrettable, it was always the case that the scheme timetable would be heavily dependant upon the weather and the ability to move soil to the site and for the machinery to be able to operate. Notwithstanding the difficulties which have arisen, approximately 80% of the site has been clay capped. Preparations are underway for the heavy infrastructure works to commence i.e. the construction of the grout wall, the leachate treatment works and the associated interceptor drains. The planning consent restricts work to the summer (and dry) months. Work will therefore have to cease once circumstances dictate and a further report will be made to Cabinet at that time with regard to progress and any costs of further delay.

Statement in Support of Recommended Action:

8. The scheme is progressing as well as it can allow for the earlier delays in commencement and the difficulties of the recent very wet weather. The additional costs are unavoidable under the circumstances and the scheme is now so advanced that cessation is not an option.

9. It is good practice to maintain a contingency sum within the contract to manage unforeseen eventualities. It is always to be hoped that drawing down on the contingency will not become necessary but, but circumstances have required the contingency to be utilized and in order to mirror good practice the contingency should be re-established at around £100,000 which is less than the industry standard of 10% of anticipated spend. It is to be hoped that with the additional append approved, it should be necessary to draw down on the restored contingency fund.

Other Options for Action:

10. The scheme has progressed to a stage where it is not feasible to abandon. If the scheme is not completed as designed and as approved by the Environment Agency then the Council may leave itself open to legal action by the Environment Agency (in respect of pollution) and/or by Thames Water (in respect of exceeding discharge limits to their sewage works).

Consultation Undertaken:

11. None.

Resource Implications:

Budget Provision: As set out in table 1 in paragraph (6) of the report. The delay in the completion of capital works has resulted in a CSB saving of £17,000 in 2006-07 as reported to the Finance & Performance Management Cabinet Committee on 18 June 2007. Further savings are anticipated in the current financial year.

Personnel: Nil.

Land: Restoration of Bobbingworth Tip (a former landfill site).

Council Plan 2006-10/BVPP Reference: N/A.

Relevant Statutory Powers: N/A.

Background Papers: Previous Cabinet reports on the remediation scheme.

Environmental/Human Rights Act/Crime and Disorder Act Implications: None.

Key Decision Reference (if required): None.