



NORTHAMPTON
BOROUGH COUNCIL

CABINET REPORT

Report Title	Disposal of Land at Westbridge Depot - Waste to Energy Plant
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AGENDA STATUS:

PUBLIC

Expected Date of Decision:	8th June 2016
Key Decision	Yes
Within Policy:	Yes
Policy Document:	No
Directorate:	Regeneration, Enterprise & Planning
Portfolio Holder For:	Cllr Tim Hadland, Member for Regeneration, Enterprise & Planning
Ward(s)	St James

1. Purpose

- 1.1 To present an update to Cabinet on the progress made following the report to the November 2015 meeting.
- 1.2 To present, following negotiations undertaken, the proposed Heads of Terms for the Option Agreement between the Council and the developer, Rolton Kilbride Limited.

2. Recommendations

That Cabinet:

- 2.1 Notes the progress that has been made to date.
- 2.2 Approves the proposed Heads of Terms for the Option Agreement/Lease as outlined in paragraphs 3.2.3, 3.2.4 & 3.2.5 this report.

2.3 Authorises the Director of Regeneration, Enterprise & Planning, acting in conjunction with the Chief Finance Officer and in consultation with the Cabinet Member for Regeneration, Enterprise & Planning, to conclude negotiations and to complete the Option Agreement and associated Lease Agreement.

2.4 Requests the Director of Regeneration, Enterprise & Regeneration to submit a further progress report in due course.

3. Issues and Choices

3.1 Report Background

3.1.1 This report only concerns the potential property arrangements between the Council and Rolton Kilbride Limited. Matters relating to other things such as traffic or environmental issues will be considered as part of the planning process, which in this case is a County matter. At Cabinet on 11th November 2015 a report was considered on the disposal of land at Westbridge Depot. In summary Cabinet resolved to:

- Grant approval in principle to grant a 2 year option for the lease of approximately 5 acres of land within a defined area within the depot site, subject to the issues summarised below being satisfied within that period:
- That the Option is conditional upon the Council being satisfied that the Waste to Energy Plant land requirement does not result in the remaining Westbridge plot being too small to deliver the safe and efficient operational requirements of the Council's existing waste facility at Westbridge and to cater for further growth of that facility as Northampton grows in size for the duration of the lease.
- That the Option is subject to the necessary statutory consents being obtained including planning permission within the two year period, unless extended by a further year.
- That the Waste to Energy facility will provide an avenue for the disposal of all non-recycled domestic waste collected by the Council or its contractors in Northampton
- That the business case for the Waste to Energy plant is robust and helps to bring significant bottom-line benefits to the Council's General Fund Budget for waste operations through the disposal of domestic waste within the Council's Future Waste Strategy.
- That the Option Agreement is subject to 6 monthly reports back to the Council to assess progress against the Option conditions
- That the option agreement is subject to the developer undertaking a full consultation with the local community and a full report to the Council on this consultation detailing how it is proposed to respond at each stage.
- That any relocation costs involved in exercising the preferred Option will be met by the developer. Should the development require the Council to reposition or

alter waste or environmental services on the Westbridge site the developer will meet those costs.

- 3.1.2 As Cabinet might reasonably expect since November some of these matters have become clearer whilst others have moved on. It is within this context that Cabinet is now updated.
- 3.1.3 Since November the prospective developer has undertaken some initial public consultation and has submitted a report to the Council outlining what they have been able to do to date. In summary this includes the following:
- A presentation to the St James Residents Association, January 2015,
 - A presentation to the Far Cotton Residents Association, June 2015,
 - A public meeting with the Far Cotton Residents Association, March 2016,
 - A public meeting with the St James Residents Association, March 2016.
- 3.1.4 Rolton Kilbride Limited has also created a project website to provide further information about their proposed facility. This website includes tabs about who the project team are, local benefits; frequently asked questions and a contact page. The website can be found at www.northamptoncommunityenergy.co.uk. The Council is advised that this website has so far attracted 473 unique visitors and 2,174 visits since January 2016.
- 3.1.5 In late March 2016, RKL also did a leaflet drop to approximately 6500 homes, located within 1km of the proposed site. This included a tear off slip to enable people to respond back to RKL with their views. This achieved a response rate of 0.5%. In the period December 2104 to May 2016 inclusive, RKL also made six media releases about the project.
- 3.1.6 The consultation undertaken so far by Rolton Kilbride Limited is appropriate at this early stage in the project. But it does not comprise the full public consultation that Cabinet previously said that it wanted to see in November 2015. Further public consultation will have to take place in connection with any planning application that may be submitted by the developer. This will be a matter for the developer as planning applicant and the County Council in its role as minerals and waste planning authority in relation to this particular matter. It is understood that an application will be submitted in June/July 2016. In addition to that the Council would expect public consultation at all appropriate points as the proposal develops.
- 3.1.7 From the information available it seems likely that the proposed Waste to Energy plant would provide an avenue for the disposal of all non-recycled domestic waste collected by the Council and/or its contractors. The proposed plant would not however bring financial benefits to the waste service collection service itself. None the less it is unlikely that the Council would be out of pocket in financial terms.

3.2 Issues

3.2.1 The Council owns the freehold of the land edged red shown at Appendix 1. There is currently a mixture of occupiers on the site. These include Northampton Partnership Homes, a number of established businesses, and Amey which manages the Council's Waste facility. A number of the existing buildings are old and approaching functional obsolescence. The land that would be required for the proposed Waste to Energy Plant comprises approximately 8.74 acres and is shown cross-hatched at Appendix 1.

3.2.2 At November 2015 Cabinet, the structure of the proposed property agreement between the Council and RKL was an Option Agreement and a Lease. The proposed Heads of Terms for these are now set out below.

3.2.3 The principal terms proposed for the Option Agreement provide for:

- Use of the site for an Energy Centre using Advanced Conversion Technology, Mechanical Treatment Facility, Education Centre and other ancillary activities, with no other use permitted.
- An Option to lease the property to Rolton Kilbride Limited.
- The Council granting RKL an Option period of 24 months, extendable by a further 12 months.
- RKL paying the Council an Option Fee of £5k for 24 months and a further payment of £2.5k for the extension of 12 months, if exercised.
- The Council being compensated for loss of rent incurred in the Option Period given that it will not be re-letting property in this period.

3.2.4 Should the Option be triggered then the principal terms proposed for the Lease include:

- An annual rental payment of £500k with upwards only rent reviews, as recommended by agents working for the Council.
- Should vacant possession be obtained but the scheme subsequently not proceed for any reason, then Rolton Kilbride Limited would be liable to pay the Council reasonable compensation for loss of its existing rent roll, for a period, which is approximately £68k per year.
- As it is now clear that proposed RKL development cannot be accommodated at Westbridge without affecting the Council's existing waste operations, RKL will be responsible for the re-provision of depot facilities. Such a replacement facility will be provided freehold and transferred to the Council by Rolton Kilbride Limited (RKL) at nil consideration against a detailed specification prepared by a suitably qualified consultant jointly instructed by the Council and RKL, entirely at RKL's expense.

- The payment of the new rent (that is £500k per annum) to the Council would be deferred until RKL has obtained vacant possession. This will not be achieved until and unless RKL have first provided a replacement depot.
- If the proposed layout of the RKL plant should require a re-working of the remaining Materials Recycling Facility on site through rebuilding/relocation of operational plant and equipment, this would be entirely at RKL's cost.
- The Council would be responsible for ensuring the relocation of Northampton Partnership Homes to a new site within the Borough. RKL would not be funding this. It is understood that NPH's current accommodation is under review in any event given that it does not fully meet its locational and functional requirements.
- There is an option for the Council to be granted pre-emption rights to enter into a commercial agreement at market rates, for a defined term, to purchase power and/or heat generated from the property. The Council is not however obliged to exercise this.
- RKL will provide a Warranty and appropriate Bond, the value of which would be reviewed at set points to the Council's insurer's recommendations to facilitate reinstatement and remediation of the property at the end of the lease.

3.2.5 Officers do not propose to finalise the Heads of Terms until appropriate break-clauses are drafted to the Council's satisfaction to ensure that it can regain control of its land, if the lease has been granted, but for whatever reason, RKL cannot proceed.

3.2.6 Equally, Cabinet needs to be clear that NPH will need to be moved in the required timescales, to avoid a situation where it is obligated to move NPH, but cannot or does not do so, for whatever reason. This is because if such circumstances were to arise then the Council could find itself in breach of the Agreements that it had entered into. This could, in turn, lead to claims for damages and compensation against the Council. So the relocation of NPH will need to be supported by some solid project management.

3.2.7 Should there be any material change to the proposed Heads of Terms Cabinet will be updated at its meeting.

3.3 Choices (Options)

3.3.1 The Council has a number of choices in relation to the narrow issue of the Option Agreement and associated Lease. These include the following:

- *Do Nothing*

The Council could decide to take no action at this time. This would have very serious implications for the developer, Rolton Kilbride Limited, as they would have no formal position in relation to a site for their proposed activities.

- *A Freehold Disposal*

The Council could decide to simply dispose of the land at Westbridge to Rolton Kilbride Limited on a freehold basis. This would leave the Council with very little, if any, control over the land and would potentially be the most disruptive and uncertain option for the waste collection service and Northampton Partnership Homes.

- *Option Agreement and Lease*

This would allow the Council to maintain an appropriate amount of control over the land and would secure alternative premises/ remodelled facilities for the waste collection service, if Rolton Kilbride Limited is able to proceed, whilst protecting the Council's financial interests. This is the recommended option.

4. Implications (including financial implications)

4.0 Policy

4.1.1 There are no specific policy implications arising from this report, but the proposed development would accord 'in principle' with the adopted West Northamptonshire Joint Core Strategy. It would also be generally consistent with previous decisions of Cabinet.

4.2 Resources and Risk

4.2.1 The current operations at the depot, including income from all rents and charges, makes a contribution to the General Fund of £129k in your 2016/17 budget. The proposed arrangements will require the relocation of NPH; this move will need take place within the required timescales, or the Council may possibly become liable for the payment of damages and compensation to RKL under the provisions of the proposed property arrangements,

4.2.2 Developing Waste to Energy plants is a complex and time consuming undertaking which is subject to many variables. So even if Cabinet decides to support the recommendations that officers have set out in this report, there is no guarantee that can be given at this time that the proposed scheme will be delivered as it is at a fairly early stage. The developer still has a lot of work to do.

4.2.3 Given the complexities involved there is a possibility that at some point within the period of the Option that the developer finds they cannot proceed for whatever reason. Whilst this may not be considered to be likely at this point, the Option Agreement includes appropriate provisions to protect the Council's financial and property interests should this risk actually materialise. These include some compensation for loss of rent and termination for breach of the Agreement.

4.2.4 There is also a risk that various consents, including planning, may be delayed. The Option Agreement includes provision for a defined extension in order to allow the developer a reasonable period of time to in which to deal with such eventualities.

- 4.2.5 The current tenants on site will need to be relocated in order to facilitate the scheme that is being promoted. Whilst appropriate provisions are proposed for inclusion in the Option Agreement to address this, it is possible that some occupiers may take longer to relocate than anticipated, despite the exercise of best endeavours, which could potentially present some programming issues for the developer. The Council would work positively with affected businesses with a view to helping them find suitable alternative premises.
- 4.2.6 As it is now clear that a part of the existing depot operation would need to move to another site, there is the potential for some disruption to the Waste Collection Service. The Option Agreement contains provisions that would minimise this risk, by obliging the developer (RKL) to provide suitable alternative premises, at nil cost to this Council, before they are permitted to take possession of the land identified for their proposed Waste to Energy plant.
- 4.2.7 It is understood that the proposal would, if implemented result in savings related to waste disposal because it would reduce the amount that would have to be spent on Land Allowance Tax permits. The County Council are however the disposal authority and these savings would therefore accrue to them.
- 4.2.8 There are some oil storage tanks located to the West of the proposed site. In relation to the proposed use of the site this previously required a consultation with the Health and Safety Executive (HSE). They recommended that the proposed main buildings should be located on the Nene tributary side of the site because that is furthest away from the existing oil depot blast zone.
- 4.2.9 Whilst a commentary on potential risks has been provided above, Table 1, set out below, summarises the main high level risks at this stage of the project. Assuming that the potential parties to the Option and Lease Agreements fulfil their obligations, these risks should diminish over time.

Table 1: High Level Risks Associated with the Proposed Property Agreements.

Risk	Likely	Impact	Blended risk	Remarks/Mitigation	Residual risk
RKL unable to deliver its commitments.	Med	Acute	MED	RKL have provided a business case that works for them and are in the process of obtaining planning and other statutory consents.	MED
Option not exercised	Low	Significant	MED	Should RKL not be able to proceed then it would be an 'as is' scenario and ownership would remain with the Council.	LOW
Unable to	Low	Significant	MED	Assuming the Heads of	LOW

agree final lease terms.				Terms are completed the expectation would be that the lease could be agreed.	
Terms of the Property Agreements are breached by RKL.	Low	Significant	MED	There is no reason to suppose that RKL would breach either of the Agreements but if they did the Council should be able to terminate via break-clauses.	LOW
RKL default on Agreements after the Council has obtained vacant possession.	Med	Significant	MED	Should this occur, RKL would be obligated to pay some compensation to the Council for loss of its existing rent.	LOW
RKL are unable to find a suitable alternative site for the depot relocation.	Med	Significant	MED	This is a matter for RKL to resolve. If they fail to do so then the depot would stay exactly where it is and RKL would be unable to proceed.	LOW
NPH are not relocated in a timely way leaving the Council at potential risk of liability for damages.	Med	Significant	MED	This is a matter within the control of the Council. Sound project management will mitigate this risk.	MED

4.1 Legal

4.1.1 The Option Agreement and Lease Agreements will be legally binding once completed, so Cabinet needs to be satisfied that it is comfortable with the proposed Heads of Terms set out in this report.

4.2 Equality

4.2.1 An Equalities Impact Assessment has been completed and this shows that there are no adverse implications from the proposed property arrangements.

4.3 Consultees (Internal and External)

4.3.1 The Director of Customer & Communities, Contract Manager (Waste), Director of Regeneration, Enterprise & Planning, and the Interim Corporate Asset Manager have all been consulted in the production of this report.

4.5 How the Proposals deliver Priority Outcomes

4.5.1 Northampton Alive sets out the Council's aspirations for the regeneration of Northampton. The Council is advised that the proposed Waste to Energy Plant, which lies within the Enterprise Zone, would, if implemented, generate approximately 175 to 228 additional jobs in the construction period and 42 jobs when the proposed facility is operational. The proposed property arrangements set out in this report would help enable this to happen.

4.6 Other Implications

4.6.1 None

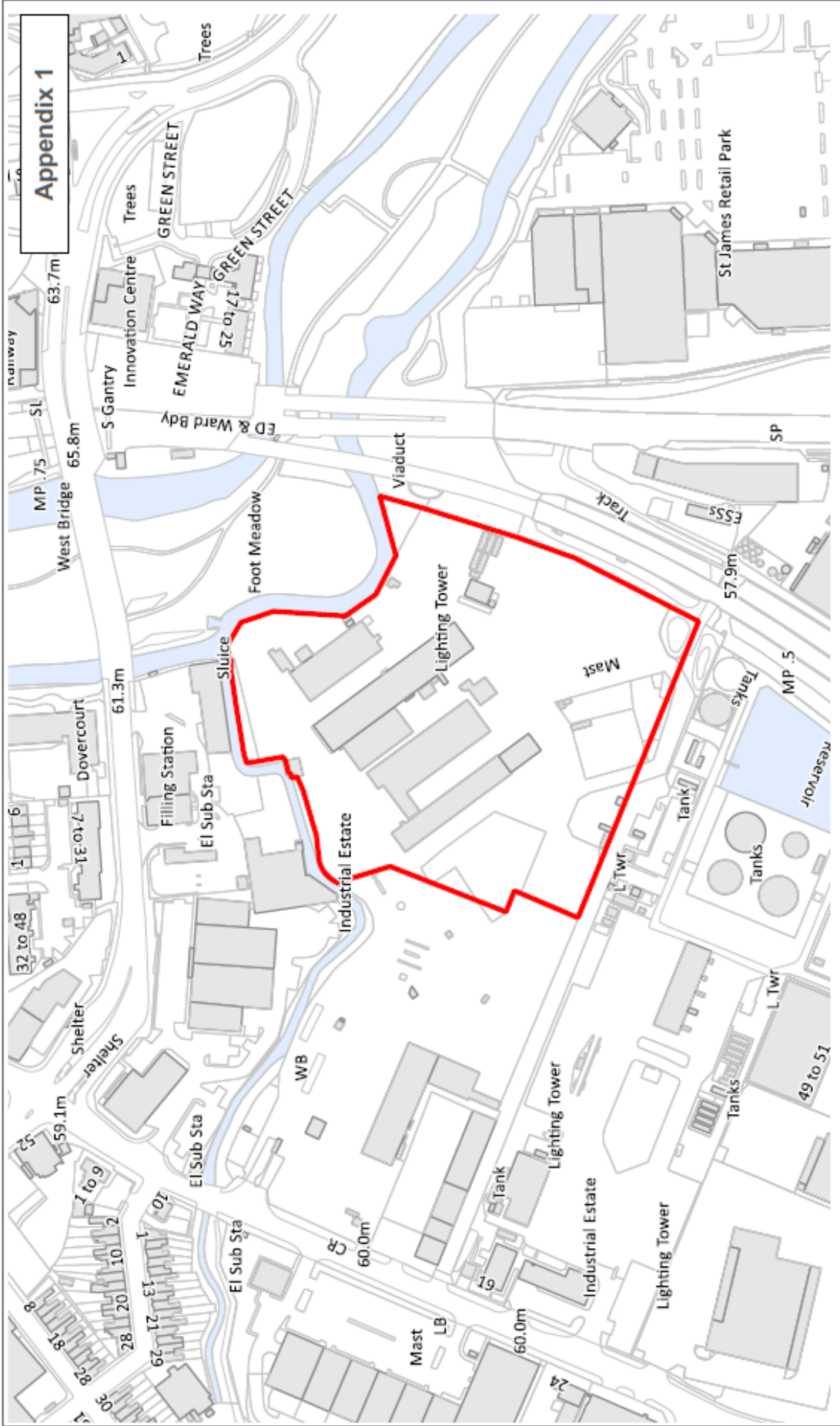
5. Background Papers

- 5.1 Cabinet Report: Disposal of Land at Westbridge Depot - Waste to Energy Plant, 11th November 2015.
- 5.2 Equalities Impact Assessment for the Proposed Disposal of Land at Westbridge Depot – Waste to Energy Plant, May 2016.
- 5.3 Report on Consultation with Local Community: Northampton Community Energy Scheme, on Land at Westbridge Depot, St James' Mill Road, Northampton, Pegasus Group, May 2016.

Appendices

- 1. Site Plan

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Appendix 1

Westbridge Depot Proposed Site for Waste to Energy Plant

26 May 2016
 1:2500 @ A4
 drawn by M Burgess



NORTHAMPTON
 BOROUGH COUNCIL

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