

**COLCHESTER BOROUGH COUNCIL  
STRATEGIC OVERVIEW & SCRUTINY PANEL  
10 June 2008 at 6:00pm**

**SUPPLEMENTARY AGENDA**

**Part A**

(open to the public including the press)

**Pages**

**8. Referred items under the Call in Procedure**

To consider any Portfolio Holder decisions, taken under the Call in Procedure.

*The panel may a) confirm the decision, which may then be implemented immediately, b) confirm the decision back to the decision taker for further consideration setting out in writing the nature of its concerns, or c) refer the matter to full Council in the event that the panel considers the decision to be contrary to the Policy Framework of the Council or contrary to, or not wholly in accordance with the Budget.*

**8. Referred items under the Call in Procedure**

- a. PER-001-08 Consultation Response on the Draft Joint Municipal Waste Management Strategy

**2 - 11**

The strategic decision, reference PER-001-08, Consultation response on the draft joint municipalwaste management strategy for Essex 2007 to 2032, taken by the Portfolio Holder for Performance and Partnerships on the 27 May 2008.

This decision has been called in by Councillor Terry Sutton, supported by four Councillors.

The panel may:-

- a) confirm the decision, which may then be implemented immediately,
- b) confirm the decision back to the decision taker for further consideration setting out in writing the nature of its concerns, or
- c) refer the matter to full Council in the event that the panel considers the decision to be contrary to the Policy Framework of the Council or contrary to, or not wholly in accordance with the Budget.



# COLCHESTER BOROUGH COUNCIL

## REQUEST FOR CALL IN OF DECISIONS TAKEN BY THE CABINET OR UNDER DELEGATED POWERS

### Explanatory Note

This form may be used to request a call in of any decision (except urgent decisions) taken by the Cabinet or by a Cabinet Member acting under delegated powers or a Key Decision taken by an Officer under delegated powers.

This form must be signed by at least five Councillors (or by one Councillor and supported by four other Councillors via e-mail) and must be delivered to the Proper Officer within five working days of publication of the decision.

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We, the undersigned, request that the following decision be scrutinised by the Strategic Overview and Scrutiny Panel or Finance and Audit Scrutiny Panel as appropriate for the reasons set out below:-

The decision of the Portfolio Holder for Performance and Partnerships on 27 May 2008, Consultation response on the draft joint municipal waste management strategy for Essex 2007 – 2032, decision PER-001-08

Reason(s) for call in:

Detailed reasons for the call in are noted on the next page. The reasoning of the call in considers that no regard has been given to the following principles of good practice, as noted in article 13.02 of the Constitution, consideration of all options available, having regard to due consultation, consideration of professional advice from officers, only relevant matters taken into account and due weight to all material considerations.

### Signatures

### Names in Capital Letters

1. ....
2. ....
3. ....
4. ....
5. ....

- Councillor Terry Sutton.....
- Councillor Robert Davidson
- Councillor Jackie MacLean
- Councillor Nigel Chapman
- Councillor Kevin Bentley

  
  
  
  

**NB** Please tick representative to attend and present case at the Panel meeting.

For Office Use:

To be heard at the Strategic Overview  
and Scrutiny Panel meeting of 10-06-08

Date and time of Receipt: 8:59 am, 4-June-08

## Reasons for call-in

Whilst the decision is ostensibly to object to the draft Essex municipal waste strategy, it also signals from paragraph 4.4 onwards a willingness to withdraw from the Essex Waste Partnership. It does so on the basis that vigorous pursuit of the waste hierarchy (reduce, reuse, recycle) will be sufficient to enable Colchester to achieve its targets for the foreseeable future. Previously published officer advice has been that targets could be achieved only through a combination of the hierarchy principles combined with further treatment of residual waste. The current report is silent on the treatment and disposal of residual waste. The decision therefore needs scrutiny to ensure that appropriate weight has been given to the professional advice of officers.

The report lacks clarity, in that whilst it purports to be only a response to a consultation, in fact it seeks a mandate for a policy stance the aims of which have not been the subject of informed debate within the Council.

Section 3 fails to identify all of the alternative options. For example, there is no consideration of the option to support Mechanical and Biological Treatment (MBT), which is widely regarded as benign including by environmental campaign groups, but to oppose the production of Solid Recovered Fuel, which is a more controversial process.

Section 5.2 of the report sets out a new policy for the Council of opposing MBT. The reasons for this opposition are not set out within the report, which therefore lacks transparency. It follows that it is impossible to determine whether only matters that are relevant have been taken into account in arriving at the decision.

Section 7 of the report should deal with consultation to inform the portfolio holder's decision but actually consists of a description of the Partnership's consultation on the draft strategy. In fact there has been no consultation on the local decision, not even internally through policy or scrutiny panels. Since the decision is a departure from the position previously agreed by both Cabinet and the Strategic Overview and Scrutiny Committee, such consultation is necessary prior to the decision being taken.

Section 8 of the report is headed 'publicity' but fails to set out how the decision and its impact on the people of Colchester will be publicised. Instead it identifies a risk – which it then entirely fails to quantify. This risk should be quantified in line with Audit Commission guidelines and proposals for its management included within the 'Risk' section of the report in order to inform the decision.

Section 9 deals with financial implications in the most superficial way. In fact, a considerable amount of work has been done to quantify the financial impact on its taxpayers of achieving Colchester's waste reduction targets by various means. Building on this work, the affordability of the threat of withdrawal signalled by the decision should be costed in broad terms and the result used to inform the decision.

# COLCHESTER BOROUGH COUNCIL

## RECORD OF DECISIONS TAKEN UNDER DELEGATED POWERS

### Explanatory Note

The Council has established Delegation Schemes by which certain decisions may be made by the relevant cabinet member or specific officers.

Such decisions are subject to review under the Call-in Procedure. From the date the decision is published there are five working days during which any five Councillors may sign a request for the decision to be reviewed and deliver it to the Proper Officer. If, at the end of the period, no request has been made, the decision may be implemented. If a valid request has been made, the matter will be referred to either the Finance and Audit Scrutiny Panel if the Type of Decision is Service, or the Strategic Overview and Scrutiny Panel if the Type of Decision is Strategic/Corporate.

For decisions which are deemed to be Key Decisions, these must be included in the Forward Plan and 14 days must elapse between publication of the Forward Plan and the decision being taken.

In addition, any report (excluding confidential ones) relating to a Key Decision must have been made available to the public at least five clear days prior to the decision being signed.

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### Part A – To be completed by the appropriate Cabinet Member/Officer

#### Title of Report

**Consultation response on the draft joint municipal waste management strategy for Essex 2007 to 2032**

#### Delegated Power

To comment on any consultative document

#### Decision Taken

That Colchester Borough Council does not support the draft joint municipal waste management strategy for Essex in line with the further details contained in the proposals section of the attached report.

#### Key Decision

Not a Key Decision

**Forward Plan**

N/A

**Reasons for the Decision**

For the Council to set out its opposition to the use of Mechanical Biological treatment (MBT) and the production of Solid Recovered Fuel (SRF) as part of the strategy for the management of waste in Essex.

**Alternative Options**

The alternative option would be to support the options for managing waste as set out in the draft joint municipal waste management strategy for Essex.

**Conflict of Interest**

None

**Type of Decision**

Strategic

**Dispensation**

None

**Authorisation**

Signature \_\_\_\_\_ Councillor Tina  
 Dopson \_\_\_\_\_

Designation \_\_\_\_\_ Portfolio Holder for Performance and  
 Partnerships \_\_\_\_\_

Date \_\_\_\_\_ 27 May 2008 \_\_\_\_\_

**(NB** For Key Decisions five clear days must have elapsed between the report being made available (see date in **Key Decision** box above) and the decision being taken i.e. signed)

**Part B – To be completed by the Proper Officer**

**Call-in Procedure**

Date published on The Hub and placed in Members' Room and Customer Service Centre  
\_\_\_\_\_ 28 May 2008 \_\_\_\_\_

Date by which request for reference must be made to the Finance and Audit Scrutiny Panel if the Type of Decision is Service or the Strategic Overview and Scrutiny Panel if the Type of Decision is Strategic/Corporate

5pm \_\_\_\_\_ 4 June 2008 \_\_\_\_\_

Signed \_\_\_ Diane Harrison \_\_\_\_\_

Proper Officer

**Reference Number**

\_\_\_\_\_

\_\_\_\_\_ PER-001-08 \_\_\_\_\_

\_\_\_\_\_

**Implementation**

Date decision can be implemented if no request (Call-in) for the decision to be reviewed has been made

After 5pm \_\_\_\_\_ 4 June 2008 \_\_\_\_\_



## Portfolio Holder for Performance and Partnerships

3 June 2008

Item

<b>Report of</b>	<b>Head of Housing and Environmental Policy</b>	<b>Author</b>	<b>Chris Dowsing</b>
<b>Title</b>	<b>Consultation response on the draft joint municipal waste management strategy for Essex 2007 to 2032</b>		
<b>Wards affected</b>	All wards		

**This report concerns Colchester Borough Council's response to the consultation on the draft joint municipal waste management strategy for Essex**

### 1. Decision(s) Required

- 1.1 That the Portfolio Holder for Performance and Partnerships submits on behalf of the Council the response to the consultation on the draft joint municipal waste management strategy for Essex as set out in section 5 of this report.

### 2. Reasons for Decision(s)

- 2.1 For the Council to set out its opposition to the use of Mechanical Biological treatment (MBT) and the production of Solid Recovered Fuel (SRF) as part of the strategy for the management of waste in Essex.

### 3. Alternative Options

- 3.1 The alternative option would be to support the options for managing waste as set out in the draft joint municipal waste management strategy for Essex.

### 4. Supporting Information

- 4.1 In 2006/07 Essex produced approximately 738,500 tonnes of municipal solid waste<sup>1</sup>, the majority of which was household waste. On average, each Essex resident produces about half a tonne of waste in a year. 36% of the household waste was recycled or composted in 2006/07. This recycling was undertaken by a combination of householders sorting their waste for recycling collections at the kerbside, taking recyclables to bring banks, or by taking sorted materials to their local Recycling Centre for Household Waste.

- 4.2 In 2002 the County Council, the District and Borough Councils together with the unitary authorities of Southend-on-Sea Borough Council and Thurrock Council, set up an advisory board to examine how to deal with municipal waste in these areas over the next two decades. The Waste Management Advisory Board (WMAB) has looked at the current and future challenges regarding waste and has examined a range of ways of dealing with it. This consultation and the strategy being consulted on is a result of the work of the WMAB.



- 4.3 Thanks to the residents of Essex, the Essex Waste Partnership has increased its recycling rate each year, but there is still room for improvement. Too much waste is still ending up in landfill sites, so valuable resources are lost. This needs to change. Sending untreated waste to landfill is not a sustainable way of managing waste. This has been recognised in European and national law which now require local authorities to reduce the amount of biodegradable waste that they dispose of in landfill sites. Essex County Council has been set challenging landfill diversion targets by Government and all Essex waste authorities have local recycling targets to meet.
- 4.4 The Waste and Emissions Trading (WET) Act 2003 includes a provision imposing a statutory duty on authorities in two-tier areas to draw up joint municipal waste management strategies, subject to certain exemptions. This duty only applies to authorities in areas where waste collection and disposal functions are held separately by different authorities
- 4.5 The provisions on joint municipal waste management strategies in section 32 of the WET Act require authorities in two-tier areas, subject to the exemptions set out in section 33, to do the following:
- have in place by April 2005 a joint strategy for their municipal waste - in preparing a strategy authorities must carry out appropriate consultation and take into consideration any guidance given by the Secretary of State;
  - review and keep any strategy up to date;
  - send a statement of the joint strategy to the Secretary of State and the Environment Agency - this statement should also be publicised in the authorities' area and be available free of charge for inspection by the public - authorities in Greater London should also send their statement of strategy to the Mayor of London; and
  - Authorities in Greater London should have regard to the Mayor's Municipal Waste Management Strategy when preparing their strategy
- 4.6 In line with the Government's commitment to freedoms and flexibilities, section 33 of the WET Act provides for the Secretary of State to exempt from the duty to have a joint strategy for the management of municipal waste, where certain conditions are met:
- High performing authorities (automatically); and
  - Whole two-tier areas (on application).
- The criteria for exemption are set out in regulations under section 33 of the WET Act.
- 4.7 Individual authorities in two-tier areas will be exempt automatically from the duty to have in place a joint strategy if the following conditions are met:

i) The authority is categorised as 'excellent' through Comprehensive Performance Assessment (CPA);

***and/or***

***If the authority is a waste disposal authority***

ii) the authority has met its statutory performance standards for wastes and, from 2006/07, has met its obligations, including by banking, borrowing or trading allowances, for the most recent financial year under LATS;

***If the authority is a waste collection authority***

iii) The authority has met its most recent statutory performance standards for waste.

4.8 The duration of exemption is as follows:

- An authority exempt through CPA categorisation will remain exempt from any duty until its rating drops below excellent for two successive years;
- a waste disposal authority exempt through having met its most recent statutory performance standards for waste and, from 2006/07, its obligations under LATS for the previous financial year, will remain exempt until either condition is not met – from 2007 a waste disposal authority will remain exempt until either condition is not met for two successive years; and
- a waste collection authority exempt through having met its most recent statutory performance standards for waste will be exempt until it fails to meet these, or for 24 months from the date confirmation of exemption is issued by the Secretary of State, whichever is the longer period.

## **5. Proposals**

5.1 The proposal is that Colchester Borough Council does not support the draft joint municipal waste management strategy for Essex.

5.2 The council is opposed to the use of mechanical biological treatment (MBT) as a method for the treatment of residual waste particularly when it is used for the production of a solid recovered fuel (SRF).

5.3 The Council believes that the questions set out in the latest consultation are leading and rhetorically biased towards MBT and no other option of waste management. The Council also believes that the previous War on Waste consultation was also flawed. In light of this the Council does not believe that the new consultation will provide any analysis that is worthwhile in shaping the future of Essex's waste management programme and, in fact, merely serves to back up a current position on procurement for large tonnage MBT sites that in the view of the Council are unnecessary.

5.4 The Council is committed to following the principles of the waste hierarchy. We will seek firstly to reduce the amount of waste produced within the Borough thereby reducing the amount of waste that needs to be dealt with. We also wish to see as much waste as possible reused to prevent it entering the waste stream.

5.5 Once this has been maximised the Council wishes to achieve high levels of recycling. The draft joint strategy also seeks to achieve high levels of recycling and the Council supports this aim however, the aspiration to achieve 60% recycling by 2020 is in the Councils not ambitious enough.

5.6 The Council believes that the "7<sup>th</sup> option" that was put forward in the previous War on Waste consultation and is mentioned in Annex 3 of the strategy document, provides a better basis for the management of waste in Essex that does away with the need for large scale treatment plants such as the MBT plants being proposed. It also confirms the majority view from that consultation put forward by respondents that the strategy should focus on waste minimisation and high levels of recycling and composting.

## **6. Strategic Plan References**

- 6.1 This decision relates to Colchester Borough Council's corporate objective to be the cleanest and greenest borough in the country.

## **7. Consultation**

- 7.1 The Essex waste strategy consultation was launched on Monday 18 February 2008.

The consultation ran for 12 weeks (18 Feb to 5 May), although for districts and boroughs with elections, this has been extended to 9 June.

A range of communication activities were undertaken to engage Essex residents and key stakeholders in the consultation. Activities included:

- A series of road shows in every district of the county (dates of these are attached); all documents were available at these along with a DVD for people to view explaining what the strategy options are;
- The distribution of a questionnaire. A copy of the questionnaire was included in the County Council's magazine 'Essex Works' which is delivered to every home in the county.
- Key stakeholders in Essex (including Town and Parish councils, Neighbourhood Associations, environmental groups and the waste industry) were written to and sent a CD containing the draft waste strategy, questionnaire and the Strategic Environmental Assessment (SEA) Report, to inform them of the consultation and to invite them to make any comments;
- Copies of the revised draft waste strategy, questionnaire and the SEA Environmental Report were available in every library in Essex;
- Detailed information about the consultation was available on Essex County Council's website with material for downloading. The questionnaire could be completed and submitted online;
- A series of focus groups were run by independent facilitators (Mori). The focus groups were undertaken to ensure the capture of qualitative data from a range of Essex residents, including typically 'hard to reach' groups such as older people, young people, black and minority ethnic communities and the disabled.
- Posters promoting the questionnaire were also displayed in the District / Borough Council offices and key public buildings (e.g. Town Halls). Reference copies of the draft waste strategy and the SEA Environmental Report were also available in these locations;
- A press release was sent out at the start of the consultation and there was ongoing media engagement and adverts to maintain interest in the consultation.

## **8. Publicity Considerations**

- 8.1 It is likely that this decision to remove the support of Colchester Borough Council for Mechanical Biological Treatment (MBT) facilities and the production of solid recovered fuel (SRF) as set out in the draft strategy will affect Essex County Council and the other District and Borough partners. The County Council in

particular will want to be assured that this decision does not place any extra risk on them in relation to their being able to achieve the allowances for the landfilling of biodegradable waste they have been set by Government under the Waste and Emissions Trading (WET) Act 2003.

- 8.2 The reasons for this decision will be communicated to the members of the Essex Waste Partnership through the appropriate Member and Officer channels.

## **9. Financial Implications**

- 9.1 The response to the consultation does not in itself carry any financial implications. There may however be financial implications for the Council from the decision which are as yet unknown in relation to the Essex Waste Partnership.

## **10. Equality, Diversity and Human Rights Implications**

- 10.1 There are no equality, diversity or human rights implications.

## **11. Community Safety Implications**

- 11.1 There are no community safety implications

## **12. Health and Safety Implications**

- 12.1 There are no health and safety implications

## **13. Risk Management Implications**

- 13.1 There are potential risks associated with the decision to not support the draft joint municipal waste management strategy for Essex. Much of this will be dependent on the reaction of the other authorities that make up the Essex waste partnership to this decision. The future funding of the waste management 'system' in Essex is currently being discussed and this may or may not make additional funding available to achieve higher levels of recycling.
- 13.2 In order to achieve higher levels of recycling especially in relation to the collection of more biodegradable waste such as food waste, it will be necessary to have ongoing discussions with the County Council as the statutory waste disposal authority to arrange suitable routes for the disposal/treatment of this material.

## **Background Papers**

Provide a list of documents here that you have relied upon to formulate the report but you do not need to list any document already in the public domain. Please be aware that any document listed must be shown to anyone who asks to see it. You should take this into consideration before listing any confidential documents.

Draft Joint Municipal Waste Management Strategy for Essex 2007 - 2032