

## **Paper clarifying Charnwood Borough Council's Position in relation to Energy from Waste in the Leicestershire Waste Development Framework**

### **Purpose and Background to Paper**

Charnwood Borough Council made representations on the Leicestershire Minerals Development Framework, and the Leicestershire and Leicester Waste Development Framework. This paper establishes the Borough Council's position in relation to one specific representation which concerned the role of energy from waste within the Waste Development Framework. In particular this paper concerns the following matters for discussion identified by the Inspector:

Whether alternatives to the strategy for recovering energy from waste have been given appropriate consideration and whether the policy is clear and justified.

15. Does the evidence adequately support Policy DC6? Is this part of the strategy the most appropriate when considered against reasonable alternatives? Has the matter been addressed adequately in the sustainability appraisal and the public engagement exercises?

16. To what "reasonable alternative strategies" is attention being drawn?

*Leicestershire & Leicester Waste development Framework Core Strategy & Development Control Policies Examination – Next Steps*

Officers at the Borough Council met with officers of Leicestershire County Council with the aim of understanding each organisation's position in relation to energy from waste. This meeting allowed the sharing of additional information from each side, which is presented in this paper.

### **Charnwood Borough Council Representation to the Examination In Public**

Charnwood Borough Council has made representations on the submission draft of the Leicestershire and Leicester Waste Core Strategy and Development Control Policies. These representations were approved by Charnwood Borough Council Cabinet on 4<sup>th</sup> September 2008.

In addition to this, the Inspector invited some of those that had made representations on the submission draft of the document to forward further material to clarify or support representations already made.

Charnwood Borough Council submitted further material in December 2008.

Fundamental to Charnwood Borough Council's objection is the relationship between the planning process in the Waste Development Framework and separate procurement process of waste management facilities. The Borough Council's objection lay in the concern that procurement process had identified a preferred option for dealing with waste (energy from waste), and that this decision was not dealt with in an open and transparent way in the planning process through the Core Strategy Waste Development Plan Document. Added to this was the concern that the procurement process seemed to be dictating the planning process rather than being informed by it.

Critical to this viewpoint was a Leicestershire County Council Cabinet report of the 24<sup>th</sup> July 2007 which concerned the procurement of long term waste management treatment facilities. The report included the following recommendation:

*"That the initial evaluated option of energy from waste with the potential for combined heat and power be selected as the preferred option for dealing with waste which is not composted or recycled"*

The wording of this recommendation and the accompanying report seemed to indicate that a decision on energy from waste had already been made.

### **Additional Information Clarifying the County Council's Position In Relation to Energy from Waste**

The officer meeting clarified Leicestershire County Council's position that its procurement process had not identified a preferred solution and the wording of the recommendations in the Cabinet report of July 2007 did not represent the Council's position clearly.

The following information supplied by officers at Leicestershire County Council confirm their position that the procurement process is technology neutral i.e. it does not specify a preferred technology for long term waste management facilities.

The OJEU Notice for the Procurement of Leicestershire Long Term Waste Treatment Project states:

*“Whilst the Council’s OBC reference project demonstrates a single Energy from Waste facility and a transfer station to be affordable and deliverable, the Council is not prescribing any specific waste treatment technology or solution”.*

Leicestershire County Council Cabinet 8th April 2008 included a report which concerned the procurement of long term waste management treatment facilities. The report sought to obtain Cabinet approval for the submission of an Outline Business Case (OBC) to the Department of Environment, Food and Rural Affairs (Defra) for Private Finance Initiative (PFI) credits to support the proposed procurement of long term waste management treatment facilities. Recommendations of this report stated:

*(e) that it be noted that the submission of the OBC will be based on a reference project including a reference site and technology with no implication that these constitute the County Council’s final preferred options at this stage.*

*(f) that it be agreed that the procurement will proceed on an open output specification which is neutral in terms of technology and site.*

Leicestershire County Council Cabinet 1st October 2008 included a report which concerned the procurement of long term waste management treatment facilities. The report sought to obtain Cabinet approval to start the procurement of long-term waste treatment facilities and to agree the evaluation methodology for the selection of bidders and assessment of their proposals put forward during the procurement process.

Paragraphs 45 and 46 of this report confirmed the technology neutral approach of the procurement process:

*“45 The project evaluation strategy must ensure that it objectively assesses bid proposals on the basis of their fit with the County Council’s aims and objectives and be based on a rigorous, transparent and accountable methodology. It should be impartial in terms of different technologies and should form the basis of any contract award. In addition it must provide a robust audit trail that will provide the basis of feedback to unsuccessful bidders and the basis for defending any decisions taken if challenged.*

*46. Therefore the assessment of bids received for the project will be carried out using an evaluation model which is neutral on technology alternatives but seeks to use proven technology solutions. In addition, the*

*sites proposed by bidders will be evaluated on their suitability for the technology to be located at the site. The objective of the evaluation will be to ensure that the County Council obtains the most appropriate solution, delivered in a way, which minimises environmental impact and located on a suitable site*

Leicestershire County Council has also provided detailed topic notes requested by the Planning Inspector. These are set out below and respond to the same questions that Charnwood Borough Council has responded to in its submission of further material in December 2008.

These questions posed by the Inspector include:

*Whether alternatives to the strategy for recovering energy from waste have been given appropriate consideration and whether the policy is clear and justified.*

*Does the evidence base adequately support Policy DC6? Is this part of the strategy the most appropriate when considered against the alternatives? Has the matter been addressed adequately in the sustainability appraisal and public engagement exercises?*

Leicester City and Leicestershire County Council's response is as follows:

*The evidence base (waste needs assessment (WAS 22a)) and paragraphs 4.1 – 4.7 of the Core Strategy adequately explain the RSS' requirement for the recovery of municipal waste (land fill diversion) and the amount required to reduce the levels of municipal and C&I waste going into landfill.*

*The other principal alternatives to deal with waste are landfill and recycling. These are both dealt with in the Core Strategy. The policy lays down criteria against which proposals for such would be assessed. The Core Strategy does not preclude or prefer any type of waste treatment. The alternative does not give a preference to a particular treatment technology. Given that the County Council's waste procurement project is neutral on technology type it is considered a neutral technology approach is reasonable.*

*The Councils believe that it has been adequately addressed in the sustainability appraisal and consultation process.*

## **Extracts from the Leicestershire and Leicester Waste Development Framework Core Strategy and Development Control Policies (Submission Draft)**

Further scrutiny of the Leicestershire and Leicester Waste Development Framework Core Strategy and Development Control Policies (Submission Draft) shows the following commentary about the relationship of the planning process with the procurement process:

Paragraph 4.15 states:

*“In terms of procurement, it has been identified at this stage that the best economic solution for the county is to develop an Energy from Waste facility with Combined Heat and Power. The County Council has now submitted a bid to Government for financial support through the Private Finance Initiative and if successful will proceed with the development of a tender process to plan, construct and operate new facilities. However the tender process will not specify Energy from Waste but will seek proposals from companies for dealing with the county’s municipal waste. It is expected that there will be a range of proposals put forward which at the time will be compared against the energy from waste solution. The most cost effective option that meets the county’s requirements for dealing with its’ municipal waste will be the one that is taken forward”.*

Revisiting the text of the Core Strategy submission draft thus indicates that the procurement process is technology neutral, and reference to Energy from Waste with combined Heat and Power is to allow comparison of proposals against a reference project.

### **Conclusion**

Additional evidence provided by Leicestershire County Council and revisiting the text of the Leicestershire and Leicester Waste Core Strategy DPD indicate that the procurement process has not specified a preferred technology.

The Borough Council's concern about the transparency of the planning process in explaining the procurement process has therefore been removed. It is Borough Council's view that this be expressed at the Examination In Public into the Leicestershire and Leicester Waste Development Framework Core Strategy and Development Control Policies.

### **Other Matters**

The Inspector also posed questions relating to:

- Evidence base
- The identification of reasonable alternatives
- The Sustainability Appraisal
- The adequacy public engagement

With regard to these other matters, the Borough Council's position was on the basis that the procurement process has already identified a preferred technology and that this was not reflected in the Waste Core Strategy Development Plan Documents. The other matters identified in the above bullet points were identified by the Borough Council to substantiate the fundamental concern about the relationship of the planning process with the procurement process.

As the fundamental concern about the relationship between the procurement process and the planning process has been removed, the other matters highlighted above are consequently no longer of concern. It is the Borough Council's view that this position in relation to other matters is expressed at the Examination in Public into the Leicestershire and Leicester Waste Development Framework Core Strategy and Development Control Policies.