

Agenda Item 5

**East Sussex County Council
Brighton & Hove City Council**

Meeting : **Joint Waste Committee**

Date: **20 June 2006**

Report of: **Project Director**

Subject: **Integrated Waste Management Services Contract –
Project Update**

The Special circumstances for non-compliance with Council Procedure Rule 19, Access to Information Rule 5, and Section 100B(4) of the 1972 Local Government Act, as amended (items not to be considered unless the agenda is open to inspection at least five days in advance of the meeting) are that the financial and performance information was not complete at the time of the despatch of the agenda.

1 Introduction

1.1 The purpose of this report is to update the Joint Waste Committee on Contract developments and progress on complying with the Government's Landfill Allowance Trading Scheme.

2 Recommendations

2.1 The Joint Committee is recommended to note the report.

3 Information

3.1 Background

3.1.1 The overarching aim of the Contract is to enable the sustainable management of household waste. The Councils have set out to reduce, recycle and recover as much benefit as possible from residents' waste. This approach will greatly reduce the Councils'

dependence on landfill and meet the EU Landfill Directive which requires member states to divert significant amounts of biodegradable municipal waste from landfill by the year 2020. It is also very important to recognise that our local landfills are projected to be full by 2008 at the latest.

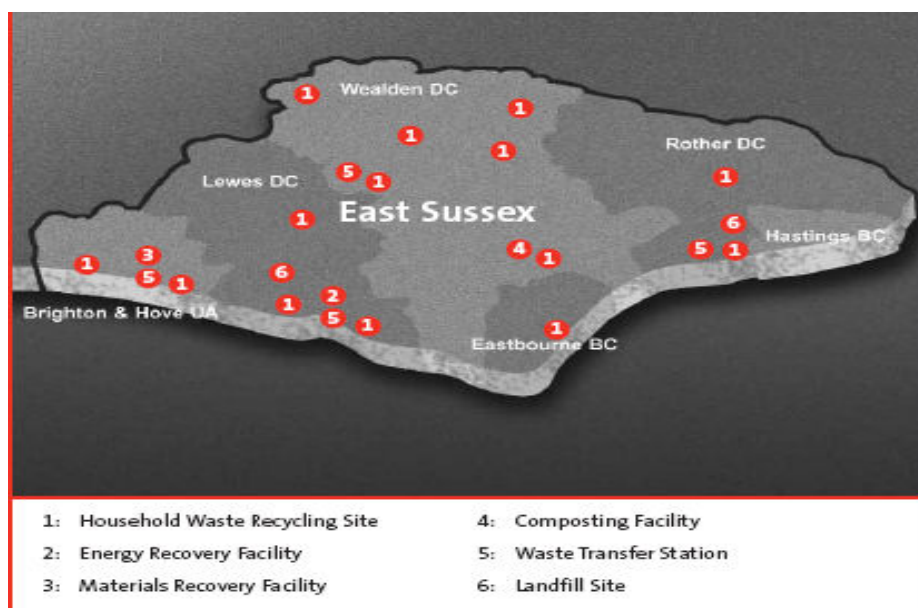
3.1.2 The Contract was awarded, following competitive tendering, to Veolia Environmental Services (formerly Onyx) on 31 March 2003. Tenderers' proposals were assessed on a value for money basis including the assessment which provided the Councils with the best practicable environmental option.

3.1.3 The requirement for Veolia to recycle and recover more benefit from waste necessitates it constructing a series of complementary (integrated) waste management facilities.

3.2 Development Programme

3.2.1 As part of the Contract, Veolia will provide an updated waste infrastructure. Details of the proposed location of the new facilities are set out below and were made public when the Contract was awarded. Veolia receives payment uplifts with each tranche of facilities it delivers.

3.2.2 Veolia has submitted its application for a household waste recycling site and a waste transfer station at Maresfield, for which it was decided to grant planning permission subject to the completion of a s106 agreement. It has three other applications awaiting determination. These are for a materials recovery facility and waste transfer station in Brighton; an enclosed composting facility at Whitesmith; and an energy recovery facility at Newhaven.



- 3.2.3 The Committee will be aware from the separate report on the issue that there has been a High Court challenge to the adopted Waste Local Plan but that it remains fully in place, notwithstanding the challenge.
- 3.2.4 Veolia has programmed facilities to be developed at a pace to respond to the requirements of the EU Landfill Directive and the loss of local landfill. Progress is dependent not only on planning approvals, but also on the acquisition of the necessary sites. In order to ensure as far as possible its programme is adhered to, Veolia has asked the Councils to exercise their Compulsory Purchase Order powers in respect of the site it has identified for the proposed energy recovery facility at North Quay, Newhaven. If the Councils are minded to exercise these powers, it would only be after the planning issues have been addressed.
- 3.2.5 It is in the best interest of the Councils and residents to ensure facilities are developed as close to Veolia's programme as possible. Waste transfer stations will be essential when landfill sites in the locality are full. The recycling, composting and energy recovery facilities are key to the Councils managing waste in a sustainable way and complying with the EU Landfill Directive and the Government's Landfill Allowance Trading Scheme (LATS). The LATS exposes waste disposal authorities who do not divert enough waste to significant fines.

3.3 Operations

- 3.3.1 Headline Waste Management Contract performance is shown in Appendix A.
- 3.3.2 Provisional outturn figures for 2005/06 confirm a continued improvement in Contract recycling and composting (Tables 2 and 3), and the diversion of waste from landfill (Tables 4 and 5), consistent with the objectives of the contract. There also appears to be a downturn in the amount of municipal waste in 2005/06 compared to 2004/05 which requires further investigation (Table 1).
- 3.3.3 It can be seen from Table 5 that there is still significant dependence on landfill and this will continue until all the Contract facilities are constructed and operational. All landfill operators were recently required to reapply to the Environment Agency for new site licences. It is known that the operators of the sites at Beddingham and Pebsham, on which the Councils largely depend for landfill, are having difficulty complying with the new licensing regime which means they may have to close even sooner than anticipated. In this event, the Councils will certainly have to look for interim waste transfer stations at strategic locations, or face the possibility of refuse collection vehicles having to travel to distant landfill sites, a situation which is unsustainable.

3.4 Landfill Allowance Trading Scheme

- 3.4.1 The Government introduced its Landfill Allowance Trading Scheme to ensure the Country complied with the EU Landfill Directive which requires member states to reduce to 35% of 1995 municipal waste levels, the amount of biodegradable municipal waste (BMW) landfilled. BMW when landfilled creates greenhouse gasses and harmful leachates. The LATS seeks to achieve compliance by issuing a reducing number of permits to waste disposal authorities to landfill BMW. Councils that have surplus permits can sell them to other councils which have a shortfall. There is an assumption that the value of permits will increase as the number of permits decreases. The level of fine for the amount a council exceeds its allowance is very high at £150 per tonne.
- 3.4.2 Both Councils have determined their strategies to comply with the LATS. ESCC has been disadvantaged by this scheme because the base year for the allocation of permits was 2001 when some 75,000 tonnes of waste was diverted from landfill for refuse derived fuel at a plant at Pebsham near Hastings. This plant subsequently closed but nonetheless the County Council had its allocation of permits reduced.
- 3.4.3 In the first year of the LATS, 2005/06, Brighton & Hove City Council was able to operate within its LATS permit allocation. ESCC however had to purchase some 20,000 permits to make up the deficit. The Councils' strategies set out a range of actions to ensure compliance up to 2020 but these will be affected by delays in the construction of facilities, notably the energy recovery facility.

4 Conclusions

- 4.1 The Councils are in a far better position to recover much more benefit from residents' waste and meet the requirements of the EU Landfill Directive, with this Contract than without it.
- 4.2 New facilities must to be constructed in response to depleting landfill and the EU Landfill Directive.
- 4.3 The Councils must drive the Waste Contract forward with their contractor, Veolia, consistent with the full planning process.

5. Financial Implications

- 5.1 Each Council has a Corporate Waste Reserve that bridges the gap between the service based budget provision and best estimates of the total cost of the Contract over its 25 year life. Now in the fourth year of

the Contract, financial modelling demonstrates that for each Council the reserve will still meet the estimated costs with some flexibility for what remain significant risks.

- 5.2 The Contract is structured to incentivise completion of new facilities. Consequently, whilst there are some delays there is no net financial disadvantage to the Councils. In this respect the Contract is performing well and as confirmed at a recent meeting with the Audit Commission, is still heralded as best practice in PFI.
- 5.3 The Councils have developed LATS strategies reflecting their respective circumstances which provide a framework to minimise exposure to financial penalties. This issue will however remain one of the significant risks referred to above, particularly until the completion of the energy recovery facility.
- 5.4 Financial modelling and sensitivity analysis are key decision making tools. The models have recently been re-written to cope with the increasing complexities of the waste industry generally and this Contract specifically. The revised models have been rigorously checked by internal audit. Strategies are in place to manage the most significant financial risks.

6. Legal Implications

- 6.1 The Contract allows for either Council to consider the exercise of Compulsory Purchase Order powers. Given the importance of timely site acquisition, this is now under active consideration in respect of the energy recovery facility at North Quay, Newhaven. The Contract provides a mechanism to pass the costs of so doing to the contractor, as part of the aggregate acquisition sum.
- 6.2 When the Contract was entered into the prospect of LATS permits and fines was not foreseeable, and consequently is not a risk that has been passed to the contractor. Considerable attention has been given therefore to the working up of LATS strategies, to mitigate any effects.

Report of:

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Background Papers

Integrated Waste Management Services Contract

<http://escwebsite/environment/rubbishandrecycling/managingwaste/happens/#subtitle1>

<http://www.brighton-hove.gov.uk/index.cfm?request=c1147524>

Waste Local Plan

<http://escwebsite/environment/rubbishandrecycling/managingwaste/decisions/default.htm#subtitle1>

<http://www.brighton-hove.gov.uk/index.cfm?request=b1110443>

Landfill Allowance Trading Scheme

<http://www.defra.gov.uk/environment/waste/localauth/lats/index.htm>

Table 1

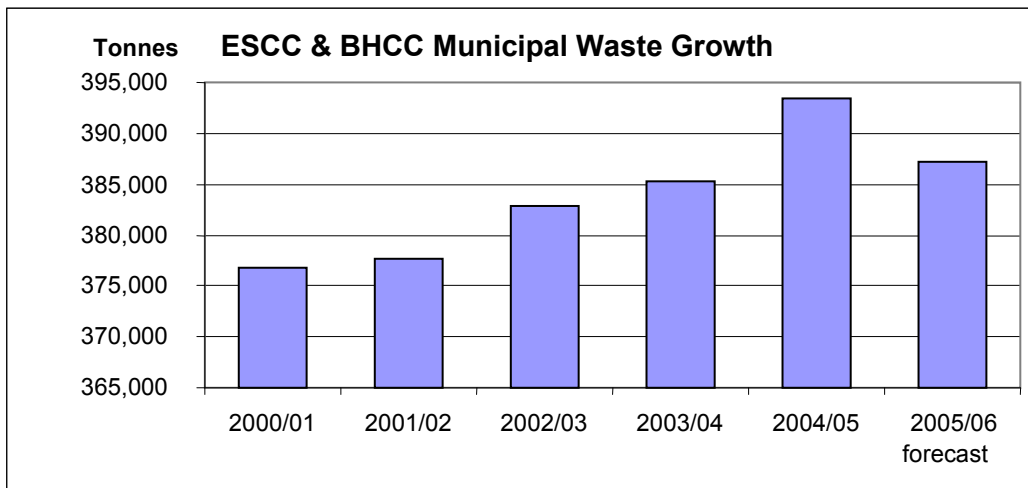


Table 2

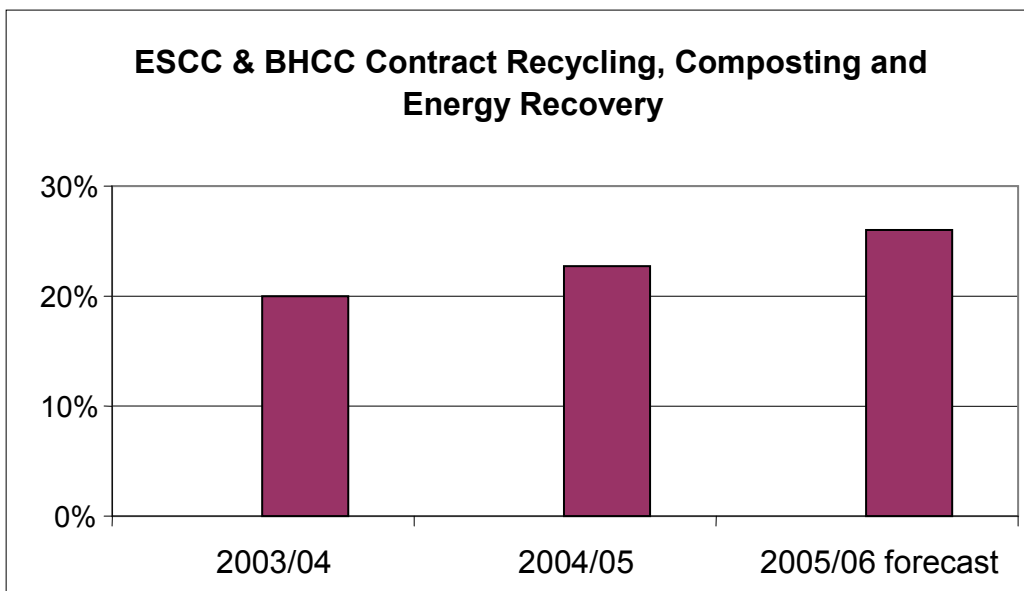


Table 3

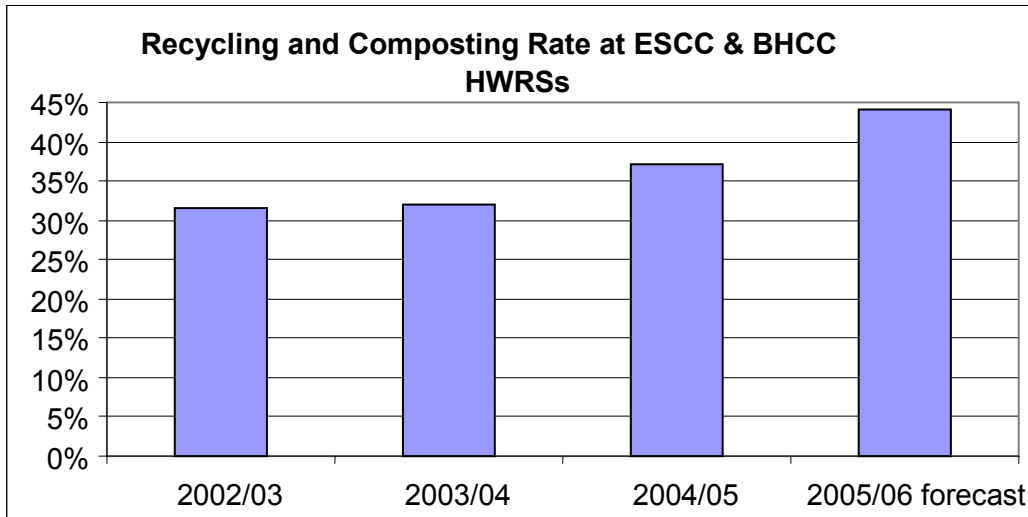


Table 4

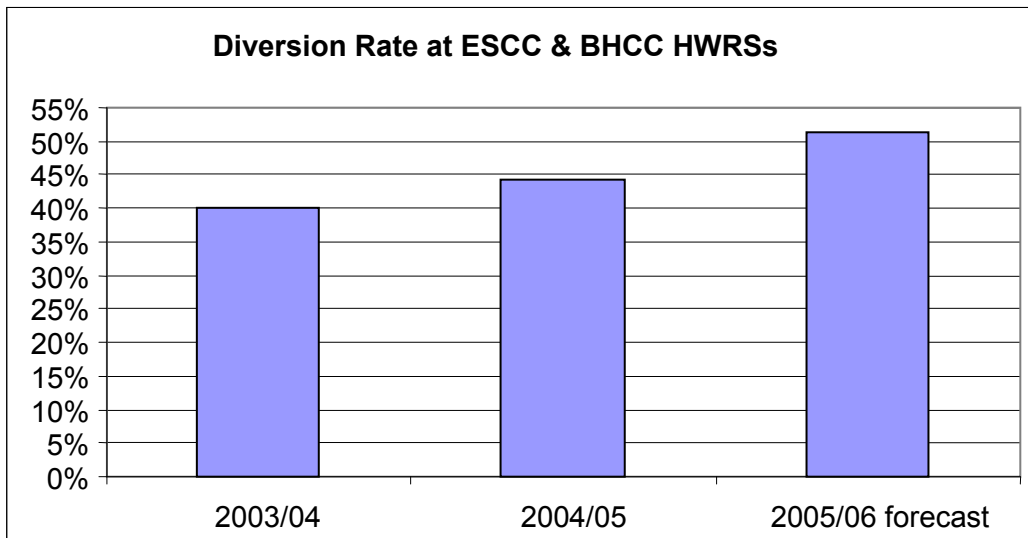


Table 5

