

Report to	Cabinet
Date	11 July 2006
Report By	Director of Transport and Environment
Title of Report	Compulsory Purchase of Land at North Quay, Newhaven
Purpose of Report	To seek authority for the acquisition of land needed for the construction of an Energy Recovery Facility for municipal waste by the making of a compulsory purchase order

RECOMMENDATIONS

Subject to the decision on the current planning application, the Cabinet is recommended to:

- 1. authorise the making of a Compulsory Purchase Order (CPO) under section 226(1)(a) of the Town and Country Planning Act 1990 for the acquisition of the land and any interests thereon as delineated on Plan 1, and more generally described in section 5, of the Appendix to this report, for the purpose of the construction and operation of an Energy Recovery Facility (ERF) for municipal waste and ancillary facilities;**
 - 2. authorise the Director of Law and Performance Management to take all necessary steps to secure the making, confirmation and implementation of the CPO including the publication of all notices and the presentation of the Council's case at any Public Inquiry; and**
 - 3. authorise the Deputy Chief Executive and Director of Corporate Resources to agree any compensation payable pursuant to the CPO.**
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1. Financial Appraisal

1.1 For reasons of commercial confidentiality, this is exempt information and will be considered with the separate report on this agenda.

2. Supporting Information

Introduction

2.1 The land at North Quay, Newhaven is currently in mixed industrial and business use, including marine aggregate wharfs, port related uses and existing scrap metal uses. It is an industrial area location generally isolated from residential property.

2.2 Veolia has requested the County Council to begin a process which would lead to acquisition of the site by compulsory purchase.

2.3 Further background information is given in the Appendix to this report. For reasons of commercial confidentiality details of the interests in the land and an indicative timetable of the process will be considered with the separate report referred to above.

Legal Implications

2.4 The site identified at North Quay, Newhaven is suitable and appropriate, in principle, for the development of an ERF for municipal waste against all relevant criteria, including the adopted Waste Local Plan (WLP). Negotiations with the relevant landowner and tenants have not yet resulted in a settlement and it would not be to the advantage of East Sussex County Council and Brighton & Hove City Council, in their roles as Waste Disposal Authorities, effectively to place Veolia Environmental Services (formerly Onyx), the Councils' waste disposal contractor, in a position where it would be obliged to make alternative waste management arrangements by withholding the exercise of statutory powers of compulsory purchase.

2.5 Notwithstanding East Sussex County Council resolving at this point to exercise its CPO powers, negotiations with the owners and tenants will continue and, if successful, will pre-empt the need for the Order to be processed and ultimately confirmed by the Secretary of State. The passing of the resolution does not of itself give rise to any legal obligation on the County Council to acquire the land or pay compensation.

Sustainability Implications

2.6 The Councils are responding to the sustainability agenda laid down globally and locally by actively increasing the amount of benefit recovered from the municipal waste arising in their boundaries.

2.7 The timely delivery to the contractor of vacant possession over all parts of the proposed ERF site facilitates the delivery of a sustainable waste management solution for East Sussex and Brighton and Hove.

3. Conclusion and Reason for Recommendation

3.1 It is essential that Veolia receives all appropriate support in order to secure the site for the ERF. Although a CPO would only be implemented if planning permission were obtained, it is important to respond to Veolia's request at this stage in order to make it clear that the Councils, in their roles as Waste Disposal Authorities, support Veolia in discharging its obligations pursuant to its Contract with the Councils.

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29 June 2006

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BACKGROUND DOCUMENTS

East Sussex and Brighton & Hove Structure Plan 1991-2011
Waste Local Plan (February 2006)
Town & Country Planning Act 1990
Waste and Emissions Trading Act 2004

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Background Information

1. The Planning Position

1.1 The 45 acre site known as North Quay is allocated as an Area of Search in the adopted Waste Local Plan (WLP) for an Energy from Waste/Materials Recovery Facility (EfW/MRF). In the WLP, the term 'Energy from Waste' comprises waste treatment technologies which include incineration. Other policies in the WLP require that issues such as the proximity of waste arising, transport of waste, capture of energy and environmental and health impacts are considered in any planning application.

1.2 This plan was prepared within the context of the adopted East Sussex and Brighton & Hove Structure Plan 1991-2011.

1.3 Veolia has submitted a full planning application for the provision of an Energy Recover Facility (ERF) and Waste Transfer Station (WTS) at North Quay. It is anticipated that it will be considered by the Planning and Highways Sub-Committee later this year.

2. The East Sussex and Brighton & Hove Waste Local Plan

2.1 The adopted WLP contains the Councils' policy framework for the development of waste management facilities. This plan came into operation in February 2006 after extensive consultation and a Public Inquiry into objections. The Plan seeks a fundamental shift away from landfill for the management of waste, via an integrated strategy including waste reduction, reuse and recovery (including recycling, composting and energy from waste) and disposal of only the residues of treated waste).

2.2 Policy WLP9 identifies North Quay, Newhaven as an area of search for EfW/MRF. No other sites for EfW were identified in the WLP. A second site at Mountfield, in Rother District, was recommended for deletion by the WLP Inquiry Inspector and the WLP was modified by the Councils accordingly.

2.3 The WLP is currently the subject of a High Court challenge which will be considered at a hearing in mid-October. In the meantime, it remains fully effective.

3. The Objectives of the County Council as Waste Disposal Authority

3.1 East Sussex County Council and Brighton & Hove City Council need to develop facilities to handle and recover benefit from the Councils' municipal waste, in order to achieve the targets set out in the Waste Local Plan and in the longer term exceed those targets.

3.2 The function of an ERF is to combust mixed waste under controlled conditions, to reduce its volume and hazardous properties and to generate electricity and heat. It will recover benefit from residual waste that has not been recycled or composted.

4. The Joint Integrated Waste Management Services Contract

4.1 The waste disposal contract entered into by East Sussex County Council and Brighton & Hove City Council with the contractor Veolia on 31 March 2003 identifies preferred sites for the construction and operation of waste management facilities. Set out below is a schedule of proposed Contract waste management facilities across the geographical area of East Sussex and Brighton & Hove. These sites and facilities were

APPENDIX

selected by Veolia against a range of criteria, not least of which was the position in respect of obtaining satisfactory planning permission for the development of the sites, and of obtaining vacant possession of the sites. The facility proposed for North Quay, Newhaven site thus forms but part of an East Sussex and Brighton & Hove-wide integrated waste management service for municipal waste. Veolia has to acquire the freehold of sites or leases with a minimum term of 50 years.

Schedule of Proposed Contract Facilities

Waste Facilities	Planning Application	
	Submitted	Determined
1. Waste Transfer Stations		
a. Western – at Hollingdean, Brighton	✓	✓
b. Northern – at Maresfield Camp	✓	✓
c. Eastern – at Pebsham	-	-
d. Temporary Southern – at Newhaven	-	-
2. Materials Recovery Facility		
Hollingdean, Brighton	✓	✓
3. Composting Facility		
Whitesmith (Near Uckfield)	✓	-
4. Energy Recovery Facility		
North Quay, Newhaven	✓	-
5. Household Waste Recycling Sites		
a. Uckfield – at Maresfield Camp	✓	✓
b. Hastings – at Pebsham	-	-
6. New Technology		
Need and location to be determined	-	-

4.2 In respect of the land at North Quay, Newhaven, and in particular the area delineated on the attached Plan 1, Veolia is committed under the waste management contract to acquire the land and to seek to obtain planning permission to commission an ERF. In the absence of obtaining the land, Veolia would be obliged to make alternative arrangements for such a facility.

4.3 To date it has not proved possible for Veolia to acquire vacant possession of any part of the site delineated on the attached Plan 1 within a timescale compatible with the overall requirements of the waste management contract.

5. The Interests in the Land at North Quay, Newhaven

5.1 There have been negotiations between Veolia and the landowner and tenants to achieve a voluntary surrender of those interests, but to date no satisfactory conclusion has been reached. Irrespective of the County Council resolving to make a Compulsory Purchase Order (CPO) at this stage, negotiations will continue and it is hoped that these will lead to a voluntary settlement satisfactory to all parties. However, a confirmed CPO will enable the development to take place whilst valuation and compensation issues are being negotiated, or are being referred to the Lands Tribunal in the event of negotiated settlements not being achieved

5.2 The interest in the areas in question, together with the estimate of the total valuation for acquisition under compulsory purchase, should the matter proceed fully to an assessment of compensation by the Lands Tribunal, set the parameters of the ongoing negotiations. For reasons of commercial confidentiality, this is exempt information.

6. The Powers of Compulsory Purchase

6.1 Under section 226(1)(a) of the Town & Country Planning Act 1990 “A *local authority to whom this section applies shall, on being authorised to do so by the Secretary of State, have power to acquire compulsorily any land in their area which—*

(a) is suitable for and required in order to secure the carrying out of development, redevelopment or improvement...”

The fact the land is in the WLP demonstrates that it meets the criteria of s226 (1)(a) of the Town & Country Planning Act 1990 above.

6.2 In using the powers set out above, the Council also has to be satisfied that the proposal is likely to contribute to the achievement of the promotion or improvement of the economic, social or environmental wellbeing of the area.

The projected environmental benefits of this development, if it goes ahead, are:

- a reduction in the amount of waste landfilled;
- more benefit recovered from municipal waste and the achievement of targets;
- road traffic minimised; and
- public health of communities protected.

The projected social and economic benefits, if the development goes ahead, are:

- avoidance of significant financial penalties for over dependence on landfill, that would have to be passed on to all residents;
- employment of up to 200 people during the construction phase of the development;
- permanent employment of some 35 plant operatives, once the facility is operational and the potential for local contractors to carry out routine maintenance of the plant;
- road improvement at North Quay to the benefit of other users;
- potential synergies between Veolia and other businesses at North Quay; and
- an education and training centre available for the use of the community.

I am therefore satisfied that a CPO can be authorised under the above provisions.

Compulsory Purchase of Land at North Quay, Newhaven

Plan 1 – CPO Area

