

**HERTFORDSHIRE COUNTY COUNCIL**

**COMMUNITY SAFETY AND WASTE MANAGEMENT  
CABINET PANEL**

**WEDNESDAY 21 OCTOBER 2015 AT 10:00**

**RESIDUAL WASTE TREATMENT PROGRAMME UPDATE**

Report of the Chief Executive & Director of Environment

Authors:-

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Executive Member: Richard Thake – Community Safety & Waste Management

Agenda Item No.

**6**

**1. Purpose**

- 1.1. To provide Members with an update on the progress of the Residual Waste Treatment Programme.

**2. Summary**

- 2.1. On 27 July 2011 the Council and Veolia ES Hertfordshire Limited (VES) entered into a contract (the RWTP Contract) for the provision by VES to the Council of residual waste treatment services including the design, construction, financing and operation of a Recycling & Energy Recovery Facility (RERF) at New Barnfield, Hatfield.
- 2.2. On 8 July 2014 the Secretary of State for the Department of Communities and Local Government (SOS) refused to grant permission for the RERF at New Barnfield. VES challenged successfully this refusal in the High Court. The SOS re-determined the planning application and on 16 July 2015 issued a notice refusing the application.
- 2.3. In accordance with the RWTP Contract the Council requested a Revised Project Plan on July 7 2015.
- 2.4. A detailed evaluation of the draft Revised Project Plan is ongoing, as is a wider examination of affordability and alternative disposal options.

### **3. Recommendation**

- 3.1 That the Panel note the report.

### **4. Background**

- 4.1. The Hertfordshire Waste Procurement Programme (now the Residual Waste Treatment Programme or RWTP) was initiated to assist the Council to undertake its statutory duties as the Waste Disposal Authority, to provide disposal facilities for all of the residual Local Authority Collected Waste (LACW), as collected by the county, district and borough councils. The RWTP has its roots in the Joint Municipal Waste Management Strategy 2007, as agreed by the Hertfordshire Waste Partnership, to seek a long term solution to meet residual LACW treatment and disposal needs.
- 4.2. The Council's application for Waste Infrastructure Credits, better known as Private Finance Initiative (PFI) Credits was provisionally approved in April 2009 and the Council was awarded £115.3 million of credits with a condition that the Council had two years to complete the procurement process. As PFI credits are subject to inflation over the 25 year period of the contract the credits are converted into a grant that would have been worth approximately £217 million.
- 4.3. The final tenders were evaluated and a recommendation to name VES as preferred bidder was made by the Waste Management Cabinet Panel on 28 April 2011. Cabinet approved the Panel's recommendation on the same day.
- 4.4. On 27 July 2011 the Council entered into the RWTP Contract with VES for the provision of services for the treatment of Hertfordshire's residual LACW. This entailed the provision and operation of a 380,000 tonne per annum Recycling & Energy Recovery Facility (RERF) at New Barnfield, south of Hatfield.
- 4.5. VES submitted a planning application to the Council, as Waste Planning Authority, in November 2011, and on 24 October 2012 the Development Control Committee resolved to approve the application. The application was referred by the Council to DCLG (Department for Communities and Local Government) as a departure from national Green Belt planning policy and notice was received on the 28 January 2013 advising of the SOS' decision to 'call in' the application for his determination.
- 4.6. The public inquiry into the RERF proposal for New Barnfield ran for six weeks with the Inspector's report submitted to the SOS in February 2014. On 8 July

2014 the Council received a letter from DCLG stating that the SOS refused to grant planning permission.

- 4.7. Anticipating that planning permission was not going to be obtained by the original Planning Permission Longstop Date (PPLD) of 22 August 2014 the Council requested from DEFRA, pursuant to the terms of the Waste Infrastructure Credit letter, an extension to the PPLD in order to allow a period of time for planning permission to be obtained or to give Members time to consider options should planning permission not be granted. It was not until 14 August 2014 that the Council received a letter stating that Defra would not agree to the extension of the PPLD.
- 4.8. Defra confirmed on 16 October 2014 that the PFI credits would be withdrawn. The reasons given by Defra were breach of the Waste Infrastructure Credit Letter (failure to meet the PPLD of 22 August 2014 and variation of the RWTP Contract without consent) and their view that the Hertfordshire project was not needed to allow the UK to meet 2020 EU waste disposal targets, in particular the reduction in biodegradable waste sent to landfill.

## **5. Legal Challenge and re-determination**

- 5.1. After reviewing the decision by the SOS not to grant planning permission the Council decided not to challenge. VES did lodge a statutory challenge to the decision by the SOS, the challenge was heard at the High Court in December 2014.
- 5.2. On 22 January 2015 the Council was notified that the challenge by VES had succeeded on one point. *“Failure to take into account as part of the very special circumstances [VSC] that the WSALDD [Waste Site Allocations Local Development Document] Inspector endorsed the allocation of New Barnfield and considered that this should carry weight in the determination of VSC.”*
- 5.3. The SOS confirmed that he would not challenge the judgment and the planning application was returned to him for re-determination. Letters were sent by DCLG to all interested parties stating that the Secretary of State will issue his decision on this case ‘on or if possible before Thursday 16 July 2015’.
- 5.4. On 17 July 2015 the Council received notification from DCLG that the SOS had refused the planning application for the development at New Barnfield. It was concluded that the considerations in favour of the proposal do not clearly outweigh the harm to the Green Belt and therefore are not sufficient to justify the development.

5.5. No legal challenge was made to the SOS' re-determination decision by the deadline of 27 August 2015.

## **6. Revised Project Plan**

6.1. The RWTP Contract contains provisions allowing the Council, on planning failure, the option to request a Revised Project Plan (RPP) from VES to provide an alternative solution for Hertfordshire's waste.

6.2. Following a recommendation from the Highways and Waste Management Cabinet Panel, and a decision by Cabinet, in November 2014 a Deed of Variation to the RWTP Contract was completed. The Deed of Variation extended the period within which VES was required to submit a RPP (from three to six months). Should planning permission for New Barnfield have progressed, the Deed of Variation maintained the option for the Council to proceed with an evaluation of the New Barnfield project, or, continue with the evaluation of the RPP or terminate the contract with VES.

6.3. A RPP was requested from VES on 7 January 2015, giving VES up to six months to present a draft proposal for evaluation. During this period VES explored a number of options for the disposal of Hertfordshire's residual LACW and met regularly with officers to discuss progress.

6.4. A draft RPP was submitted by VES on 7 July 2015.

6.5. Detailed evaluation of the draft RPP is ongoing, regular meetings are being held with VES and specialist advisors to ascertain if the draft RPP meets the current and future needs of the Council and if the proposal provides value for money. Careful consideration is being given to whether the draft RPP would be capable of acceptance as a lawful variation to the RWTP Contract.

6.6. Due to the on-going commercial and confidential nature of the discussions concerning the draft RPP no detail has currently been released. This decision is being kept under review.

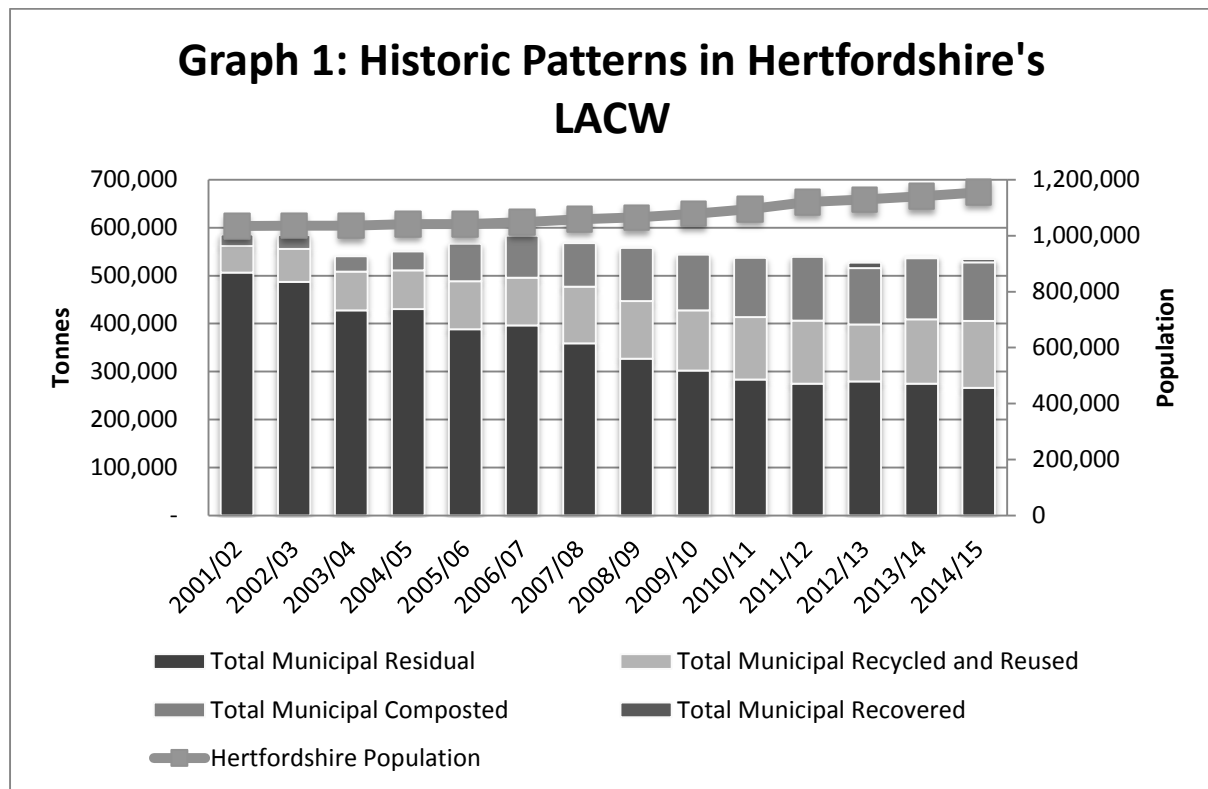
## **7. Quantity of waste managed**

7.1. In 2014/15 Hertfordshire County Council disposed of c. 534,000 tonnes of municipal waste. Graph 1 below shows the quantity of LACW in each year since 2001/02.

7.2. It should be noted that significant improvements have occurred in this time in the minimisation of waste and in the quantity of material separated for

recycling and/or composting increasing due to implementation of new services in kerbside collection and at household waste recycling centres. This is particularly pleasing considering the increasing population in the County over the period shown.

- 7.3. There remains however, a significant quantity of material that must be disposed and/or treated and it is becoming more challenging to deliver further improvements in these times of fiscal austerity, future population pressure and when the majority of the 'easy wins' have already been delivered.
- 7.4. Predictions in future waste arisings cannot be an exact science and there are many factors to take into account such as further gains (or losses) that might be possible in recycling and waste minimisation, the state of the economy, services, future targets and population pressure.



## 8. Current Disposal Arrangements

- 8.1. In 2009, the County Council sought tenders for the provision of interim waste treatment and associated final disposal facilities for residual LACW arising in Hertfordshire. This was in order to ensure that arrangements were in place that could lead to a transition into the planned delivery of the RERF for which tenders were being sought at the time.

- 8.2. The contracts were set for a period of c. 4 years from either January or March 2010 with a natural expiry date for all arrangements on 31 March 2014 but with the possibility of extension periods up to three years, at the sole discretion of the Council.
- 8.3. When it became clear there were planning issues with New Barnfield, officers considered the relative merits of extending these interim contract arrangements. Although there were some advantages in extending the existing contracts e.g. surety of disposal arrangements and a higher level of certainty on the budgetary requirements, there was planned and ongoing development of facilities in the region and surrounding counties that warranted a fresh approach to the market. Therefore, a new second 'suite' of interim contracts for the period 2014 to 2018, with extension periods of up to three years were procured.
- 8.4. It was also agreed that the 1997 contract with LondonWaste Ltd for disposal of up to 60k tonne p.a at the Edmonton EcoPark, due to expire 31 December 2017, would be continued at the maximum permitted tonnage for the remaining period. The 2010 contract with LondonWaste for disposal of 5k tonnes p.a. would be extended beyond the 31<sup>st</sup> March 2014 natural expiry date for up to the maximum permitted three year extension period.
- 8.5. The remaining tonnage of residual LACW was the subject of an OJEU notice published in August 2013, leading to contract commencement on the 1 April 2014 up to March 2018 with a possible extension of up to three years to allow flexibility in future decision making and provide a disposal route for Hertfordshire's waste up to the end of March 2021 if necessary.
- 7.6 The estimated future projected use of these interim disposal contracts for disposal of residual LACW (in tonnes) is set out in Table 1 through to natural expiry, in broad terms and without growth assumptions, to the end of the 2017/18 financial year.

<b>Table 1: Estimated future use of interim disposal contracts</b>				
<b>Facility</b>	<b>Contracted operator</b>	<b>2015/16</b>	<b>2016/17</b>	<b>2017/18</b>
Edmonton EfW (1997 contract)	LondonWaste Ltd	60,000	60,000	45,000
Edmonton EfW (2010 contract)	LondonWaste Ltd	5,000	5,000	0

Bletchley Landfill – Bucks	FCC	45,000	0	0
Greatmoor EfW - Bucks	FCC	15,000	75,000	90,000
Ardley EfW - Oxfordshire	Viridor	90,000	75,000	75,000
Westmill Landfill – Ware	Biffa	40,000	40,000	45,000
Milton Landfill - Cambs	FCC	3,000	3,000	3,000
<b>Residual Waste Total</b>		<b>258,000</b>	<b>258,000</b>	<b>258,000</b>

7.7 Whilst these interim arrangements do afford the Council with possible extension periods up to the end of March 2021, the costs post March 2018 are subject to negotiation and there is a recognition that the existing value for money gained in ‘commissioning’ EfW facilities is likely to result in an uplift in disposal and/or treatment charges per tonne post March 2018.

7.8 Should the Council decide not to proceed with the RPP and/or to extend the existing interims, procurement of new services for the disposal and/or treatment of residual LACW would need to ensure that services were available to commence in April 2018.

## 9. Development of Supporting Infrastructure

9.1. The Council owns a waste transfer station, Waterdale, in Garston, North Watford that currently transfers the residual LACW from seven of the ten district and borough councils. Further transfer stations are being considered, one in the north of the county and one in the east of the county. These are intended to supplement any final residual waste disposal services by transferring the waste collected by the district and borough councils that are an unreasonable travel time and/or distance from the final disposal point.

9.2. Currently c. 60,000 tonnes of residual LACW are directly delivered to a number of disposal points by the district and borough councils i.e. Milton, Westmill and Edmonton. The development of waste transfer stations is planned such that they coincide with expiry of the current contracts to ensure continuity in disposal service provision should the Council decide to reject the RPP.

9.3. Land in the County Council’s ownership, behind the Ware Household Waste Recycling Centre, has been identified as a potential location for the

development of an 'Eastern' transfer station and ground investigation works to establish suitability for development has been completed.

- 9.4. The next phase of this work is the detailed design stage prior to any application for planning permission. The project is identified in the Council's capital programme and could provide transfer facilities for East Herts District Council, Broxbourne Borough Council and potentially Welwyn Hatfield District Council. A newly developed site would also provide a more modern, fit for purpose and better equipped Household Waste Recycling Centre to serve residents of Ware, Hertford and the surrounding areas.
- 9.5. A site search has been carried out in the north of the county and has identified a range of potential sites. Although deliverability and the timing of any potential planning application are some way off and would need to be mindful of the North Herts District Council local plan process. There is currently no approved business case or capital allocation for such a development.
- 9.6. It should, however, be noted that the outcome of the New Barnfield proposals do reinforce the need for a transfer facility in the north of the county and officers are working closely with North Herts District Council to explore all options and identify the possibility for co-location of facilities, i.e. Transfer Station, Collection Authority depot and Household Waste Recycling Centre.
- 9.7. Continuity of service provision for North Herts District Council is provided by the existing Burymead Road transfer facility in Hitchin but the medium to long term suitability of this location is not considered sustainable to meet future demand by either the District or County Council.

## **10. Credible Alternatives**

- 10.1. In order to gauge if the draft RPP presented by VES is the best available solution for Hertfordshire research has been carried out by officers looking at the alternative residual waste disposal options available.
- 10.2. Detailed affordability modelling is being carried out which considers the cost of disposal at facility(ies) as well as the associated transfer of waste and management of infrastructure such as waste transfer stations. This analysis work will provide a broad comparison of the cost of the draft RPP presented by VES and also that of potential alternative disposal options.
- 10.3. Waste flow modelling was originally carried out in 2008 in support of the Outline Business Case (OBC) for PFI Credits for the Hertfordshire Waste Procurement Project. This has been updated and takes into account planned



service changes likely to affect waste arisings and composition in Hertfordshire.

- 10.4. The refreshed waste flow data is being used to help understand if the draft RPP fits the current and future needs for residual LACW treatment and is essential in informing the expected capacity and future needs of the Council in the long term as well as the position on affordability.
- 10.5. In parallel to refreshing the waste arisings for the County over the long term, the Council has recently completed waste compositional analysis for nine of the ten district and borough councils and seven of the seventeen household waste recycling centres in the County. High level output from this analysis is shown in Appendix A.

## **11. Treatment Options for Residual LACW**

- 11.1. Alternative options and technologies have been explored to inform decision making should the RPP submitted by VES be rejected. There are many different techniques for dealing with residual LACW and these will be explored in more detail in the Panel report which considers the merits or otherwise of the RPP.
- 11.2. There are a number of treatment facilities, existing or in construction, which are relatively close to Hertfordshire. It is important to note however, that available capacity to accept residual LACW from Hertfordshire is likely to vary between facilities and over time and will be affected by the costs associated with transfer and haulage of the waste.
- 11.3. The affordability modelling that is currently being carried out by officers therefore considers the wider whole system costs, i.e. not only the gate fee (the cost once the waste arrives at a facility) but the cost of any transfer at a transfer station and the cost of haulage which includes the vehicle costs, employee costs and fuel costs.

## **12. Other Authorities**

- 12.1. Table 2 shows the residual waste disposal options for Hertfordshire County Council's nearest statistical neighbours, these authorities have the most similar statistical characteristics in terms of social and economic features. (Source: Cipfa (Chartered Institute of Public Finance and Accountancy) <http://www.cipfastats.net/resources/nearestneighbours/profile.asp?view=select&dataset=england> )

Table 2: Residual waste disposal in other authorities
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<b>Authority</b>	
Buckinghamshire County Council	In county Energy from Waste (EfW) facility constructed at Greatmoor is commissioning from November 2015, anticipated to be fully operational from spring 2016.
Cambridgeshire County Council	Waste sent to their Mechanical Biological Treatment (MBT) facility with residual remaining after treatment sent to landfill.
Essex County Council	Processed at MBT facility in Basildon, then the resulting 'fuel' is sent for export to European EfW facilities.
Gloucestershire County Council	In county Javelin Park EfW, planning application approved by Secretary of State in January 2015.
Hampshire County Council	Waste is sent to one of three EfWs within Hampshire with less than 10% of waste sent to landfill.
Kent County Council	In county EfW facility at Allington Quarry.
Lancashire County Council	Waste treated at two MBT facilities, waste remaining after treatment goes to landfill.
Northamptonshire County Council	The county is divided into three areas and waste from each area sent to a number of facilities. Technologies include mechanical treatment, anaerobic digestion, gasification, production of waste derived fuel and MBT.
Nottinghamshire County Council	Following unsuccessful planning application for an EfW, an RPP was accepted, waste now sent to a combination of existing EfWs including facilities out of county.
Oxfordshire County Council	Waste is sent to their in county EfW facility at Ardley.
Suffolk County Council	In county EfW facility is operational at Great Blakenham
Surrey County Council	Following a refusal of planning permission for EfWs at a number of in county sites interim contracts were signed in 2009 to take waste out of the county.
Warwickshire County Council	Within county landfill and EfW at Four Ashes (in partnership with Staffordshire County Council).
West Sussex County Council	Waste is to be treated at their MBT facility (currently completing the commissioning phase) and waste derived fuel to be produced.
Worcestershire County Council	In partnership with Herefordshire entered a contract in 1998, following failed planning application on the original site, the in county site at Hartlebury was granted planning permission by the Secretary of

	State in 2012. EfW facility is under construction and will start commissioning in spring 2017.
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### **13. Industry Discussions**

- 13.1. Officers have held informal discussions with representatives from a number of different service providers to understand the alternative options available. While the Council remains in contract with VES these discussions remain informal and it cannot be determined how potential options compare financially to the draft RPP submitted by VES.
- 13.2. To date discussions have been held with representatives from 10 providers with all suggesting a form of Energy Recovery process, whether that is for facilities in the UK or Europe.

### **14. Market Engagement exercise**

- 14.1. A formal market engagement exercise process is underway. A Prior Information Notice (PIN) was placed in the Official Journal of the European Union (OJEU) on the 19 September 2015 which invites suitably experienced and interested suppliers to complete a questionnaire. The purpose is to more formally collect information on industry ideas of how to deal with Hertfordshire's residual LACW, an indication of prices, available capacity and their view on preferred contract length to provide the Council with best value and performance.
- 14.2. To assist respondents in submitting their proposals, the updated waste arisings and compositional analysis recently conducted (as in section 9 of this report and at Appendix A) accompanied the PIN.
- 14.3. The responses from this exercise are due to be returned on 23 October 2015. It is anticipated that meetings will be held with the suppliers responding to the soft market testing in November 2015 to gain further information if necessary. The results of this exercise will be reported to Members alongside the evaluation results of the VES RPP to inform the decision making process.
- 14.4. Should the decision be taken to reject the RPP from VES and therefore trigger termination of the RWTP contract, development of a new procurement strategy would be necessary. The responses and information gathered from the market engagement exercise will assist with the development of such a strategy.

### **15. Financial Points of note**

- 15.1. The published savings position of the New Barnfield solution was £667m and this was reduced by in the order of £217m due to the loss of PFI credits (detailed in 3.8 above). It should be noted that this initial assessment was a comparison against the original set of interims (detailed in 7.1 above) which included a significant use of landfill as a means of disposal.
- 15.2. The current and ongoing financial modelling to assess the financial suitability of the RPP is considerate of existing arrangements and will also be informed by the market engagement exercise (detailed in section 13.1 above).
- 15.3. If the RPP is rejected contract termination costs in the order of £1.2 million would be payable to VES. As part of the risk management process for the RWTP a special contingency of £8m was created to deal with contract risks. In the event of termination following rejection of the RPP, this reserve could be used to meet termination costs.
- 15.4. The provision of infrastructure such as waste transfer stations requires capital investment. A high level estimate of cost for constructing an eastern transfer station has been identified (in the region of £6 million) and this funding is already built in to the County Council's capital programme. Capital investment of a similar scale would be required for the development of a northern transfer station which would need to be included within the Integrated Plan Process.
- 15.5. The current disposal contracts were procured at a time when new facilities were nearing completion and there was competition for residual LACW in order to assist in the commissioning process. The disposal rates are considered favorable in the context of the current market and savings in the waste management disposal budget of £1.5m have been delivered.
- 15.6. It is considered unlikely that savings could be achieved with a future extension of these short term contracts and an increase in contract rates per tonne in the region of 10% per tonne is in-line with current market rates. This pressure will be identified through the County Council Integrated Plan process.

## **16. Next Steps**

- 16.1. The RWTP contract with VES states that the Council has six months to evaluate, and seek to agree, the draft RPP. The end of this period is the 7 January 2016.
- 16.2. Although the draft RPP submitted by VES is compliant with the requirements specified for a draft RPP in the RWTP Contract, final price and technical information will not be able to be provided by VES until the end of November

2015. There will be insufficient time to complete the evaluation with the additional financial and technical information and then report the outcome of the evaluation to Members before 7 January 2016.

16.3. It is therefore intended, if necessary, to recommend a further short extension to the Deed of Variation to allow a complete and thorough evaluation of the RPP to be concluded. That extension would likely run to 31 March 2016. This would allow for the evaluation to be completed with the aim being to bring a report to this Panel and Cabinet recommending a way forward in February, or more likely, March 2016.

16.4. The report will detail the Revised Project Plan submitted by Veolia, an evaluation of the proposal and provide feedback on the market engagement exercise on alternative disposal options. A recommendation will be required by Members at the Community Safety and Waste Management Panel to:-

15.5.1. Accept and proceed with the Revised Project Plan as proposed or,

15.5.2. To reject the RPP and trigger the termination of the contract with VES.

## BACKGROUND PAPERS

### Waste Management Cabinet Panel:

### Date

Waste Procurement Project	11/01/2008
Waste Procurement Programme Feasibility Study November 2007-February 2008	04/03/2008
Waste Procurement Project	29/04/2008
Waste Procurement Project – Progress Report	09/07/2008
Options for Future Waste Management: Outline Business Case	07/10/2008
Hertfordshire Waste Procurement Programme – Progress Report	06/01/2009
Hertfordshire Waste Procurement Programme – Progress Report	14/04/2009
Hertfordshire Waste Procurement Programme – Progress Report	09/09/2009
Hertfordshire Waste Procurement Programme – Progress Report	18/11/2009
Hertfordshire Waste Procurement Programme	09/07/2010
Hertfordshire Waste Procurement Programme	28/04/2011
Residual Waste Treatment Programme – Recycling and Energy Recovery Facility Timetable	07/03/2013
Residual Waste Treatment Programme – Options Available to the County Council Following the Secretary Of State’s Decision to Refuse Planning Permission for a Recycling and Energy Recovery Facility at New Barnfield, Hatfield	04/11/2014

### Cabinet:

### Date

Options for Future Waste Management: Outline Business Case	20/10/2008
Options for Future Waste Management: Outline Business Case –	19/01/2009

Responding to Defra's Clarifications	
Hertfordshire Waste Procurement Programme	16/06/2009
Hertfordshire Waste Procurement Programme	19/07/2010
Hertfordshire Waste Procurement Programme	28/04/2011
Residual Waste Treatment Programme – Options Available to the County Council Following the Secretary Of State's Decision to Refuse Planning Permission for a Recycling and Energy Recovery Facility at New Barnfield, Hatfield	10/11/2014

## **Appendix A**

### **Waste Composition Analysis - highlighted extracts**

- Hertfordshire County Council procured the services of a consultant to carry out analysis of kerbside collected residual and recycling waste collected during a six week period between March and May 2015.
- With the exception of East Herts district council, the kerbside waste from all districts within the County was surveyed.
- The sampling regime involved the direct collection and compositional analysis from a target of 200-250 properties in each authority.

### **Residual Waste**

- Households were setting out an average of 6.10kg per household per week.
- 32.8% of the total residual waste was food waste – 43.9% of this was disposed in its packaging.
- 10% of the residual waste was paper items – 63.2% of this was recyclable at the kerbside.
- 2.9% of the residual waste was metallic – 47.6% of this was recyclable at the kerbside.
- 3% of the residual waste was glass – 89.7% of this was due to glass bottles and jars which can be recycled at the kerbside.
- Overall **15.4%** of collected residual waste could have been placed into the mixed dry recycling containers.
- Overall **35.8%** of collected residual waste could have been placed into the organic recycling containers.
- In total **51.2%** of residual waste collected could have been recycled at the kerbside.

### **Kerbside Mixed Recycling**

- 78% of households presented dry recycling containers out for collection.
- Kerbside properties diverted around 25% of their total waste through mixed recycling collections.

### **Organic Recycling**

- 52% of households presented organic recycling containers for collection.
- Kerbside properties diverted around 21.8% of their total waste through organic recycling collections.