

Questions & Answers re CERC & DRPP

1) Can we have a detailed breakdown of how the costs of not having the CERC have risen from £200m to £320m

The Council would be required to terminate the IWM Contract, on a force majeure basis and pay SITA the Force Majeure Termination Sum which was likely to be between £30m and £50m.

- The Council would have to continue to rely on municipal landfill to deal with its waste. Landfill capacity would run out in Cornwall by 2014 unless an extension to Connon Bridge landfill could be obtained. However, even with an extension, additional capacity would only last until 2018 at the very latest based on current levels of waste inputs.
- The Council would continue to be liable for Landfill Tax which would reach over £14m per annum by 2014.
- Subsequently, the Council would have to determine a new Planning Policy, Waste Strategy and then procure a new contractor to deliver the Waste Strategy and then gain planning permission for the alternative facilities. This could take anything from 7 - 9 years
- Any alternative solution was likely to cost between £150 and £200 million and may require additional sites.
- The Council would not receive any PFI credits for the alternative solution and would need to raise the funds for the alternative technology itself.
- Optimistically assuming that planning permission could be approved and a new facility could be built by the end of 2016, the total cost to the Council from 2011 to the operation of the new facility would be around £322 million.

2) Are there penalties in the contract with SITA if less waste than anticipated is delivered to the CERC?

There are no penalties if less waste is delivered to CERC than required or anticipated. However, the Authority is obliged to deliver 250,000t of waste pa, but this is total waste, i.e. recycling and black bin waste. If it fails to do this, the Contractor is obliged to use its reasonable endeavours to source on reasonable terms Non Contract Waste equivalent to the shortage. If the Contractor cannot do this and providing the Contractor has used its reasonable endeavours to source Non Contract Waste on reasonable terms then the Authority shall adjust the amount it pays the Contractor to put the Contractor in no better no worse position as it would have been

in if the deficit had not occurred. The last time waste arisings were at 250,000t was approximately 1998/99, i.e. 12/13 years ago. It is therefore highly unlikely that this clause will ever be utilised.

3) Whose statutory responsibility is any noise pollution?

Noise causing a statutory nuisance is dealt with by CC Environmental Health Office. In addition there are various regulatory and enforcement options open to the Environment Agency, via the Environmental Permit'. Hence noise issues can be addressed by both CC and the EA.

4) The CERC takes millions of tonnes of water. What happens if there's a drought?

The CERC will use approximately 50,000 m³ of water from the local water mains supply per year. In normal conditions, assuming that no rainwater is available for recycling, the consumption will be around 5.8 m³/h. There are various water recycling measures that will be in place. Rainwater from the roof will be collected and used in the air pollution control system and also for floor washing when necessary. Water discharged following boiler blowdown (a periodic process involving the removal of any accumulated solids e.g. limescale, from within the boiler) will be collected and reused in the SNCR (selective non-catalytic reduction) unit. All process effluent and clear rainwater will be collected and reused as far as possible. Surface rainwater shall be reused as far as possible in the bottom ash quench.

At the request of the applicant, South West Water carried out an investigation into the feasibility of supplying water to the CERC site. The report's conclusion is that the local distribution system is able to supply the CERC without significant impact on customer water pressures. The report also suggests that even during a hot sunny period the distribution system will be able to maintain satisfactory supplies.

To increase security of supply to the CERC, on-site storage will be provided in two above ground tanks located within the CERC building:

- A tank having a capacity of 30m³ and connected to the mains will provide storage for process water.
- A tank having a capacity of 10m³ and connected to the mains will provide storage for water for 'domestic' use.

5) What have the Health Protection Agency said about the health impacts of the CERC?

The HPA were asked whether they had considered the possibility of effects of and between incinerator emissions and china clay dust as there was a concern that, because Cornwall had a different air pollution profile, introducing an incinerator may impact on health. The HPA confirmed that the possibility had been considered by Professor Roy Harrison in August 2008, when he stated: "The answer to the question however is that kaolin particles will to some extent influence the behaviour of dioxins. This will be an effect very much dependent on the concentration of kaolin particles in the air, and provided the total airborne particulate matter concentration, taking account of local emissions and regional background, does not exceed the air quality objective concentration for PM₁₀, then I do not foresee a problem. Kaolin particles are likely to be relatively coarse and therefore to present a lower surface area per unit mass than the typical background of finer particles. Particles such as kaolin will influence the behaviour of dioxins through the vapour to particle-association ratio. A high surface area of particles will lead to an increased partitioning into the particulate phase which will impact on respiratory deposition and on particle deposition to local surfaces. Without going into it in great detail, I am not sure whether the net effect would be an increase or decrease in deposition, and in any case, this will depend critically on the size distribution of the kaolin particles, which is unknown. Whatever, I would expect this effect to be extremely small if the concentration of kaolin particles is modest as I indicate above."

Further advice came from the head of the HPA's Air Pollution Unit, Dr Bob Maynard who considered the information within the report in relation to Professor Harrison's consideration. Dr Maynard is of the opinion that the particle size described in the report would not influence unduly the surface area per unit mass. Therefore, and by inference, Professor Harrison's belief, that there won't be a problem provided that the ambient air quality standard for particulates is not exceeded, still holds true.

6) Cllr Alec Roberton said that we would lobby in support of St Dennis having an NHS dentist. How is this progressing?

The PCT Dental Commissioning Group recently discussed the issue of dental provision for people living in Roche and advise that there are currently no plans to commission a new service in Roche as they believe that the service available in both St Austell (3 practices) and Bodmin (4 practices) is adequate and accessible. They have increased the contract in St Austell, and as a result there is very little wait for new patients to join this practice.

7) Is the section 288 a "Challenge" or an "Appeal" ?

S 288 of the Town and Country Planning Act ("TCPA") does not use the term "appeal" or "challenge." The Oxford English Dictionary includes within the definition of "appeal:" *"To call to a higher judge or tribunal for*

deliverance from the adverse decision of a lower; to remove a case formally from an inferior to a higher court." S 288 of the TCPA grants a statutory right of appeal and the terminology is correct for describing an application to the High Court.

8) The Cornwall Energy Recovery Centre is always referred to as an EfW plant. Would any other technology which derived energy from waste also be an EfW plant?

The Cornwall Energy Recovery Centre is an energy from waste facility. It is agreed that there are other types of energy from waste facilities, however, it has always been made clear which facility is to be procured through the Integrated Waste Management Contract dated 16 October 2006 (the "IWM Contract".)

9) What were the circumstances around the challenge in the High Court regarding the Oxford incinerator?

The circumstances of the Oxfordshire appeal are similar to the current Cornwall Waste Forum ("CWF") appeal against the Secretary of State ("S of S") decision to grant the EfW planning permission.

A summary of the Oxfordshire case is as follows:

- Oxfordshire refused planning permission for a waste incinerator at Ardley Landfill Site.
- Viridor appealed this decision to the S of S under section 78 of the TCPA.
- A public inquiry was undertaken in July 2010 before a Planning Inspector.
- The Planning Inspector recommended to the S of S that the appeal be allowed and that planning permission be granted.
- On 17 February 2011 the S of S allowed Viridor's appeal and granted planning permission.
- On 30 March 2011 Ardley Against Incineration ("AAI") made an application under S288 of the TCPA asking the High Court to quash the S of S decision and grant of planning permission. AAI argued that the S of S had erred in law by treating pollution concerns as matters for the Environment Agency to address through its permitting function. It was argued that this was in breach of the Environmental Permitting Regulations 2010 and Directive 2006/12/EC of the European Parliament and of the Council on waste.
- The High Court dismissed the application and awarded costs against AAI of £10,000.

10) Is there any change in height of the stack? It was changed at the initial stage of planning to 120m and the Permit has been issued for that height.

There will be no further change in the stack height. On 19 March 2008 SITA and Cornwall County Council agreed that the stack height would be

increased to 120 metres in SITA's planning application. The reason that the stack height was increased was to reduce the effect of depositions on the adjacent Special Area of Conservation.

11) Is it possible to build any form of EfW within the PFI contract?

There are two clear reasons why the technology cannot be changed at this stage.

The first reason relates to procurement law. SITA's bid for the IWM Contract included the facility which is currently the subject of the High Court application. It would be unlawful under procurement law for the Council to procure any other technology, including but not limited to, Anaerobic Digestion, several smaller RWTP's, mechanical and biological treatment, autoclaving, gasification and pyrolysis through the existing IWM Contract.

The second reason is that the Council's final business case to Defra detailed SITA's proposal for the EfW. Any change would be a material change and would require Defra's consent. Defra is unlikely to consent to an unlawful proposal.

If alternative EfW technology is required the Council would have to determine a new Planning Policy and a Waste Strategy. With obligations to consult and time to agree on a new policy, this is likely to take between 1-2 years. Subsequently, a new procurement would have to be undertaken to procure a contractor to deliver the Waste Strategy. Any procurement is likely to take two years. Subsequently, the winning contractor will have to obtain planning consent and build the facility. This could take anything from 3-6 years. No PFI credits would be available for the alternative technology. The IWM Contract would have to be terminated and compensation would be payable to SITA.

12) With regard to waste which cannot be sensibly treated without incineration, soiled paper and plastic originally came within the scope of this catch all phrase. We were told at the Public Inquiry that it would be impossible to "pre-sort" black bag waste before it entered the incinerator stream. However, isn't this now being proposed at Cannon Bridge?

It is important to remember that SITA is obliged to deliver a variety of works and services and not just the EfW. Waste minimisation, re-use, recycling and recovery are key aspects of the IWM Contract.

SITA is not obliged to pre-sort black bag waste under the IWM Contract. However, to mitigate delay to the Project, the parties are looking at alternative short term measures caused by the planning delay. This included the option of exporting Refuse Derived Fuel to Sweden, however due to LATS being discontinued this was no longer a financially desirable solution. In any event this is not and could not be a permanent solution under procurement law

13) It is the stated corporate aim of the Council to robustly defend the decision of the CCC Planning Committee to refuse planning permission on the grounds published in the Chief Planners Report. Item 7 in the list of reasons for defending the Appeal concerned the effect on the SACs. This is the very point that the Secretary of States Decision is being challenged on.

Therefore, as it stands at the moment, the Council's position must be exactly the same as the Challengers as they are robustly defending their original decision and so the Council is in the position of defending against a challenge which it's own position upholds.

If the Council has changed its corporate position, surely this would require a minuted decision open to scrutiny?

The CWF claim is that the S of S breached the legitimate expectation of the objectors by not taking the role of competent authority for the purposes of the Habitats Regulations and thus the Habitats Directive, contrary to what CWF allege were his representations at the Inquiry.

Cornwall Council as waste planning authority confirmed that it would defend SITA's appeal to the S of S against Cornwall County Council's Planning Committee decision of 26 March 2009 to refuse planning permission for the EfW. The Council honoured this commitment and instructed a QC and a junior counsel to defend the Council at the Inquiry before the Planning Inspector. The Inquiry closed on 7 October 2010. As such this commitment to defend the appeal against the Council's planning decision has been discharged. The decision of the Secretary of State was clear and comprehensive and the Head of the Planning & Regeneration Service considered that there was no scope for challenging the merits of the decision.

In 2006, the Council resolved to enter into the IWM Contract. The IWM Contract included the provision of the EfW at St Dennis. This resolution remains valid. As such the Corporate position of the Council remains that it requires SITA to build a 240,000 tonne EfW at St Dennis. In addition on 10 February 2010 the Cabinet instructed SITA to prepare a Draft Revised Project Plan, with reference to green issues, in accordance with the provisions of the IWM Contract and in accordance with the Waste Development Plan of which the Waste Local Plan 2002 is a part. As such the Cabinet reaffirmed the Council's commitment to the project.

14) With reference to delays which will cause extra cost in the form of landfill tax if the "EfW plant is not expedited quickly," as it is, the incinerator will not be burning waste for at least four years, and even then will be incurring massive landfill charges for taking fly ash to Gloucestershire for landfilling and Bottom ash to some site in Cornwall for landfilling.

Would it be possible to buy and install full MSW sorters at all HWRCs and Transfer stations off the shelf? These could be installed in a matter of months at a fraction of the cost.

Each month of delay costs the Council an additional £1m approximately in landfill tax and haulage costs. Therefore the sooner the EfW is operational the sooner the Council will make savings. The current timetable anticipates the EfW commencing operation in December 2014.

The bottom ash will be processed and the processed material will be used as an aggregate, being sold for uses such as concrete, cement and foundations for roads. There is likely to be a very small volume of reject material in the bottom ash which will still be required to be landfilled.

The fly ash will amount to 3.5% to 4% of the input waste volumes. This will be taken out of the County for processing and it will be the output from that process that may be landfilled.

The total amount of ash landfilled is unlikely to exceed 8k tonnes, as opposed to the 180k tonnes of residual waste currently being landfilled.

In any event, SITA is responsible for disposing of both bottom ash and fly ash and has already priced for disposal of this material. Any landfill charges as a result of failing to reprocess bottom ash are SITA's risk.

It would not be possible to procure the alternative technology proposed in the question in a matter of months. As stated above, no alternative technology can be procured without a new Waste Strategy and a fresh EU procurement. See the answer to question 5 for the detail. On even the most optimistic analysis this would take at least 6 years and alternative funding would need to be found as the PFI Credits would not be available.

15) When costs of the Revised Project Plan and costs related to construction of the access and haul roads are still unknown, were Members to agree spending £3 - £4 million to commence pre-engineering and construction works, at risk, would this indicate they had predetermined approving the RPP, regardless of costs ?

No. Should the Cabinet decide to incur the expenditure for the pre-engineering and construction works then it will be doing so with a full understanding of the potential risks, including the fact that the Revised Project Plan has not yet been agreed. On this basis it is a prudent decision based on a managed risk approach. However, this would not commit the Council to approving the Revised Project Plan and would not prevent the Cabinet from assessing whether or not the Revised Project Plan is acceptable once it has been finalised.

16) The new preferred bidder for the furnace technology of the Incinerator uses a different method of burning to the original bidder. SITA have not informed the EA of this change. Are the

Members aware that the EA say this may mean that the permit will have to be revisited?

As part of the RPP process, Sita will propose any changes that need to be made due to the change in EPC contractor. However, it should be noted that the new EPC contractor will provide a roller grate rather than a reciprocating grate, but for the purpose of the PPC both are classified as moving grates. In terms of air pollution control, the new EPC contractor will comply with the requirements of the permit.

17) At the Waste Panel Meeting on Monday 18th July 2011, a Councillor said that he and the other Councillors had looked at all the alternatives to incineration. Can you tell me when they looked at a fully automated waste sorter and an AD plant for food waste sorted from MSW?

On the 2nd and 3rd November 2009, site visits were carried out by the Waste Development Advisory Panel to Holsworthy AD Plant, New Earth Solutions, Chineham Energy from Waste Plant, Shanks Waste Solutions (which included a mechanical biological treatment process that shreds and dries incoming domestic waste, recycles glass and metals, as well as producing a secondary fuel used by industry) and New Fuel Technology.

18) At the Cabinet meeting held in February 2010, it was resolved that SITA provide a RPP with reference to green issues. It would appear no green alternatives are on the agenda, but did some councillors vote not to terminate the contract because they thought there would be?

It was noted at the Cabinet meeting of 10 February 2010 "that any move away from landfill would lead to a significant carbon reduction. There could indeed have been more re-use in the past and it was hoped that this was something that could be increased in conjunction with SITA in the future." Since the commencement of the Integrated Waste Management Contract in November 2006, SITA has increased the recycling rate at the Waste Household Recycling Centres from 23% to 63%.

The planning application included an increased stack height and enhanced Selective Non Catalytic Reduction technology incorporating secondary air injection – "Ecotubes" in order to minimise the impact on the Special Areas of Conservation. These changes will be incorporated in the RPP.

The Council and SITA have a continued interest in promoting waste minimisation, reuse, recycling and composting, both from an environmental perspective and from a financial perspective as this will mean the EfW has greater capacity for commercial waste. SITA has been asked to provide for the cost of disposing of separate food waste, mixed plastics and Tetrapacks as part of the new waste collection contract procurement.

The RPP has not yet been drafted and therefore it cannot be said that it does not have reference to green issues.

19) DEFRA's recent waste review (June 2011), indicates that non-compliance of separate food waste collection and failure to meet recycling targets will incur substantial fines. Has this and the testing of bottom ash, which may require specialist treatment, and the likelihood of a future incineration tax, been factored into projected costs?

The waste policy review places no obligation on local authorities to separately collect food waste, nor achieve National (EU driven) recycling targets. The Waste Infrastructure Delivery Programme (WIDP) team within DEFRA has advised that there is a Government preference to have food waste collected separately and treated by AD rather than for it to be disposed to landfill but there is no compulsion on local authorities to do this. There is no suggestion in the policy document that failure to do so would incur 'substantial fines'. Quite the opposite the policy review talks about incentivising the outcome of food waste treatment by AD – through for example support available from WRAP.

The waste policy review makes no mention of bottom ash. The Environment Agency has set up a technical advisory group to collate data on bottom ash to demonstrate that it can meet end-of-waste criteria so that it is no longer classified as a waste product and can therefore have better access to recycling markets. Even if it does not meet end-of waste criteria, there are no proposals for it to require any additional treatment. The waste policy review makes no mention of an incineration tax. In any case, DEFRA advise that were such a proposal to be considered it would apply to an 'incineration' process and not an 'energy recovery' process as classified by the EU R1 guidance under the Waste Framework Directive – and of course the EfW is a recovery process.

In conclusion, having carefully reviewed the waste policy review and taken advice from the WIDP team within DEFRA, the Council is of the view that fines will not be introduced for failure to segregate food waste or for failure to meet recycling targets. Further, the Council is satisfied that there are no plans to introduce an incineration tax in the foreseeable future. As such, none of the aforementioned has been factored into the revised project costs.

20) There seems to be some confusion over whether there is a change in technology for SITA's incinerator. It has been stated that there is no change in technology but the new contractor has stated that there is a change? As the EA has not been informed of the new contractor or technology there is no guarantee that this is now qualifies as the Best Available Technology.

In the Environment Agency's guidance note on IPPC, roller grates and inclined grates are both classified as moving grate incinerators, as such they can both be considered as BAT.

As we have yet to receive the full details of the Revised Project Plan from Sita Cornwall Ltd the Council is not yet in a position to provide the

technical details but the Environment Agency will be consulted as necessary and the technical details will be provided in due course.

21) Isn't landfill tax only due on putrescible waste i.e. food waste and biodegradable waste? If this putrescible waste was taken out of the waste stream there would not be any landfill tax to pay.

Unfortunately landfill tax is payable on every tonne of waste that the local authority landfills on behalf of its residents, not just putrescible waste. The Landfill Allowance Trading Scheme (LATS) that will now be phased out after 2013, was the mechanism that was used to influence the amount of biodegradable waste that was being sent to landfill. Landfill tax, which will remain payable and is now subject to an £8 per year escalator until 2014 when it will reach £80 per tonne, is deemed to be a more effective driver than the LATS mechanism that was supposed to see trading of permits between councils. Therefore, the Council does pay landfill tax for all waste landfilled, but also recognises that it is environmentally beneficial to divert biodegradable waste away from landfill. The Council will be focussing on these waste streams in its Waste Prevention Plan that will be published later this year.

22) In light of the legal challenge, wouldn't it be better if the £3million was spent putting into place facilities to collect and treat the putrescible waste using anaerobic digestion? The proposed or existing waste transfer stations could be used for this purpose and if the 288 challenge is successful there would not be a costly road to nowhere but a permanent facility that could be used.

Members had to balance the risk of proceeding at risk against the costs of delay. The £3-£4m spent at risk was compared with the £7-£8m which would be the cost of delaying commencement of the works. Given Leading Counsel's opinion that the Secretary of State has a good chance of defending the challenge, Members decided to proceed at risk.

Alternative facilities could not be purchased at this time for two reasons. Firstly, it would be in breach of procurement law to purchase any alternative technology through the existing contract with SITA. For an alternative technology the Council would have to determine a new Waste Strategy and undertake a new procurement. It is anticipated that the total time to operation of an alternative facility would, at the most optimistic estimate, be 7 years. The second reason is that the Council's final business case to Defra detailed SITA's proposal for the EfW. Any change would be a material change and would require Defra's consent. Defra is unlikely to consent to an unlawful proposal, and therefore would not agree to the use of PFI credits for an alternative technology within the current contract. If the Authority decided to change technology and enter into a new contract, this would represent a material change to PFI Credit terms and it is probable that DEFRA would require its PFI Credits back. There are no further waste PFI bid rounds for new contracts.

23) Have the Council considered this proposal in terms of what it means long term for the residents of Cornwall and not just what it means short term financially?

The Council made the decision to award the contract to SITA in 2006 and was fully aware that the proposal involved an incinerator at St Dennis. This decision has been endorsed by the Cabinet when it instructed SITA to prepare a Draft Revised Project Plan on 10 February 2010. The Energy from Waste facility is a well established technology and is highly regulated by the Environment Agency under the terms of its Permit.

24) Is there a possibility that DEFRA may introduce a tax on incineration at some stage of the thirty year contract?

Having carefully reviewed the waste policy review and taken advice from the Waste Infrastructure Development Programme (WIDP) team within DEFRA, the Council is satisfied that there are no plans to introduce an incineration tax in the foreseeable future.

25) Has the effect of rising fuel prices been taken into account when selecting one central facility?

If and when the incinerator is operational, the waste collection contractor will take waste to refuse transfer stations which are located throughout the County (other than collections which are within the vicinity of the incinerator). SITA will then bulk up the waste and transfer it to the incinerator. In determining the number and general location of the facility many considerations were taken into account including: tonnage and distribution of waste requiring treatment; cost and environmental impacts. Fuel is just one aspect of the cost of a facility and the overall costs need to be looked at, including savings made from the economies of scale. In March 2006 the Council commissioned consultants to report on the cost and environmental impact of 1, 2 and 5 facilities. The overall cost of managing 2 or 5 facilities was greater than 1.

26) Incineration is not a flexible technology. How can Cornwall adapt and embrace new technologies in a world where waste arisings could fall dramatically?

If an alternative technology is required this will incur the Council significant financial cost and delay. Incineration is a proven technology with a good track record. There is no evidence to suggest that waste arisings are going to significantly drop in the future and current predictions are that they will increase year on year. Any new technology would have to have an equally long contract to be affordable.

27) Is it true that there are councils up and down the country that have rejected incineration as a means of dealing with their waste? How much research has Cornwall Council put into looking at how these councils are proposing to deal with waste?

Throughout the integrated waste development process Cornwall Council has kept up to date with developments across England – we also have access to data collated for Defra’s Waste Infrastructure Development Programme (WIDP).

There are 121 waste disposal authorities (WDA’s) in England responsible for making arrangements for the disposal of waste. The vast majority of these, either on their own or in partnership with neighbouring authorities, have made or are making arrangements for the treatment of their residual waste. Information from WIDP (for MSW) shows that there are a total of 62 facilities for residual waste treatment of which: 28 are operational; 9 under construction; 9 in the planning process and 16 at various stages of procurement.

Figure 1 shows the operational facilities

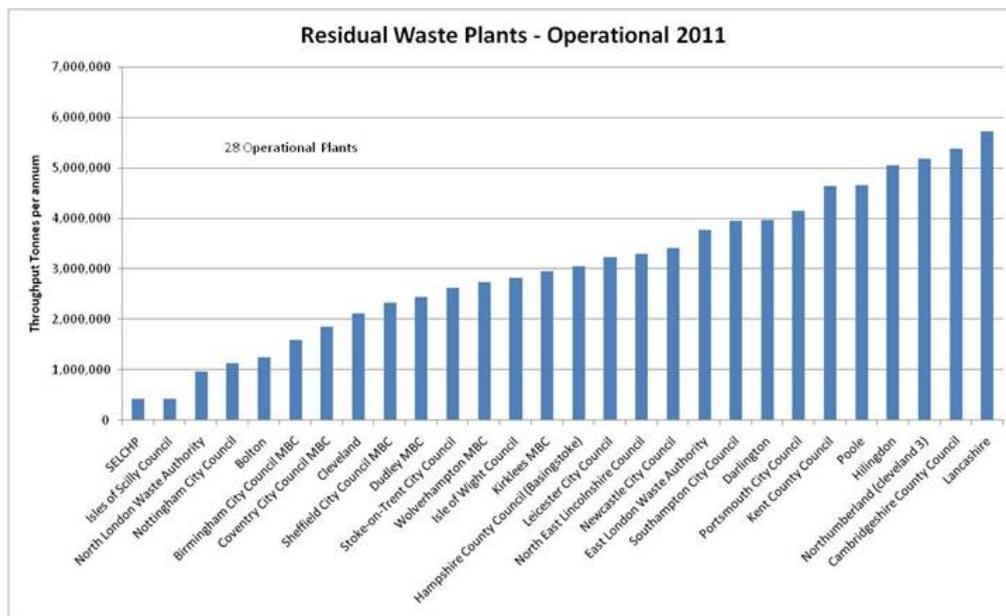


Figure 2 shows the facilities in construction, in the planning process and in procurement

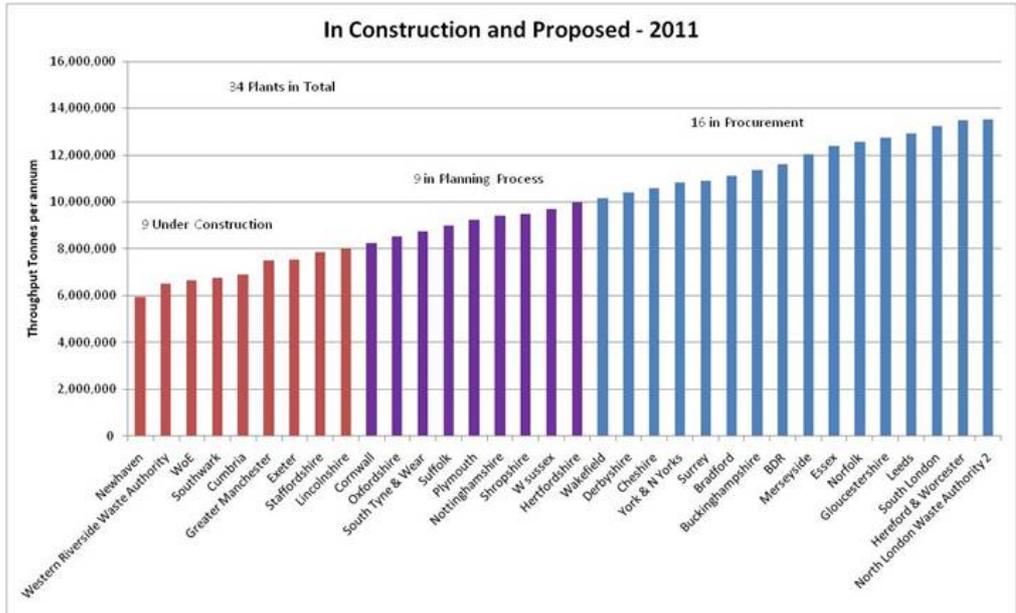


Figure 3 shows the technologies being utilised for residual waste treatment by number of facilities; the vast majority (52 out of 62 facilities) relying on EfW – either directly treated or through a pre-processing stage).

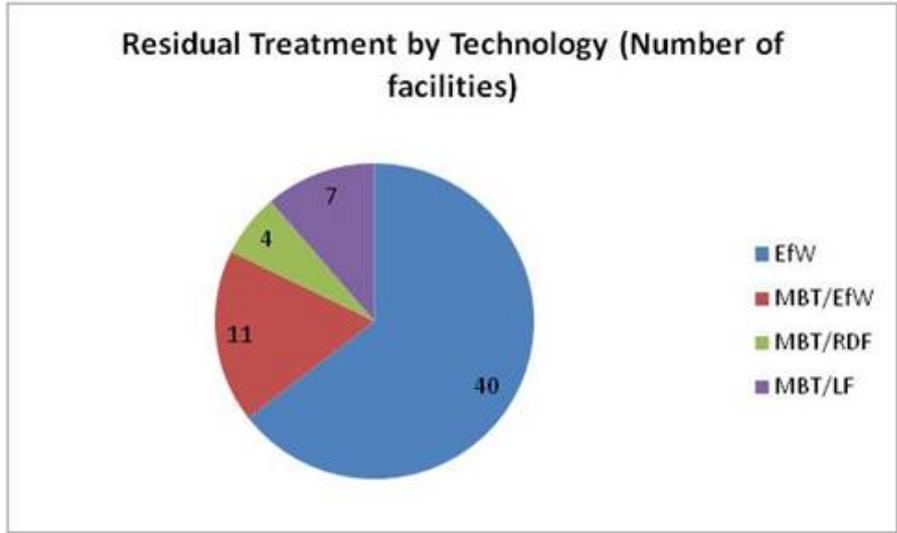
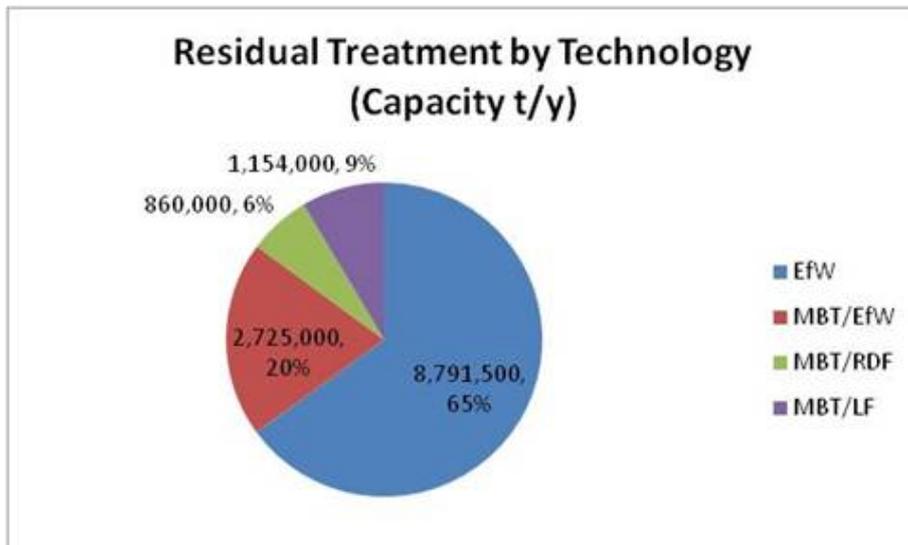


Figure 4 shows the residual waste treatment technology data in terms of capacity (tonnes per year). This shows that the overwhelming majority of capacity (85% or about 11.5 million tonnes) is, or proposed to be, treated by EfW.



Thus the data shows that far from rejecting EfW, the vast majority of WDAs are implementing EfW, having determined it to be the most technically proven, environmental sound and economically viable solution.

28) Will SITA bring in commercial waste from outside the county?

Due to haulage costs it is likely that the majority of the waste to be treated within the incinerator will be sourced within the County. Profit made from the treatment of commercial waste in the incinerator is subject to a profit sharing mechanism between the Council and SITA under SITA's contract. As such the Council would financially benefit from the treatment of such waste too.

29) Is the community fund just a way of paying off the residents of St Dennis and Treviscoe?

The Community Fund is a requirement under SITA's section 106 agreement. The existence or not of the fund in no way influences the outcome of whether or not the incinerator will be built. Therefore if the fund can be used to the benefit of the community it would be a waste of this resource not to spend it for this purpose.

30) If the appeal is successful what will happen to the infrastructure that has been put in "at risk"?

The works commenced at risk can be separated into two groups i. the works undertaken by SITA's engineering, procurement and construction sub contractor (the "EPC Contractor") on the CERC facility and ii. The works undertaken by the Authority on the access and haul road. The appeal is due to be heard on 11 and 12 October 2011. Therefore it is worth noting that the period of works commencing at risk is relatively short and no assets in either group will be completed within this period.

- i. SITA works: The EPC Contractor will remain the preferred bidder until the Revised Project Plan is completed. Notwithstanding this, the EPC Contractor will be carrying out

some preliminary works at risk. If the challenge is ultimately successful (following any appeal) SITA would not enter into the EPC Contract but the Authority would still be liable to compensate SITA for costs incurred on the EPC works undertaken at risk. This would be the case whether the challenge resulted in a termination of the PFI contract or a contractual variation.

- ii. Authority Works: These works will be of a preliminary nature e.g. top soil stripping. There will be little or no infrastructure and no tangible infrastructure will be completed.

If, once the legal process has been exhausted or discontinued, there is no planning permission for the CERC, the Council will decide what to do with the land which is in the Council ownership as part of its overall decision on the way forward following planning failure. Given the stage that the works will have reached they are unlikely to add any value to the land and therefore any asset in the works is likely to be lost.

31) When will the Environmental Management Plan be submitted for approval?

The Environmental Management Plan has been submitted and can be viewed at the link below.

<http://planning.cornwall.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=LP8YHFFG0K600>

32) Will the Planning Department consult with external bodies regarding protected species and methods of hedge removal to be considered under the CERC related planning conditions?

On the 15th August 2011, the Council notified the relevant consultees as well as the four Parish Councils, two Local Councillors and the Rule 6 Parties that an 'application for approval of details reserved by condition' in respect of the Proposed Waste to Energy Plant and ancillary development, land at Rostowrack Farm and land at Wheal Remfry, Goonvean and Parkandillick Dryers had been received from SITA Cornwall Ltd.

The submitted details can be viewed by using the link below.

<http://planning.cornwall.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=LP8YHFFG0K600>

As regards consultations, both Natural England and the Cornwall Wildlife Trust were consulted in regard to the conditions discharge. Other consultations were also undertaken with the Council's Tree Officers, specialist Vegetation Advisor (with particular reference to Japanese Knotweed) as well as the Council's Landscape Architect.

33) In relation to the closure of public footpaths during the road building for the Incinerator, what is the notice period between the publication of the notice and the actual closure of the footpaths?

The Cornwall Council Environment Service Access Team will make the formal rights of way Order for the footpaths affected by the CERC development later in September. This Order will include public notices and a 28 day consultation period.

While the rights of way Order process is progressing the Cornwall Council Waste Management Service intends to commence construction of the CERC access scheme. To enable this, Traffic Regulation Orders (TRO) have been put in place, under Section 14 of the Road Traffic Regulation Act 1984, to temporarily stop up the listed rights of way while the access scheme is being constructed and the right of way Order process is being completed. The Notice for the TRO was posted on the 24th August 2011.

34) What powers were used to close the footpaths 109, 15 & 5?

The footpaths are closed using the Road Traffic Regulation Act 1984. Section 14 of this act allows the Traffic Authority (Cornwall Council) to make a temporary regulation order restricting traffic on a footpath.

35) How long can a footpath be closed for using a temporary regulation order?

The restriction when made is valid for a period of up to 6 months from the order date. This period can be extended with the approval of the Secretary of State.

36) What will happen to these footpaths following completion of work on the road? Will they be reinstated as they are now?

During the construction period, rights of way will be temporarily stopped up for the shortest possible duration. To achieve this, the contractors will use methods to safely manage pedestrians (by using protective fencing, signing etc) using rights of way within construction areas. These are detailed under planning condition number 22 along with a description of the right of way process.

Subject to approval of the public rights of way diversion applications, the rights of way will be reinstated in accordance with the permitted planning permission.

37) What are the pollution parameters and technical methodology by which the plant will operate?

The process provided by Vinci will comply with the Environmental Permit granted by the Environment Agency.

38) Have the Environment Agency been informed there is a new contractor and will they be reviewing the permit in the light of this?

Yes, the Environment Agency have been informed of the new Contractor and will be supplied information in relation to the Environmental Permit where Vinci's process differs from the previous contractor. Information is currently being prepared which they can review in light of the existing permit.

38a) Can we have details of reference plants built by Vinci Environment?

Details of other plants built by Vinci Environment can be found below.



Vinci Environment
References.pdf

39) What are the routes the construction personnel have been advised to use to access the road/bridge building site?

The routes that the construction personnel will be using are contained within the Construction Management Traffic Plan and can be viewed at the link below.

<http://planning.cornwall.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=LP8YHFFG0K600>

40) What is the width/height of the lorries to be used to move the waste and their each gross loaded weight?

There will be a variety of vehicles delivering to the CERC with different payloads, the largest vehicle will 16.5 m long, 2.55 m wide, and 4.60 m high.

41) What is the carbon emission from each vehicle?

The average emission is 1.12 kg CO₂ per km.

42) What are the planned routes for the waste vehicles to the site from north, south, east and west Cornwall?

The s106 Agreement included in the planning consent defines prescribed routes which vehicles must follow.

43) Will there be any waste lorry movement on the road directly through Treviscoe.

The only waste vehicles that will travel through Treviscoe will be those vehicles collecting residual waste locally.

44) If, for any reason, the CERC had to be closed for a long period of time and the waste had to be landfilled, who would be responsible for paying the associated landfilling costs?

The CERC will have two lines of furnace/boiler and in addition, there will be enough capacity to store around 4 days worth of waste in the bunker to provide a buffer against any unplanned downtime and minimise the impact.

If the downtime reached a level which was significant enough to reduce the volume of the Council's waste processed in the CERC, then SITA would have to pay all additional landfilling charges.

45) The last reported cost for the CERC was some £117m. While the cost of the revised project plan has not yet been provided, it has been acknowledged, by officers and Cabinet members, that the original costs would rise. I understand that the PFI credits allocated were £45m and have already been drawn upon to finance improved HWRC facilities. How much remains ?

Cornwall Council was awarded PFI Credits of £45m. The credits are not paid in one lump sum rather they are paid to the Council on a yearly basis. The award equates to £3,378,096 of PFI Credits per annum throughout the life of the contract, i.e. £3,378,096 x 30 years from 2006.

45a) How are these figures explained in laymans terms?

The Treasury has a method for calculating the PFI annuity grant by using the applicable interest rate in the year the PFI Credits were awarded, (6.3% in 2006 for waste) and the relevant scaling factor. For the waste project, the scaling factor is 1.0. They then calculate the annual amount by carrying out an annuity calculation using the interest rate, the period of payment and the amount of PFI credits.

45b) How much has been spent on improving HWRC's to date and how much further expenditure on them is expected?

SITA is paid an Annual Unitary Charge in monthly instalments. The Unitary Charge is not broken down into capital elements. The IWM contract has an output specification. Therefore SITA must produce the outputs required for the HWRC's. How much SITA originally put in the model to achieve this is a matter for SITA and whether it was sufficient or not is also a matter for SITA (except for discreet elements which are for the Authority account such as certain works at new sites which fail to meet the standards assumed in the contract.)

SITA could provide the Authority with a breakdown of what has been spent to date on the HWRC's but this would be of little use as it would not

affect the Unitary Charge payable by the Authority, whether it was more or less than the amount in SITA's model.

Likewise, how much expenditure is anticipated to meet the contractual requirements is a matter for SITA and will not affect the Unitary Charge. Should the Authority wish to de-scope the HWRC element of the IWM contract this could represent a saving which SITA would price and offset from the Unitary Charge.

46) Would this remainder be dedicated purely to CERC provision, or are there other calls upon it?

The Council uses the credits to pay towards the monthly unitary charge payable to SITA. Therefore, the remaining credits will continue to be used to help off set the unitary charge payments.

46a) How much is the monthly unitary charge payable to SITA and how is it worked out?

The current average monthly Unitary Charge payable to SITA is £2,270,333.33.

The Annual Unitary Charge (AUC) (which is payable in monthly instalments is calculated as follows:

$$\text{AUC} = \text{T} + \text{P} + \text{LTAE} + \text{OW} + \text{WA} - \text{D} - \text{NSAA} + \text{MTA} - [\]^* + \text{ISA}$$

T = Tonnage Based Element for that Contract Year

P = Process Base Element for that Contract Year

LTA = Landfill Tax and Allowances Element for that Contract Year.

OW = Other Waste Element for that Contract Year

WA = Waste Awareness Element for that Contract Year

D = Deductions for that Contract Year

NSAA = No Service Aggregate Adjustment

MTA = Market Testing Adjustment

[]

ISA – Input Specification Adjustment.

* commercially restricted information.

Each of the elements is calculated using a formula.

46b) Will the charge and/or the formula vary during the life of the contract, if so how?

The formula does not vary. However, clearly the charge will as it is based on so many variables i.e contract tonnages, how the waste is dealt with, any deductions and changes to the cost of market tested services following a market testing exercise.

46c) What has the annual charge amounted to, for the years 2006-2011?

The total sum paid from 2006 – 2011 is £110,065,000

46d) How will the unitary charge be affected if the RPP is accepted and the CERC goes ahead ?

- a) during build time ?
- b) once operational ?

The delay to the project has caused the costs thereof to increase considerably. As such, the Unitary Charge will be greater if the Revised Project Plan is completed. However, there are measures to mitigate this. The final range of possible figures cannot be ascertained until the timeline for planning permission and RPP sign off is known.

46e) How would future provision of other facilities, e.g A.D, waste wood for bio-fuel etc, be financed ?

The PFI credits may not be used to pay for other facilities as these were not part of the original final business case or contract. If the Council wished to procure other facilities it could either finance the new contract itself (through existing budget if there is any available or through prudential borrowing) or it could ask its new contractor to finance the project and repay the private sector debt through the contract payment. This would be a private finance arrangement but would not be a PFI as there would be no credits available to service the debt and the Council would have to repay the entire private sector debt from its budget.

47) Are any further PFI credits due to be allocated, during the life of the contract?

The Authority receives £3,378,096 per annum in PFI Credits throughout the life of the contract.

47a) Is this sum guaranteed or might it be put at risk by future Government cuts?

Provided that the project delivers the final business case (including CERC) then the Government has committed to pay the PFI credits. However, should the contract be terminated or not deliver the CERC, which is a major aspect of the Council's final business case, then the Government is likely to review the PFI credits which may include claw back of PFI credits already paid.

48) Would the European Investment Bank advanced loan facility of £80m, against construction of the CERC, be sufficient to cover all the increased costs?

Until the Revised Project Plan has been completed, the details of the refinancing of the Project and how much debt is required are not available.

49) If not, how will any shortfall be funded and by whom?

See answer to 48

50) Would any capital be provided by Cornwall Council?

Councillors may consider providing capital to lessen SITA's borrowing requirements. No decision to this effect has been made by Councillors to date.

50a) In the event of Councillors agreeing to provide capital, to lessen SITA's borrowing requirements, where would it come from?

If Councillors were minded to provide capital this could either come from the Council's budget or be raised through prudential borrowing. This has not been investigated to date and therefore it is not known whether the Council would have any budget available for such a proposal.

51) How would the project be financed were the EIB to withdraw its loan facility?

If EIB withdrew its facility, funding would need to be obtained from other banks.

52) How will debt repayments be structured and how will rates of Council Tax be affected during the lifetime of the debt?

Debt repayments to the banks are payable by SITA and not the Council. The Council will not know the impact on the budget until the Revised Project Plan is completed.

52a) When is the RPP likely to be completed?

It is not known when the RPP is likely to be completed as it cannot be completed until the CERC has planning permission and any time limit for challenge to the permission has expired. The CERC currently does not have planning permission and it is not yet known what action the Secretary of State proposes to take following the High Court ruling.

53) Who will bear the costs of future "end of life" decommissioning, demolition, land decontamination and restoration?

The CERC becomes the property of the Council upon expiry of the IWM Contract.

The provisions of clause 88 of the Project Agreement (which can be found on the Council website) relate to the hand back of assets, including the CERC. In summary, if the CERC is not maintained to the standard required by the Project Agreement then SITA must carry out the works to bring it to the appropriate standard at SITA's cost prior to expiry of the Project Agreement.

In addition to this if any money is left in SITA's Maintenance Reserve Account and the Minimum Residual Life Requirements (as set out in schedule 28) are not complied with then the Council can make withdrawals from this account for the costs of the works provided SITA have first been given the opportunity to make CERC compliant .

53a) Should this be taken to imply that the CERC will continue to operate beyond 2036 ?

It is anticipated that the CERC will continue operating beyond the expiry of the term of the IWM Contract, especially as the operational period of the CERC under the IWM contract will be shorter than originally envisaged due to the planning delay.

53b) If so, how will the CERC be managed after the SITA contract expires & when would it be decommissioned & demolished?

After the IWM Contract expires the CERC could either be managed by the Council or the Council could tender a management contract. How and when the CERC will be decommissioned will depend on circumstances at the time.

53c) If there is no money left in SITA's MRA what will happen?

The MRA is only relevant if the Minimum Residual Life Requirements are not met. Whether there is money left in this account or not, SITA must maintain CERC to the IWM contract standard and ensure it achieves this standard prior to hand back. As such the facility should be handed back to the Council in a well maintained and proper working order.

54) What are the estimated costs of this?

An estimate has not been prepared.

55) Can we have details of the Security Firm at the CERC site?

Security is being provided by Coast to Coast Security who are SIA Registered and only use personnel registered under licence.

56) Berkshire County Council has just signed a contract with Vinci to provide a new waste facility at Padworth Sidings which relies on sorting waste rather than burning it. Could Cornwall Council consider using this method as opposed to incineration?

The website below confirms the facilities proposed at Padworth Sidings as part of West Berkshires integrated waste management PFI contract. (<http://www.veoliaenvironmentalservices.co.uk/westberkshire/Waste-Services/Padworth-Integrated-Waste-Management-Facility/>)

The facilities are very similar in kind to the facilities that Cornwall Council is in the process of implementing. Their proposal includes composting of green waste (and food waste), material recycling for kerbside collected

recyclables, a household waste recycling centre, a transfer station and a visitor centre. Materials that are not recycled and composted are sent to both an energy from waste facility but also to landfill when there is insufficient capacity at the Energy from Waste facility.

Cornwall's current Integrated Waste Management Contract covers all of these waste treatment methods with the exception of food waste collection and treatment, which will be considered following the evaluation of the new collection contract/Revised Project Plan. For example, Material Recycling Facilities are already in operation at Pool and Bodmin. In addition, Cornwall carries out wind-row composting at Splattenriden, Tinten and Bake Farm as opposed to in vessel composting. Transfer stations and Household Waste Recycling Centres are located throughout the County.

What is highlighted by this comparison is the fact that West Berkshire relies upon exporting their residual waste to Chineham in Hampshire where capacity allows, the remaining waste has to be landfilled. Cornwall aims to provide sufficient capacity for all residual waste to be delivered to the CERC and hence will not need to rely upon landfill to the extent that West Berkshire will.