

<b>Report to</b>	Cabinet
<b>Date of meeting</b>	23 <sup>rd</sup> May 2023
<b>Lead Member / Officer</b>	Cllr Barry Mellor, Lead Member for Environment & Transport / Tony Ward, Corporate Director: Environment & Economy
<b>Head of Service</b>	Andy Clark, Interim Head of Highways & Environment
<b>Report author</b>	Peter Clayton, Corporate Project Manager
<b>Title</b>	Phase 2 Works Contract new DCC Waste Transfer Station (WTS), Colomendy Industrial Estate Expansion - Update

## **1. What is the report about?**

1.1. This report provides an update on the latest position with respect to Phase 2 works to complete the new Waste Transfer Station (WTS) on the Colomendy Industrial Estate, Denbigh. It also seeks a decision to support the proposed way forward to complete the project following the main contractor entering administration, and it provides an update on a budget pressure as result of that situation.

## **2. What is the reason for making this report?**

2.1. To seek support for the preferred way forward to complete Phase 2 works at the new WTS in Denbigh, following the main contractor entering administration, and to update on a budget pressure resulting from that situation.

## **3. What are the Recommendations?**

3.1. That Cabinet confirm that it has read, understood and taken account of the Well-being Impact Assessment (Appendix 2) as part of its consideration.

3.2. That Cabinet support the preferred way forward to complete the Phase 2 works at the new WTS on the Colomendy Industrial Estate, Denbigh.

3.3. That Cabinet acknowledge the latest budget pressure and agree to continue working at risk while discussions on potential sources of funding for the pressure are concluded with Welsh Government (WG). This is necessary to mitigate the risk of further delays that would further impact on cost and programme, including affecting wider programme of service change for which completion of the WTS is critical.

## **4. Report details**

- 4.1. An NEC4 ECC Design & Build Contract was awarded to RL Davies & Son Ltd (RLD) in June 2022 to deliver Phase 2 of the works to complete the WTS at Colomendy, Denbigh. This new WTS is required to support the change in the waste collection model proposed to occur from March 2024 whereby the Council will move to the preferred Welsh Government collections blueprint.
- 4.2. RLD commenced works on site on Phase 2 in August 2022 but unfortunately on February 16th 2023 they were placed into Administration. At the time of Administration the anticipated Final Account cost of Phase 2 was estimated at £6.9M against a budget including Contingency of £7.022M. A Report on the original appointment of RLD and subsequent termination of the contract following their administration was taken to Cabinet on 25th March 2023.
- 4.3. Since February 16<sup>th</sup>, in order to keep works progressing on the site and to mitigate delays, it was agreed an Exception Report be prepared to allow the Council to raise orders and make payments direct to key subcontractors who were working for RLD whilst a decision was made on the longer term way forward. This has allowed work to continue to progress on site to mitigate impact on programme.
- 4.4. As part of the short term Exception standard NEC4 ECC Short Subcontracts have been set up with subcontractors pending the decision on the longer term way forward.
- 4.5. A briefing note was prepared initially for CET at the end of February following RLD entering administration to update on the position and identify options for the way forward, which has now been updated and is attached as Appendix 1.

4.6. Of the options detailed in Appendix 1, Option 4 is now the recommended preferred option which will see DCC continue to act as the Management Contractor with a number of NEC4 ECC Short Subcontracts with the subcontractors and their packages inherited from RLD with the Civils Subcontractor appointed as Principal Subcontractor by DCC to take on responsibility for managing the site, H&S, complying with CDM Regulations, providing Contractor All Risks Insurance for the site and to manage a limited number of subcontract packages. In essence, by following the preferred option we will be formalising the arrangements that have been put in place under the Exception Report that has enabled works to continue since late February.

## **5. How does the decision contribute to the Corporate Plan 2022 to 2027: The Denbighshire We Want?**

- 5.1. The decision will contribute toward Corporate Plan Themes *6. A Greener Denbighshire*, and *9. A well run, high performing Council* by facilitating an increase in recycling rates to meet Welsh Government target of 70% from 2024/25 and allowing the Waste Service to more efficiently manage waste collections and facilitate the sorting and baling of collected waste streams which can then be brokered to generate an income.
- 5.2. The decision will have a positive contribution to the Council becoming Net Carbon Zero and Ecologically Positive by 2030 through installation of Air Source Heat Pumps, Rainwater Harvesting and Photovoltaics at the new Waste Transfer Station along with facilities to support ULEV fleet.

## **6. What will it cost and how will it affect other services?**

- 6.1. Following RLD entering into administration, work has been underway to liaise with the subcontractors to confirm their tender package costs and costs to completion based on the preferred way forward.
- 6.2. The latest estimated cost to deliver the Phase 2 contract works to completion is £7,547,739 against a budget (including Contingency for Phase 2 at time RLD entered administration) of £7,021,951. In addition, a further £207,550 is estimated to cover a number of items outside the contract works including utility connections, additional costs associated with the baling & sorting equipment, undertaking the remaining landscaping / fencing works and additional internal and external fees to manage the

rest of the contract under the proposed arrangement. Further, it is suggested a Contingency Sum of £157,649 is allocated which is based on 5% of the estimated value of works to completion from the end of May 2023. Overall therefore there is a budget pressure of £890,987. Details can be found in Appendix 3.

- 6.3. Discussions are ongoing with WG about whether they are able/willing to address this latest budget pressure of £890,987. Although no formal response has been received at the time of submitting this report, it is anticipated that a formal response will be received before the end of May, and hopefully prior to the Cabinet meeting on 23<sup>rd</sup> May. If the Council has to fund the full pressure, including Contingency, this equates to £56k additional Prudential Borrowing based on a current PB rate of 4.58% over 25 years.
- 6.4. The new WTS will include technologies to reduce carbon footprint via use of an extensive array of Photovoltaic (PV) panels, air source heat pumps, rainwater harvesting and installation of Electric Vehicle (EV) charging points to enable migration to ULEV fleet.
- 6.5. The funding for this element of the project is part of a wider funding package to support the wider overall Waste Service Remodelling, of which the proposed new WTS forms a key element.

## **7. What are the main conclusions of the Well-being Impact Assessment?**

- 7.1. See Appendix 2 for further detail of WBIA undertaken for overall Waste Service Remodelling within which the development of a new Waste Transfer Station is a key element to support the proposed new service model. The overall outcome of the Well-being Impact Assessment is positive.

## **8. What consultations have been carried out with Scrutiny and others?**

- 8.1. **Legal & Procurement Services** and **CET** have been involved in discussing the short term and longer term options to deliver Phase 2.
- 8.2. **Denbigh MAG** are kept informed of progress and proposals for development including proposed new DCC WTS via a standing item on MAG Agenda. They visited the site most recently on April 21<sup>st</sup> 2023 to see progress.

- 8.3. Lead Member for Environment and Transport and Lead Member for Finance consulted and updated via their position on **Project Board**.
- 8.4. The overall principle of developing a new WTS to support the waste service change was originally approved at **SIG and Cabinet** in December 2018 and subsequent updates were presented at **Cabinet Briefing** and **Communities Scrutiny** during 2019 & 2021, 2022 and most recently in March 2023 on progress including latest on the WTS. In addition, purchase of land in Colomendy, Denbigh and development of proposed WTS on that land as preferred option, also went to **AMG** in March 2019.
- 8.5. **Chief Financial Officer** has been consulted – see response below.

## **9. Chief Finance Officer Statement**

- 9.1. The report clearly sets out the background to the situation that the project faces. Although the pressure identified is obviously disappointing news, it is welcome that officers have brought together a plan going forward. Due to the very difficult financial outlook outlined in the Medium Term Financial Plan at the Cabinet in April, if WG funding is not forthcoming to help fund the projected overspend then it is possible that other projects will have to be delayed.

## **10. What risks are there and is there anything we can do to reduce them?**

- 10.1. Managing subcontractors – DCC will need to continue the close relationship with the key subcontractors working on Phase 2 to ensure any issues are dealt with as they arise to mitigate problems and ensure activities follow programme. Based on the latest review of Programme it is still anticipated that Phase 2 will complete by November 2023.
- 10.2. Further pressure on costs – a 5% contingency has been proposed within the revised to deal with any further cost pressures / unknowns.
- 10.3. Ongoing workload for key DCC team – included within revised costs additional budget for continued internal support / resource.

## **11. Power to make the decision**

- 11.1. s.24 Local Government and Elections Wales Act 2021 and Public Contract Regulations 2015