

<b>Committee/Meeting:</b>  <b>OVERVIEW AND SCRUTINY COMMITTEE / CABINET</b>	<b>Date:</b>  <b>4<sup>th</sup> / 5<sup>th</sup> October 2011</b>	<b>Classification:</b>  Unrestricted	<b>Report No:</b>
<b>Report of:</b>  Corporate Director Communities, Localities and Culture  <b>Originating officer(s)</b> Jamie Blake, Service Head Public Realm and Fiona Heyland, Head of Waste Strategy, Policy and Procurement		<b>Title:</b>  <b>Disposal of Northumberland Wharf Waste Transfer Station</b>  <b>Wards Affected: All</b>	

<b>Lead Member</b>	Author to insert portfolio title(s) of relevant Lead Member(s) Cllr Shahed Ali
<b>Community Plan Theme</b>	A Great Place to Live
<b>Strategic Priority</b>	Author to insert Strategic Priority(ies) supported by the proposal

## 1. **SUMMARY**

- 1.1 Members will be aware that the Council is in the process of developing a new Waste Strategy for Tower Hamlets, a key part of which is reviewing the options for the long term arrangements for the transport, treatment and disposal of the Council's residual waste.

At present the Council has a contract in place for waste treatment and disposal services. This is in the process of being varied and extended through to 2017 to allow the review of long term options to take place and any resulting procurement process to be undertaken. Waste is currently transferred to barges at the Northumberland Wharf Waste Transfer Station and taken to the Rainham Landfill Disposal site.

- 1.2 The Council as part of its budget planning process took the decision earlier this year to cease transfer of waste activities through Northumberland Wharf and move to direct haul of residual waste to alternative waste treatment facilities with effect from 1<sup>st</sup> April 2012. This report sets out how that decision is to be implemented.
- 1.3 Whilst the site needs to be retained to cover longer term strategic risks specific to the provision of waste transfer services by the Council, the cessation of council waste transfer services at Northumberland Wharf renders the site surplus to requirements in the medium term. As such this allows the

site to be offered for lease on the open market to a third party/an external waste services provider to generate additional income for the Council.

- 1.4 The provision of the Re-use and Recycling Centre (RRC) (previously known as a Civic Amenity Site) service is also one of the Council's responsibilities as a Waste Disposal Authority and has been based at Northumberland Wharf. The future use of Northumberland Wharf by a third party may require the RRC service to be provided through alternative contractual arrangements.
- 1.5 This report below sets out the issues that will need to be managed as part of the disposal process and recommends the way forward.

## 2. **DECISIONS REQUIRED**

Cabinet is recommended to:-

- 2.1 Agree and formally declare that the Northumberland Wharf site is surplus to requirements in the medium term only;
- 2.2 Authorise the Corporate Director of Development & Renewal to market the site as a waste management facility with RRC service safeguarded on site at no cost to the Council and to complete a medium term lease (no more than five years, ending in 2017) based on terms that represent best value for the Council.
- 2.3 Authorise the Assistant Chief Executive to execute all necessary documents to implement the decision at 2.2 above

## 3. **REASONS FOR THE DECISIONS**

- 3.1 The cessation of waste transfer activities at Northumberland Wharf will render the facility surplus to service requirements for the five year period from 1<sup>st</sup> April 2012 until 31<sup>st</sup> March 2017. However, given that the long term arrangements (post 2017) for the treatment and disposal of the Council's residual Municipal Waste have yet to be determined Northumberland Wharf may be required again for the delivery of waste treatment and disposal services.
- 3.2 In order for the Council to minimise or eliminate any costs associated with maintaining the site within the five year period and to generate an additional income stream for the Council the decision to offer Northumberland Wharf as an operating waste management facility on a medium term commercial lease is being proposed.

## 4. **ALTERNATIVE OPTIONS**

- 4.1 Outright sale of the property (freehold / long leasehold)

It is not considered appropriate to dispose of the asset freehold / long leasehold for the following reasons:

- § This is a strategic asset used in the delivery of core Council Services to the residents of Tower Hamlets. Although it does not serve an operational purpose at present the asset may be required in the future as outlined in 3.1 above.
- § Current disposal procedures don't allow the sale of the freehold of Council assets

#### 4.2 Long term lease

- § A long term lease of the site is not considered appropriate as the asset may have an operational use from 2017. Therefore any long term leasing of the site will lock the asset preventing the Council from using it for the purposes of waste management from 2017.

### 5. **BACKGROUND**

- 5.1 To discharge its statutory obligation as a Waste Disposal Authority, the Council has historically relied on landfill as the disposal route for its Municipal residual waste.
- 5.2 The use of Northumberland Wharf Waste Transfer Station and Re-use and Recycling Centre has been an integral part of the Council's waste disposal activities over time. However, because of the transposition of the EU Landfill Directive into UK law and the Governments increased escalator on the Landfill Tax, the Council has been moving away from landfill as the disposal option for its residual waste.
- 5.3 Within the current Waste Disposal Contract the cost of running Northumberland Wharf has been set as a fixed annual management charge, rather than a variable cost associated to tonnage passing through. Residual waste tonnage needing to be transferred through Northumberland Wharf to Rainham Landfill site is set to reduce significantly over the next 5 years, as operating capacity at alternative waste treatment facilities increases. No savings would be generated by the reduced level of use.
- 5.4 The Council has therefore taken the decision to cease the transfer of its own waste through Northumberland Wharf for the time being in order to generate cashable savings to contribute to the MTFS.
- 5.5 The provision of the Re-use and Recycling Centre (RRC) (previously known as a Civic Amenity Site) service is also one of the Council's responsibilities as a Waste Disposal Authority and historically the Council has utilised the Northumberland Wharf site to discharge this function.
- 5.6 The cessation of waste transfer at Northumberland Wharf and change to direct hauling of the Council's residual waste affords the Council the opportunity to make significant savings on the current cost of waste treatment and disposal and generate an income or receipt from the leasehold "disposal" of the asset.

## **6. NEXT STEPS**

### **6.1 Future provision of RRC service**

6.1.1 Local Authorities are obliged to provide places for the deposit of residents' household waste for disposal through two key pieces of legislation:-

1. The Refuse Disposal Amenity Act 1978 (RDA)
2. The Environmental Protection Act 1990 (EPA)

Both pieces of legislation place a duty on local authorities to provide places where refuse may be deposited by residents free of charge. The EPA has largely replaced the RDA for the everyday provision of the majority of reuse and recycling centres, whereby the duty is clearly defined as a function of a waste disposal authority. Tower Hamlets has discharged this duty through the provision of the RRC service at Northumberland Wharf.

6.1.2 The RRC is also currently being made available to residents of the City of London, through an arrangement that was agreed between LBTH and the City in 1993.

6.1.3 In order to facilitate the disposal of Northumberland Wharf consideration for the future provision of the RRC services was necessary. Officers have undertaken a review of the options which are discussed below.

#### **Option 1 – Close the RRC (no future RRC service provision)**

6.1.4 The Council as a Waste Disposal Authority has a statutory obligation to provide an RRC service. Closure of the RRC service without alternative re-provision is not an option.

#### **Option 2 - Provide a new RRC facility at an alternative new location**

6.1.5 This would involve locating and developing a new site from scratch and at its most complex, could involve:-

- site location
- site acquisition
- site development & layout plans
- gain planning permission
- construction / remedial works
- gain relevant waste license
- purchase / relocate equipment & plant
- relocation of staff
- provide COTC holder

Given the current financial climate this option is unlikely to be possible to deliver in the required timeframe.

### Option 3 - Make alternative provision using other existing waste handling sites

6.1.6 To comply with the EPA 1990 any alternative facility would need to be 'reasonably accessible' to Tower Hamlets residents. The table below sets out the potential to use neighbouring Boroughs' RRC facilities:

<b>Borough</b>	<b>Facility</b>	<b>Location</b>	<b>Comments</b>
LB Newham (ELWA managed facility)	Jenkins Lane	Off A13/junction A406 N Circ Rd	Comprehensive site but not user friendly for non-car users
Corporation of London	No facility		Residents have use of N/Wharf facility
LB Hackney	No facility		Residents have use of Islington's Hornsey Rd facility
City of Westminster	No facility		Residents have use of WRWA's facilities in Wandsworth at Smugglers Way or Cringle Street, Battersea
LB Greenwich	Nathan Way	Eastern side of Greenwich Peninsula	Comprehensive site but not user friendly for non-car users
LB Lewisham	Landmann Way	Next to Selchp, Deptford	Comprehensive site but not user friendly for non-car users
LB Southwark	Manor Place Depot	Walworth Road	Old site and not user friendly for non-car users

Officers have made an initial approach to ELWA to discuss the option to allow LBTH residents to use the Jenkins Lane facility. ELWA have indicated they would not be opposed to such an arrangement but would require payment to be made to cover the cost of managing LBTH waste. A cost mechanism has not yet been proposed and ELWA Officers would need to obtain approval from the Authority Committee in order to put such an arrangement into effect.

6.1.7 It can be seen that all other existing Local Authority RRC facilities are unlikely to offer a suitable alternative in their own right, including Jenkins Lane because of the accessibility issues.

### Option 4 - Continue to Provide RRC Service at Northumberland Wharf via New Tenant

6.1.8 Alongside of the other 3 options, Officers have explored the possibility of continuing to provide the RRC service at Northumberland Wharf as part of the lease arrangement with the new tenant. This option would provide continuity of service and would ensure that the Council fully discharges its duties as a Waste Disposal Authority.

## 6.2 Planning Issues and Asset Disposal Options

- 6.2.1 Northumberland Wharf is currently protected through a Town and Country Planning Order and is identified in the London Plan as a “protected wharf”.
- 6.2.2 In addition, the site is also identified in the London Plan and the Tower Hamlets Core Strategy as a waste management facility.
- 6.2.3 The overriding planning policies surrounding the use of the site for Waste Management and Protected Wharf status mean that a diligent and sequential approach must be followed in order to assess the possible future uses of the site.
- 6.2.4 Firstly it must be demonstrated that the site is no longer viable for use as a Safeguarded Wharf. Given the evidence base presented by the GLA on this matter it is clear that they have concluded that the site is viable for future use and it is unlikely that this could be disputed.
- 6.2.5 The site is also covered by policies concerning Waste Management designations and as such a replacement site would need to be identified, acquired and operational before the Northumberland Wharf site could be declared surplus to any such requirements. Waste and Planning Officers at the GLA have indicated that they would not approve any application for alternative uses at Northumberland Wharf until such time as the Council is able to fully demonstrate that it is able to meet the Waste Apportionment target set in the London Plan. Officers at the GLA have indicated that the Council’s Planning Framework would not gain GLA approval should Tower Hamlets not demonstrate that it is able to meet its Waste Apportionment targets.
- 6.2.6 The Council engaged GVA Grimley to undertake a market appraisal of Northumberland Wharf WTS and RRC and to act as the Council’s agents in subsequently marketing the site for disposal.
- 6.2.9 GVA considered the different options for disposal of the facility, which are summarised in the table below.

<b>Open Market Disposal Option</b>	<b>Comments</b>
Outright disposal of the freehold	GVA did not consider this as an option for the Council at this time
Long leasehold disposal for an alternative use such as residential or commercial development	GVA suggest this is not suitable at this stage due to the uncertainty of waste disposal arrangements for the long term. Also the planning constraints identified by the planners make it unlikely that a change of planning consent could be achieved on grounds there would be satisfactory demand from WHARF operators/waster transfer companies to use the facility. This is in addition to the comments made by the GLA.

<b>Open Market Disposal Option</b>	<b>Comments</b>
Short/medium leasehold disposal (5 years)	GVA consider this to be the most suitable option at this time, given that the future provision of waste disposal services, beyond 2017 is currently unknown

6.2.8 In view of the position taken by the GLA in relation to the status of Northumberland Wharf as a protected waste management facility and their refusal at this stage to agree a change of use, GVA's recommendation to offer the facility as an operating waste management site on a short term lease is considered the only viable option available to the Council to secure additional income to contribute to the MTFs.

6.2.9 In their report GVA indicate that there are a number of letting options:

- I. Full existing Waste Management use, civic amenity site and infrastructure with a single operator across the whole site.
- II. Waste transfer station with/without wharf and infrastructure. This would require a separate letting of the civic amenity site as per III below.
- III. Civic amenity site only.

6.2.10 In order to maximise the level of income from the letting of the facility it would be best if the Council could let the entire site to a single operator that would then run both the waste management plant and RRC. Options ii and iii would not maximise the income opportunity and therefore not give best value to the Council.

6.2.11 An indicative timetable for the marketing process and the conclusion of the lease arrangements to a third party is set out below:

<b>Action</b>	<b>Date</b>
Prepare marketing material	August
Place advertisements	October
Undertake viewings	October/November
Receipt of informal tender response	Mid November
Evaluate tender responses	Late November
Agree Heads of Terms	December
Exchange contracts for lease	February 2012
Commencement of lease	1 <sup>st</sup> April 2012

## **7. COMMENTS OF THE SERVICE HEAD ASSET MANAGEMENT**

7.1 This report states that for operational reasons the waste transfer services at this facility will cease and upon cessation of these services it is noted that facility will be vacated by the current occupier except for the running of the RCC. It is noted that the Council is in the process developing a Waste Strategy that will start from 2017. As the strategy is still in the process of

being developed and that this asset has a strategic importance to the Council it is not appropriate to undertake an indefinite disposal of the property for either an existing, and if possible, an alternative use.

- 7.2 In addition to this it is noted that both the Greater London Authority (GLA) and the planning authority have given the asset protected WHARF status, which is regarded by the respective parties as being viable as WHARF. In their advice the planners have stated that planning consent for an alternative use, without a clear Waste strategy or an alternative site will not be granted.
- 7.3 Taking the above points into consideration external advice has been obtained from GVA Grimley and their waste management team. GVA have stated that until the Council does not have a firm waste management strategy it would be prudent to openly market the facility as an existing use and complete a short term five year lease. Asset Management agree with GVA's recommendations, which will also ensure the use of the asset is optimised and the asset is used to generate income for the Council.

However, it is noted that amount of income from the letting could potentially be reduced depending on the markets appetite to provide an RRC facility from this site and the current level of subsidy being passed to the existing contractor. This is also referred to in sections 8.3 and 8.4

## **8. COMMENTS OF THE CHIEF FINANCIAL OFFICER**

- 8.1 The cessation of the Council's waste transfer services at Northumberland Wharf has already been identified as a £1.2m savings item within the MTFs.
- 8.2 The disposal of the site, through a leasehold disposal, affords the Council the opportunity to deliver a new income stream, reduce other financial liabilities, such as ongoing maintenance and utility costs, and allow the Council to further develop its Waste Strategy. The GVA market appraisal indicates that the open marketing of the facility for Waste management will enable the Council to maximise the rental income as indicated in Para. 6.2.8. This would enable further savings to be achieved that contribute towards the MTFs.
- 8.3 The marketing of the Wharf and the evaluation of the bids/expressions of interest will provide clarity around the financial implications of continuing to provide a RRC service. Maintaining the service at the Northumberland Wharf site is likely to provide continuity of service and be the lowest cost option for the Council.

## **9. CONCURRENT REPORT OF THE ASSISTANT CHIEF EXECUTIVE (LEGAL SERVICES)**

- 9.1. The report correctly summarises the Council's obligations, as both a London borough council and a waste disposal authority, to provide places where residents may dispose of household waste.



- 9.2. The Council originally entered into a contract for a number of waste management services with Veolia, a part of which was the provision of services from and at Northumberland Wharf
- 9.3. The Council has renegotiated the original contract by agreeing a new set of services to be provided by Veolia as part of the Council's need to drive efficiencies and savings out of the agreement. The new contract which is being agreed with Veolia does not include the use of Northumberland Warf for dealing with LBTH waste and therefore the Wharf is surplus to the council's requirements
- 9.4. The original contract required certain levels of notice to be given, should there be the exclusion of Northumberland Wharf from future services provision. However, the cessation of the use of Northumberland Wharf has been agreed with Veolia as part of the wider negotiation and therefore, breach of the original contract is not an issue.
- 9.5. The Council does not need the site in the short to medium term. Without an incumbent tenant, the site would present a risk to the Council as the Council will have to engage in expense to maintain the site even though we are not using it. Use by another department is not available as the Wharf is a protected site, which means it may only be used as a waste related facility.
- 9.6. The Council is duty bound to provide an RRC service for Tower Hamlets. Alternatives to the facility are being examined, but initially the only certain approach is to include the provision of an RRC service within the tenancy proposal. However, as the options develop, and subject to the wishes of the incoming tenant, it may be possible to negotiate later about removing or transferring the RRC service once we have suitable alternatives.
- 9.7. The inclusion of Veolia in any RRC proposal does not cause an issue at this stage. The ongoing provision of an RRC service either through the Tenant or directly with the Council is subject to the new agreement the Council is negotiating with Veolia. In essence, whether or not Veolia have a role in providing the RRC service is flexible dependent upon the options proposed by an incoming tenant
- 9.8. In considering this disposal through a 5 year lease Members need to have regard to the power in section 123 of the Local Government Act 1972 for the Council to dispose of land. This requires any disposal to achieve the best consideration reasonably obtainable unless the Secretary of State consents to the disposal.
- 9.9. In deciding whether or not to authorise leasehold disposal of the Northumberland Wharf site, the Council must have due regard to the need to eliminate unlawful conduct under the Equality Act 2010, the need to advance equality of opportunity and the need to foster good relations between persons who share a protected characteristic and those who don't. The report indicates that continuity of services will be maintained and that the disposal will yield additional revenue that may be used to support delivery of the Council's functions in accordance with the medium term financial plan.

## **10. ONE TOWER HAMLETS CONSIDERATIONS**

- 10.1 The proposal to lease Northumberland Wharf as a working waste management facility for a period of five years including the continued provision of the RRC service on site will ensure continuity of service provision for residents and others needing to access a facility for the disposal of waste.
- 10.2 The rental of the facility to a third party for the five year period during which the facility is not required for its own services will eliminate the Council's burden for the responsibility of management and maintenance ensuring best value for the residents of the borough

## **11. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT**

- 11.1 There would be medium term implications for carbon emissions specific to additional road haulage. However the efficiency gains made by the switch will help to maintain waste and recycling services at a higher level than would otherwise be possible during a period of intense financial pressure.

## **12. RISK MANAGEMENT IMPLICATIONS**

- 12.1 The risks associated with the Council's statutory duty to provide an RRC service will be mitigated through the inclusion of the requirement to continue to provide the RRC service on the site.
- 12.2 The inclusion of the requirement to provide the RRC on site as part of the lease arrangement may have an implication on the rental value of the property but this will be managed through the marketing process to ensure the targeted rental income is achieved.
- 12.3 By offering Northumberland Wharf to the market as an operating waste management facility will mitigate any risk of challenge to the short term disposal by the GLA.

## **13. CRIME AND DISORDER REDUCTION IMPLICATIONS**

- 13.1 The proposed short term rental of Northumberland Wharf has no direct link to crime and disorder reduction. However the continued provision of the RRC service on site as part of the lease arrangement will help to mitigate the effects of environmental crime, particularly flytipping.

## **13. EFFICIENCY STATEMENT**

- 13.1 The proposals set out in this report will mitigate costs to the Council in association with the maintenance and upkeep of Northumberland Wharf Waste Transfer Station and seek to generate an additional revenue stream for the short to medium term.

**14. APPENDICES**

None

---

**Local Government Act, 1972 Section 100D (As amended)  
List of "Background Papers" used in the preparation of this report**

Brief description of "background papers"	Name and telephone number of holder and address where open to inspection.
None	N/A