

Agenda Item No: **Report No:**
Report Title: **Proposed Incinerator at North Quay, Newhaven**
Report To: **Cabinet** **Date:** **21 November 2007**
Lead Councillor: **Councillor De Vecchi**
Ward(s) Affected: **Newhaven**
Report By: **Chief Executive**
Contact Officer(s): **John Crawford**

Purpose of Report:

To explain to the Cabinet the arrangements made for the Council to appear at the Public Inquiry into the Compulsory Purchaser Order made by East Sussex County Council.

Officers Recommendation(s):

- 1 To agree the arrangements made to present a case on behalf of the District Council to the Public Inquiry
 - 2 To agree the sum of £5,000 to be for a barrister to present the Council's case at the Inquiry and the subsequent daily rate of £1250 per day for as many days as the barrister needs to be present.
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Reasons for Recommendations

- 1 To ensure that the Council's case is properly presented to the Inquiry.

Information

- 2 East Sussex County Council has been involved in negotiations to purchase the land that it needs for the incinerator for a long time. Although the County Council resolved to make a Compulsory Purchase Order in February 2007, it seemed likely at that stage that either the County Council or its appointed contractor Veolia would acquire the land by agreement.
- 3 In early October, a pre-inquiry meeting was held in Lewes into the procedural arrangements for the Public Inquiry into the Compulsory Purchase Order and at that stage it began to appear very uncertain that the County Council would be able to acquire the land by agreement and that the Compulsory Purchase Order would be tested in a Public Inquiry.
- 4 The Council's policy has been to oppose the proposed incinerator at Newhaven and therefore I advised the Leader of the Council that it would be in our

interests to engage a barrister to be able to test points of evidence presented at the Inquiry and to assist the presentation of the Council's case.

- 5 I was aware at that time that there was always the possibility that the County Council might reach agreement with the landowners, in which case, the Compulsory Purchase Order and the Public Inquiry would be abandoned. However, it was not reasonable to take the risk that would not happen and we therefore needed to prepare our case and make arrangements to be represented. The brief fee for the barrister to appear is £5,000 and I agreed with the Director of Finance and Community Services that sum would be taken from contingencies because we jointly have power to commit up to that sum from contingencies.
- 6 The Public Inquiry was scheduled to last for eight days and we reached an agreement with the barrister that we would pay a fee for each day on which it was necessary for the barrister to appear (which is not necessarily all of the days of the Inquiry) and the daily fee was £1,250.
- 7 In normal circumstances, I would have asked Cabinet to have sanctioned that sum in advance but since there was no Cabinet meeting until this one, with the agreement of the Leader of the Council, I committed us to this arrangement.
- 8 I would ask Cabinet to support the payment from contingencies of the extra amount for each day that we have to pay to the barrister. This is a very unusual situation. We do not usually ask Cabinet for retrospective approval to expenditure, but in these circumstances, it was necessary to make the commitment to ensure that the Council's policy was followed through. I will give you an oral update at your meeting and I will give details of the final amount to seek from contingencies.

Financial Appraisal

- 9 There is no more information I can currently give you about the financial appraisal. The maximum sum that might have to be paid for eight days if the Inquiry runs that far would be £10,000. The balance of the technical and legal work will be done in-house.

Environmental Implications

- 10 I have completed the Environmental Implications questionnaire and this Report is exempt from the requirement because it is a progress report

Risk Management Implications

- 11 I have completed the Risk Management Questionnaire in accordance with the Council's Risk Management Methodology and the following risks and mitigating factors have been identified:

If the Council were not to commit this expenditure, it would not be able to present a full case at the Public Inquiry and we would not have the opportunity to test the evidence given on behalf of the Compulsory Purchase Order. The risk of not doing so means that some points that have been an essential part of the Council's policy would not be brought into consideration at the Public

Inquiry. Beyond that, there is no financial risk. This is not an open-ended commitment, it is the commitment of a specific sum of money up to a stated maximum.

Background Papers

12 CPO Inquiry documents.

Appendices

13 None.