



CABINET

10 May 2017

Subject Heading:

To seek authority to submit funding applications to Veolia Havering Riverside Maintenance Trust.

To plan investigate and establish appropriate options to secure future funding to ensure ongoing management and maintenance of Rainham Landfill site post restoration.

Cabinet Member:

Councillor Osman Dervish

CMT Lead:

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Policy context:

London Plan
Havering Local Development Framework
All London Green Grid Supplementary Planning Document 2012
Wildspace Business Plan Study May 2011

Financial summary:

Funding applications that meet the Veolia Havering Riverside Maintenance Trust's (the "Trust") objectives and the Council's objectives would be made for various individual projects. These projects would either already be in the Council's capital programme or will be developed to be proposed for inclusion in the 2018/2019 capital programme.

The Council will also consider options to plan for the future aftercare management and maintenance of the restored landfill site. These options may include the Council taking responsibility for its management and upkeep and /or making financial provision with a third party.

Is this a Key Decision?

Yes

(a) Expenditure or saving (including anticipated income) of a total of £500,000 or more

(c) Significant effect on two or more Wards

When should this matter be reviewed?

June 2018

Reviewing OSC:

Towns and Communities OSC

The subject matter of this report deals with the following Council Objectives

Communities making Havering	[X]
Places making Havering	[X]
Opportunities making Havering	[X]
Connections making Havering	[X]

SUMMARY

- 1.1 This report first sets the background by summarising the wider framework of the Rainham Wildspace regeneration programme (Rainham Wildspace) of which the Veolia landfill site, operated by Veolia UK, forms part.
- 1.2. It is anticipated that Rainham Wildspace overall will provide local, accessible and quality open space for new and existing communities in London Riverside and, ultimately, a regional visitor destination. The Council has worked in partnership with several key organisations to deliver Rainham Wildspace since 2002, including Veolia UK and the RSPB.
- 1.3. The completed restoration of the Veolia landfill site is key to the success of the project because it will add 177 hectares of landscaped open space alongside the River Thames. A planning s106 agreement, dated July 2016, associated with a second planning permission for Veolia UK to use the site as a landfill includes opportunities to establish future uses such as a visitor centre, car parking, water borne recreation and proposes restoration work to enable open public access. Additionally the s106 agreement enables the Council an opportunity to secure a 'pie-crust' lease of the restored site post landfill operations and restoration, to manage the site itself or employ a third party organisation to do so.

- 1.4. Until recently, the Veolia Havering Riverside Maintenance Trust (a local Landfill Communities Fund Trust) had been seeking to secure sufficient funding from the Landfill Communities Fund as an endowment to enable management and maintenance of the restored landfill in perpetuity. The Trust currently has approximately £5million of funds set aside for this purpose but this money now needs to be spent much earlier because of legislative changes.
- 1.5. Consequently this prior funding source is no longer available and new resources will need to be found. Trustees of the Veolia Havering Riverside Maintenance Trust (the “Trust”) have approached the Council inviting it to apply to use Trust funds to deliver projects that meet the objects of the Trust, and to consider developing alternative methods to fund the completed landfill as open space once post restoration by Veolia UK.

RECOMMENDATIONS

That Members:

- 2.1 Agree that the Council prepares and submits funding applications to the Veolia Havering Riverside Maintenance Trust (the “Trust”) that meet the Trust objects and that the Chief Executive after consultation with the Leader shall have delegated authority to identify those projects and make the applications.
- 2.2 Agree that the Council consider the various options, to facilitate funding for the annual maintenance of and public access to the restored landfill site. Options to consider include the provision of financial support directly, via a trust or through a third party.
- 2.3 Delegate authority to the Chief Executive after consultation with Director of Legal and Governance and the section 151 officer, to develop options and implement a solution to secure the management and maintenance of the completed landfill site including the facilitation of required funding streams. These options may include the Council taking responsibility for its management and upkeep and/or making financial provision with a third party (e.g. RSPB or Land Trust).

REPORT DETAIL

Rainham Wildspace Background

- 3.1 Rainham Wildspace is a planned regional visitor destination area comprising the Inner Thames Marshes Site of Special Scientific Interest (SSSI) and the adjacent Veolia landfill. The SSSI is now managed as a nature reserve by the RSPB and, partly, by the Council. The Veolia Havering Riverside Maintenance Trust was originally established to secure funding for the future aftercare of the restored landfill post operation as a landfill and consequential ongoing management as public open space as part of Rainham Wildspace.
- 3.2 Rainham Wildspace is a project that evolved from the 2002 Urban Strategy for London Riverside that was the plan for the London Riverside Single Regeneration Budget initiative involving Havering, Ford Motor Co. and LB Barking and Dagenham. The Rainham Marshes are to be developed as a regional visitor destination to provide local, quality and accessible open space for new and existing communities located in London Riverside. Rainham Wildspace remains at the centre of the Council's subsequent (2009) Rainham Compass regeneration programme and forms an important part of the green infrastructure that will support the sustainable development of the GLA funded Rainham and Beam Park Housing Zone.
- 3.3 The concept of the Rainham Wildspace was established in partnership with the London Thames Gateway Development Corporation (LTGDC) to deliver this initiative from 2004. Havering's partners included RSPB, Thurrock, LTGDC, Port of London Authority, Veolia Havering Riverside Trust, Environment Agency, Natural England, GLA, LDA and TfL. Between 2004 and 2012 Havering invested c£8.5m of grant (from LTGDC, VHRT, GLA, LDA, TfL, ERDF, ODPM and Thames Gateway Parklands) in the Rainham Wildspace project. In that time the project has successfully delivered:
- Funding for Wildspace totalling c£30m
 - The establishment of the RSPB Rainham Marshes Nature Reserve
 - The Purfleet RSPB Environment and Education Centre
 - Rainham to Purfleet Path (10km of accessible cycle and walking paths)
 - The Council's Rainham Marshes Local Nature Reserve
 - Rainham to the River – access improvements to the River and associated marshes (largest Thames Gateway Parklands project in London)
 - Rainham Trackway
 - Mardyke Bridge
 - Three Crowns Open Space
 - Business and transport plans

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- National Nature Improvement Area status
- 3.4 In 2012 the Council planned to establish a stronger decision-making governance structure for Rainham Wildspace, chaired by the then Leader of the Council together with senior representatives from the RSPB and Veolia ES plc. However, this plan coincided with the submission of a planning application by Veolia UK to enable a longer period of landfill operations on the Veolia landfill/ Rainham Marshes site. The subsequent planning s106 agreement (S106), dated July 2016 includes measures to enable the restored Veolia landfill to contribute to the development of Rainham Wildspace, including the opportunity for the Council to obtain a pie-crust lease to manage the site by or before the end of October 2031.

Landfill Communities Fund Trust

- 3.5 Throughout the same period the Council has enjoyed close links with the two associated local Landfill Communities Fund Trust charities, being;
- Cleanaway Havering Riverside Trust (CHRT) that, most recently, became the Veolia North Thames Trust (VNTT); and
 - Veolia Havering Riverside Maintenance Trust (the "Trust").

These two trusts are funded through Veolia UK under the Landfill Tax Relief provisions but are separate entities to the business landfill operations of Veolia UK.

- 3.6 **Veolia North Thames Trust (VNTT)**, is the grant giving organisation that has successfully funded many environmental projects in Havering, including for Wildspace, and more recently in the North Thames area, extending across Thurrock, Castle Point and Basildon. However the VNTT is in the process of being wound up with the funding proposed to be directed to a national body, Veolia Environmental Trust. It seems less likely local organisations, including the Council, will benefit from the national body as much as they have done from the local Trust.
- 3.7 **Veolia Havering Riverside Maintenance Trust (the Trust)** was established to provide an endowment to enable long term funding to ensure aftercare of the restored Rainham landfill as public open space, as part of Rainham Wildspace. Unfortunately, changes by central government within Department of Communities and Local Government and ENTRUST (the regulatory body for the two Trusts) and plans to abolish the Landfill Communities Fund by the end of 2020, mean that future funding will not be available from the two Trusts for the long term care of the restored landfill.
- 3.8 With effect from April 2015, there have been changes to the Landfill Tax of significance for the operation of the Trusts; there are amendments to the conditions by which the Trusts obtain approval for the purposes of Landfill Tax credits by the regulatory body, ENTRUST. The amendments require the funding from contributions to be applied for approved purposes within

the context of specific identified projects themselves approved in advance by ENTRUST. Those approved projects are to have a relatively short anticipated end-date, typically, no more than two to three years from the date of the contribution. Accordingly there is no scope for funding to be applied for an initial project with a further sum set aside for onward maintenance of the project, such as anticipated with the landfill site.

3.9 Consequently the Trust has approached the Council requesting that the Council consider;

- Applying to the Trust for funds currently held by the Trust, c£5m, to spend on Council projects that meet the objects of the Trust to deliver environmental regeneration.
- Alternative mechanisms to provide for the aftercare of the landfill. The mechanism may be to provide financial support directly, via a trust or through a third party

3.10 It is recommended that the Council apply to the Veolia Havering Riverside Maintenance Trust for funds to support a number of existing or future capital projects that meet the objects of the Trust.

3.11 The objects for which the Trust is established are for the benefit of the public in the area of benefit within the minimum prescribed timetable (being the two to three year time period referred to above in paragraph 3.8) through the:

- *Protection or conservation of the natural environment by restoring or reclaiming land which cannot otherwise be used for economic, social or environmental purposes by reason of pollution damage caused by an activity previously carried out on the land.*
- *The protection and preservation of the environment for the public benefit by:*
- *preventing or reducing any potential causes of pollution in relation to any land which has suffered or may suffer pollution as a result of an activity previously carried out on the land; and*
- *remedying or mitigating the effects of any pollution in relation to land which has suffered or may suffer pollution as a result of an activity previously carried out on the land.*
- *The protection and preservation of the environment for the public benefit by:*
- *educating the public in the benefits to the environment of sustainable waste management practices; and*

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- *conducting research into sustainable waste management and disseminating the useful results of that research (in this Article, “sustainable waste management practices” shall mean waste minimisation, minimisation of pollution and harmful waste, re-use of waste, waste recovery activities and clearance of pollutants from contaminated land).*
- *The protection and preservation of the environment for the public benefit by:*
- *the provision, maintenance or improvement of a public park, recreation ground or open space; or*
- *the provision of some other public amenity in the vicinity of a landfill site PROVIDED THAT any public park, recreation ground, open space or public amenity provided, maintained, or improved by virtue of this Article shall not be operated for profit.”*

3.12 It is a matter, of course, for the Trust to determine, but it is nevertheless important that the Council recognises these limitations on the Trust. Accordingly in making each application it will be for the Council to address how each proposed scheme fulfils the objects of the Trust.

3.13 Further the Trust must satisfy central government’s Landfill Tax Credit scheme and to do so such funding must satisfy Object D – Provision, Maintenance of a Public Park or other Public Amenity of Entrust objectives. Public amenity is a very wide object and could include facilities such as libraries and sports facilities. However, the Trust must spend or distribute the funds in accordance with their own objects. In this case the Trusts own objectives appear to be somewhat narrower than central government’s Object D, being restricted to more environmental benefits. Consequently, it needs to be recognised that funding from the Trust for any proposed project will need to be consistent with the Trust objects outlined above.

3.14 The restored landfill is an essential component of the Council’s regeneration aspirations for Rainham Wildspace to be developed as a regional visitor destination and for communities local to London Riverside. This intent is reflected in the London Plan and associated 2011 All London Green Grid SPD and the Havering Local Development Framework. It is anticipated that Rainham Wildspace will benefit the local community because it will:

- support economic and social regeneration
- improve public health
- improve educational outcomes
- reduce crime and antisocial behaviour
- help the community adapt to climate change; and
- improve quality of life across an entire area

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- 3.15 The July 2016 s106 agreement requires Veolia UK to complete restoration of the landfill in accordance an agreed landscape restoration masterplan and an aftercare programme till the end of 2031. The Trust was also seen as essential to the success of Rainham Wildspace at the completion of the Veolia UK landfill operations and subsequent restoration, but that ongoing maintenance funding will now be lost.
- 3.16 Additionally on or before 31st October 2031 the Council has the option through the July 2016 s106 agreement, to secure a pie-crust lease of the former landfill in order to enable its management as open space as part of Rainham Wildspace. The absence of funding for the maintenance of the landfill site would be a significant consideration for the Council in deciding whether to exercise this option.
- 3.17 Therefore, it is considered that now is an appropriate time to review the options to secure the future of the restored landfill site. Options to consider include the Council taking responsibility for the former landfill management and upkeep and/or making financial provision with a third party (e.g. RSPB or Land Trust) to invest equivalent funds to meet the maintenance requirements in the future.
- 3.18 The Trust has requested that the Council give consideration to the future options for funding the maintenance of the site within the time frame set in relation to the spend of the current Trust funds.
- 3.19 It is important to note that the on-going cost of maintaining the engineering of the landfill cap (subsoil, bentonite wall, the capping and restoration layers), gas extraction systems and leachate and other potential pollution and settlement issues will always remain with the landfill operator, Veolia UK, under its Waste Management Licence arrangement with the Environment Agency.
- 3.20 It is recommended that the Council agree to consider the various future options, such as providing financial support directly, via a trust or through a third party, for the annual maintenance of and public access to the former landfill site . An agreed option would deliver funding for the management and maintenance of the landfill once tipping operations cease, the landscape and restoration masterplan is fully completed by the landfill operator (Veolia UK) and at the end of the 5 year aftercare period, currently expected to be 2031.

REASONS AND OPTIONS

Reasons for the decision:

- 4.1 This decision is required for the Council to apply for funds held by the Trust for the purposes of Council projects which fall within the Trust's objects. The funds were held by the Trust to fund the future management and maintenance of the Rainham landfill site. The availability of these funds is threatened by a Government decision to abolish the Landfill Communities Fund and a DCLG and ENTRUST decision that compels the Trust to spend the funding within the two to three year period rather than at the closure of the fully restored landfill by 2031.
- 4.2 The Council has also been asked by the Trust to consider establishing a mechanism, such as providing financial support directly, via a trust or through a third party to restore the funding gap left by this process.

Other options considered:

- 5.1 Alternative options considered include:

No application for trust funding be made and the Council funds those projects from its own resources.

The future funding of the maintenance of the restored landfill site could be considered at a later stage, for example when the Council needs to take a decision about securing pie crust lease and nearer to the time when the landfill will be completed. This option is rejected because there would be no forward planning for the aftercare of the site.

IMPLICATIONS AND RISKS

Financial implications and risks:

- 6.1 Funding applications to the Trust will be made in respect of either projects that are currently included within the approved capital programme or are in development to be proposed for inclusion in the 2018-2019 capital programme. All projects will be subject to the production of a robust Business Case.
- 6.2 In developing options to secure the future maintenance of the closed landfill site the Council's financial commitments will be subject to

compliance with the governance and approval procedures within the Havering Constitution.

Legal implications and risks:

- 7.1 This report recommends that the Council submit funding applications to the Veolia Havering Riverside Maintenance Trust, for various Council projects and that it consider options for establishing a mechanism to enable funding for the aftercare of the restored landfill site.
- 7.2 Firstly, it is open to the Council to apply for funding from the Trust for projects, which fall within the Trusts objects and which are pre-approved by the Regulator ENTRUST.
- 7.3 Approval for grant applications of over 0.5 million is a function of cabinet under the Council Constitution. Members are recommended to delegate the authority to decide the projects to be the subject of the applications and to make those applications to the Chief Executive, after consultation with the Leader. The Council has legal powers to apply for such funds under s111 of the Local Government Act 1972, namely powers incidental to any primary powers or duties concerning particular projects.
- 7.4 Under the July 2016 s106 agreement Veolia has legal responsibility for restoration and aftercare of the landfill site until 2031. At that point the Council has an option to acquire a pie crust lease. In view of the changes in the provisions for the use of the landfill taxes the funding which would have been available will not be now and it is open to the Council to consider alternative means of providing the maintenance of the site post 2031 should the Council wish to do so.
- 7.5 There are a range of legal powers available to participate in the provision of maintenance of the landfill site and powers incidental to those functions under s111 of the Local Government Act 1972 which enable partnership working and financial contributions. Additionally the Localism Act 2011 provides the Council with wide powers which can be relied on to arrange for the maintenance of the landfill site. Specific advice will be provided during the course of considering the various options.
- 7.6 It has not been possible in the timescales available to evaluate the options for the maintenance of the site and make any final recommendations and accordingly it is recommended that Members delegate authority to the Chief Executive to explore the options available to secure the management and maintenance of the completed landfill site, including the facilitation of required funding streams.

Human Resources implications and risks:

- 8.1 There are no current human resource implications identified as arising from the recommendations of this report

Equalities implications and risks:

- 9.1 Equality Impact Assessments will be undertaken for each of the projects submitted to the Trust for funding and as appropriate.
- 9.2 Rainham Wildspace is an important regeneration programme that has continued to benefit the local community since its inception in 2002 because it has supported economic and social regeneration and sought to improve public health, improve educational outcomes, reduce crime and antisocial behaviour, help the community adapt to climate change and improve quality of life across a wide area.
- 9.3 The significance of the project was reported to and appropriate recommendations agreed by Cabinet in 2009 and significant progress further reported in 2014.
- 9.4 The Rainham Wildspace project has had a positive impact on people from all protected characteristics, with children and young people (and their parents and/or carers), older adults, disabled people and those from disadvantaged backgrounds being amongst the groups that have benefited the most. It is envisaged that the project will continue to deliver increased social inclusion and improve community cohesion in the borough.
- 9.5 The Rainham Wildspace programme will continue to align to the Rainham Compass Equality Analysis report 2012-15. Any potential/likely negative impact is identified and addressed as part of individual projects management and monitoring arrangements. Should Members agree that consideration be given to the establishment of a new trust or other mechanism to enable the aftercare of the landfill site as part of Rainham Wildspace once it has been completed, most likely to be in 2031, an Equality Impact Analysis will be carried out as part of that process so as to ensure any potential negative impact is identified and minimised/eliminated and positive equality outcomes and opportunities are enhanced.

BACKGROUND PAPERS

None