



AGENDA ITEM: 4(b)

CABINET: 2 FEBRUARY 2016

Report of: Interim Borough Solicitor and Interim Director of Housing & Regeneration

Relevant Portfolio Holder: Councillor Moran (Leader)

**Contact for further information: Mr T Broderick (Extn 5001)
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**SUBJECT: REQUEST FOR FUNDS – OPPOSITION TO EXTENSION OF
WHITEMOSS LANDFILL SITE, SKELMERSDALE**

Wards affected: Skelmersdale South

1.0 PURPOSE OF THE REPORT

- 1.1 To consider a request for a contribution of £4K to funding for a challenge to the Secretary of State's decision to allow planning permission to extend the Whitemoss Landfill Site, Skelmersdale.

2.0 RECOMMENDATIONS

- 2.1 That members determine whether to agree to the funding request.

3.0 BACKGROUND

- 3.1 A request for funding has been received – see Appendix 1. The request is stated to be submitted by Councillor Cotterill on behalf of a community interest group opposing the extension of the Whitemoss Landfill site and is for the purpose of pursuing a challenge to the Secretary of State's decision to permit development.
- 3.2 Whitemoss Landfill Ltd. wish to extend its business at Whitemoss, Skelmersdale (the Project). The Project was designated a Nationally Significant Infrastructure Project by the Secretary of State under the Planning Act 2008. The Council noted its concerns in relation to the proposed development and authorised the

Managing Directors to write to the Secretary of State to have the matter determined locally (Appendix 3). That request was not acceded to.

- 3.3 Cabinet, at its meeting in July 2014, following consideration of a report (Appendix 2) authorised the Assistant Director Housing and Regeneration in consultation with the relevant Portfolio Holder to take all necessary steps to conduct the Council's case in relation to resisting the Compulsory Acquisition of the Council's adjacent land by Whitemoss Landfill Ltd. and all matters incidental thereto having regard to paragraph 4 of the report (which included the drainage position of the land and its contribution to the SUDS system which the Council installed when the WhiteMoss Business Park was built). It was not the Council's determination to challenge the other elements of the application for permission.
- 3.4 In the event the decision of the Secretary of State was that permission be granted and, consequently, the compulsory acquisition be approved. Following receipt of external advice it was considered there would not to be any merit in the Council pursuing a case to challenge the Secretary of State's decision.

4.0 CURRENT POSITION

- 4.1 The request for funding has been received. No detail is known of the strength of the challenge to the decision of the Secretary of State. It is noted though that the initial "permission stage" for judicial review on written submissions was not successful. In such circumstances courts are concerned to test whether the granting of permission would make any difference to the final outcome of the case. Following a permission stage decision the case may proceed to a further substantive hearing which would significant additional expenditure.
- 4.2 Members may wish to consider the request which is not one which is routinely entertained by the Council and may lead to other similar requests being submitted. Also, there is no detail around what would happen if the matter would need to be further argued at additional hearings, and obtaining the funding required should this prove necessary.
- 4.3 The Council's interests in terms of its landholding would be best served by a successful challenge to the decision of the Secretary of State.
- 4.4 Members need to be aware of the call-in mechanism and the need for early action in their deliberations.

5.0 FINANCIAL AND RESOURCE IMPLICATIONS

- 5.1 If members are minded to agree to the request for £4K of funds this may be made available from the Major Project Reserve.

6.0 SUSTAINABILITY IMPLICATIONS/COMMUNITY STRATEGY

- 6.1 There are no significant sustainability impacts associated with this report and, in particular, no significant impact on crime and disorder. The report has no significant links with the Sustainable Community Strategy.

7.0 RISK ASSESSMENT

- 7.1 The Council would be concerned to ensure that funds are appropriately applied if authorised. Through delegated arrangements this would be achieved. The Council's contribution would not commit the Council to further involvement or any degree of control over the proceedings.
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Background Documents

There are no background documents (as defined in Section 100D(5) of the Local Government Act 1972) to this Report.

Equality Impact Assessment

The decision does not have any direct impact on members of the public, employees, elected members and / or stakeholders. Therefore no Equality Impact Assessment is required.

Appendices

- 1 – Request for funding
- 2 - Report to Cabinet – 1 July 2014
- 3 – Decision of Council – 16 April 2014