

Central Bedfordshire  
Council  
Priory House  
Monks Walk  
Chicksands,  
Shefford SG17 5TQ



**please ask for** Sandra Hobbs  
**direct line** 0300 300 5257  
**date** 21 November 2012

## NOTICE OF MEETING

### THE ROOKERY SOUTH (RESOURCE RECOVERY FACILITY) COMMITTEE

Date & Time

**Thursday, 29 November 2012 at 1.30 p.m.**

Venue

**Room 15b, Priory House, Shefford, Monks Walk**

Richard Carr  
**Chief Executive**

To: The Chairman and Members of the THE ROOKERY SOUTH (RESOURCE RECOVERY FACILITY) COMMITTEE:

Cllrs	Mrs C Hegley	Executive Member for Social Care, Health and Housing
	R Stay	Executive Member – External Affairs
	N Young	Executive Member for Sustainable Communities – Strategic Planning and Economic Development

All other Members of the Council - on request

**MEMBERS OF THE PRESS AND PUBLIC ARE WELCOME TO ATTEND THIS MEETING**

## AGENDA

1. **Election of Chairman**

To elect a Chairman of The Rookery South (Resource Recovery Facility) Committee for the remainder of the Municipal Year 2012/13.

2. **Election of Vice-Chairman**

To elect a Vice-Chairman of The Rookery South (Resource Recovery Facility) Committee for the remainder of the Municipal Year 2012/13.

3. **Apologies for Absence**

To receive apologies for absence.

4. **Minutes**

To approve as a correct record, the Minutes of the meeting of The Rookery South (Resource Recovery Facility) Committee held on 13 December 2011.

5. **Members' Interests**

To receive from Members any declarations of interest.

6. **Chairman's Announcements**

To receive any matters of communication from the Chairman.

7. **Public Participation**

To respond to general questions and statements from members of the public in accordance with the Scheme of Public Participation set out in Appendix A of Part A4 of the Constitution.

### Decisions

Item	Subject	Page Nos.
8.	<b>Infrastructure Planning Commission Decision to Approve Covanta 'Waste to Energy' Plant at Rookery South Pit, Stewartby</b>	9 - 38
	In light of the Council's previous decision to petition Parliament, this report summarises the current situation and possible financial impacts.	



RPSC/11/4 **Chairman's Announcements**

The Chairman had no announcements to make.

RPSC/11/5 **Public Participation**

No members of the public had registered to speak.

RPSC/11/6 **Infrastructure Planning Commission (IPC) Decision to Approve Covanta Waste to Energy Plant at Rookery South Pit, Stewartby**

The Committee considered a report from the Executive Member for Sustainable Communities – Strategic Planning and Economic Development on the Infrastructure Planning Commission's (IPC) decision to approve the Covanta proposal for a 'Waste to Energy' plant at Rookery South Pit, Stewartby.

Bedford Borough Council had decided to petition Parliament against the Development Consent Order (DCO). Members considered whether Central Bedfordshire Council should object to the DCO jointly petitioning Parliament with Bedford Borough Council by sharing the estimated cost of £120,000 on a 50/50 basis.

The Executive Member for Sustainable Communities – Strategic Planning and Economic Development responded to questions from Members including considering the principle reasons for objecting to the development.

The Committee acknowledged that due to their membership on this Committee they would not take part in any decisions relating to the BEaR Project.

An additional recommendation was proposed and duly seconded as follows:

'that the estimated cost in the region of £120,000 be shared on a 50/50 basis with Bedford Borough Council and if costs exceed this amount a report be brought back to The Rookery South (Resource Recovery Facility) Committee.'

Reason for decision: To enable the Council to formally consider the IPC decision to approve the Covanta proposal for a Waste to Energy plant at Rookery South Pit, Stewartby and determine whether or not it wishes to petition against the Development Consent Order now laid before Parliament, through the processes available to it.

**RESOLVED**

- 1. that the decision of the Infrastructure Planning Committee to approve the Waste to Energy Plant at Rookery South Pit, Stewartby, be noted;**

2. to petition against the Order and:
- (a) to agree that there should be a call on the Council's contingency reserve to cover the cost putting forward the Council's case;
  - (b) that delegated authority be given to the Assistant Director Planning, in consultation with the Executive Member for Sustainable Communities – Strategic Planning and Economic Development to approve the final content of any petitions; and
  - (c) that the estimated cost in the region of £120,000 be shared on a 50/50 basis with Bedford Borough Council and if costs exceed this amount a report be brought back to The Rookery South (Resource Recovery Facility) Committee.

(Note: The meeting commenced at 9.00 a.m. and concluded at 9.45 a.m.)

Chairman .....

Dated .....

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**Meeting:** The Rookery South (Resource Recovery Facility) Committee

**Date:** 29 November 2012

**Subject:** Infrastructure Planning Commission (IPC) decision to approve Covanta 'Waste to Energy' plant at Rookery South Pit, Stewartby

**Report of:** Councillor Nigel Young, Executive Member for Sustainable Communities - Strategic Planning and Economic Development

**Summary:** In light of the Council's previous decision to petition Parliament, this report summarises the current situation and possible financial impacts.

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**Advising Officer:** Trevor Saunders, Assistant Director Planning

**Contact Officer:** Roy Romans, Team Leader – Minerals and Waste

**Public/Exempt:** Public

**Wards Affected:** Ampthill, Aspley & Woburn, Cranfield & Marston Moretaine, Flitwick, Lidlington, Westoning, Flitton & Greenfield and Houghton Conquest & Haynes

**Function of:** Executive

**Key Decision** No

**Reason for urgency/ exemption from call-in (if appropriate)** The parliamentary process is ongoing and a decision not to make provision for funding the Council's case would result in the Council having to reduce it's participation in the process.

#### **CORPORATE IMPLICATIONS**

##### **Council Priorities:**

Enhancing Central Bedfordshire – creating jobs, managing growth, protecting our countryside and enabling businesses to grow; and Better Infrastructure – improved roads, broadband reach and transport. The provision of new infrastructure to produce energy and the effective management of waste are a critical element of delivering growth effectively and help to ensure sustainable development. 'Waste to energy' plants are one type of infrastructure which can be developed to meet these needs.

**Financial:**

1. It was originally estimated that the total cost of the legal and consultancy support required to take forward an objection would be in the region of £120,000. At the IPC Examination, both Bedford Borough and Central Bedfordshire Councils raised objections to the Covanta Waste to Energy proposal and therefore shared the costs of putting forward their case to the IPC. Both authorities have continued to object to the Development Consent Order and are sharing costs on a 50/50 basis.
2. The current and future financial position is set out in detail in paragraphs 24 to 28 of this report.
3. If Central Bedfordshire Council's petition is unsuccessful it is open to the Special Parliamentary Committee to also consider whether the petition was unreasonable and that the promoter has been vexatiously exposed to costs as a result of opposition to the Order. However, a landowner who at their own risk and cost opposes a private Bill which proposes the acquisition of any part of their property is not liable for any costs in respect of that opposition. Therefore, Central Bedfordshire Council as landowner should not be liable for any third party costs.

**Legal:**

4. The IPC has decided to grant development consent for the proposal. The statutory order implementing this decision has been laid before Parliament. The Council has objected to the Order. The Council's case is being considered by a joint committee of both houses of parliament.

**Risk Management:**

5. The decision to approve the Waste to Energy plant is an independent, IPC decision. The Council put forward an objective case to the IPC, but the Council's objections were not upheld. If therefore, the Council accepts the IPC has acted reasonably in its decision-making, a decision by the Council not to continue to petition against the Development Consent Order at this stage would carry a risk to the reputation of the Council from local objectors who could consider the Council should exhaust all avenues available to it in pursuit of its original objections to the IPC. It could also result in the Special Parliamentary Committee taking a view that Central Bedfordshire Council's commitment to opposing the development has reduced and consider that evidence given so far, on that basis.
6. The special parliamentary process is rarely used. It is difficult therefore to predict the Council's chances of a successful petition. In light of the very detailed consideration of the IPC, the Council has previously determined that it had very clear and sound reasons to petition Parliament against the Development Consent Order and has been aware that it should not continue to petition purely to avoid the reputational risk outlined above.



7. It is also clear that any decision of this Committee cannot prejudice the Council's future consideration of bids to the BEaR procurement process. In that light, the Council's consideration of the 'energy to waste' proposal at Rookery is being dealt with by a separate Committee to that which will independently consider the BEaR procurement process in future. Members of this Committee will not therefore, be able to participate in the separate decision-making process associated with BEaR procurement.

**Staffing (including Trades Unions):**

8. None.

**Equalities/Human Rights:**

9. Evidence on socio-economic matters was presented to the IPC by the Council. The decision to make the Development Consent Order was the responsibility of the IPC. It is now the responsibility of the appointed Special Parliamentary Committee that makes the decision.

**Community Safety:**

10. Not Applicable.

**Sustainability:**

11. Sustainability issues have been a core part of the Council's objections to the Covanta proposal to date. The Council's key concerns are summarised in paragraph 18 of this report.

**Procurement:**

12. Not Applicable.

**Overview and Scrutiny:**

13. This matter has not been considered by Overview and Scrutiny.

**RECOMMENDATIONS:**

**The Committee is asked to:**

1. **note the current position of the Council with respect to it's involvement in the Special Parliamentary Process;**
2. **consider the merits of continuing to object to the Development Consent Order by petitioning Parliament; and**
3. **In the event that the Committee decide to continue to petition against the Order:**
  - a) **agree that the current provision to cover the cost putting forward the Council's case should be increased by £50,000 to £150,000.**

<i>Reason for Recommendations:</i>	<i>So that the Authority can formally consider whether or not it wishes to continue to petition against the Rookery South Development Consent Order now laid before Parliament, through the processes available to it.</i>
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### **Executive Summary**

14. The Council has been objecting to the proposal for a large waste to energy facility in Rookery Pit, Stewartby. A decision has been made by the IPC to allow the development which is subject to a special parliamentary process. At the previous meeting of this Committee it was decided to petition against the order. The Council now needs to decide whether to continue to object and take part in the process.

### **Background**

15. The Covanta 'Waste to Energy' proposal was dealt with by the Infrastructure Planning Commission. It proposes a 585,000 tonne per annum 'waste to energy' and material recovery facility at Rookery Pit, Stewartby. It is proposed that the facility would process residual municipal and commercial waste arising from Central Bedfordshire, Bedford, Luton, Buckinghamshire and adjoining authorities.
16. As the proposal is for an onshore power generating station in England having a capacity in excess of 50 MWe it was not dealt with through the normal planning process and an application was made for a Development Consent Order to the Infrastructure Planning Commission (IPC) in order to authorise its construction and operation.
17. The IPC held a Public Examination into the proposal in 2011. The examination of the application began on 18 January 2010 and was completed on 15 July 2011. Having heard all the evidence, the Panel concluded that the development should be approved and the IPC laid a Development Consent Order (DCO) before Parliament. The Order is subject to a Special Parliamentary Procedure (SPP) as it includes the granting of compulsory purchase powers to Covanta to which Central Bedfordshire objected. Some of the land owned by the Council is highway land required for the installation of cabling. The main reason for maintaining an objection to this point has been because the Council objects to the principle of the development and therefore the need for the Order.

18. The principle reasons for objecting to the development are:
- that the size and bulk of the proposed facility will adversely impact on the amenity of local residents and on the highway network in the vicinity of the site and in other parts of the authority area; and
  - the proposed facility is sized so that it needs to source waste from a much greater area than the former county area of Bedfordshire and as such, is contrary to national and local planning policy to handle waste sustainably by using the nearest appropriate facility and to make provision for local waste disposal.
19. In addition to a petition of general objection, it is possible to present a petition for amendment of the Order. The Council did argue for a number of amendments to the original draft order that have not been included in the final DCO. The main issues suggested for amendment concerned catchment area restrictions, the provision of canal infrastructure and a definition of residual waste.
20. The petitions presented to Parliament are attached as Appendix A.
21. The authority has engaged external legal support to advise on what is a very specialist and complex process. It has also engaged specialist landscape and design advice to present evidence to the Parliamentary Committee, in addition to that presented by the Council's own officers.
22. Bedford Borough Council has also been objecting to the development and a joint case is being presented to Parliament and the costs shared on a 50:50 basis. At the previous meeting of this Committee, it resolved that there should be a call on the Central Bedfordshire Council's contingency reserve to cover the cost of putting forward the Council's case. The Council has allocated a provision for this financial year of £100,000 to cover the potential costs in the process.

### **Current Position**

23. The Councils have been putting together their case over a number of months and began presenting this to Parliament on 24 October 2012. At the time of this Committee, the Special Parliamentary Committee will have sat for five of the seven days initially allocated for this matter. However, the presentation and cross examination of the evidence is taking longer than initially estimated and there is potential for the process to over run the current timetable.
24. As at 9 November 2012, the total cost of the process was £145,000. Forecasting this forward, based upon the timetable at the time of writing this report, the estimated final costs are £250,000.

25. Therefore, Central Bedfordshire Council's contribution to this would be £125,000. This would be £25,000 in excess of that currently budgeted for. However, there is also a distinct possibility that the timetable will over run and this would lead to additional costs. This is due to the extent of questioning of witnesses by both the Parliamentary Committee and Covanta's legal representative. It is difficult to be clear what these additional costs might be. However, it is estimated that these could be an extra £50,000 in total, which would mean an extra £25,000 for Central Bedfordshire. This would lead to a final Central Bedfordshire contribution of £50,000 over the current allocated budget.
26. In light of the above, the Council need to decide whether to make an additional provision to cover the likely and potential additional costs associated with the process. The alternative will be to present a reduced case based upon the current approved budget. This could mean a reduction in the legal support to the Council's case and the Council not questioning any witnesses presented by Covanta.
27. It is very difficult to predict the likely chances of success in a parliamentary process given that it is seldom used and one which has certainly never been used to examine a DCO.
28. Bedford Borough Council have been asked to clarify it's position on this matter. This was not available at the time of writing the report but will be reported to the Committee.

### **Conclusion and Next Steps**

29. That the Committee decide how to continue taking part in the Special Parliamentary Process. The options are:
  - a) to continue to present the best case possible; and
  - b) to present a reduced case within the current resources currently budgeted for.

### **Appendices:**

Appendix A – The petitions made to Parliament.

**Background Papers:** (open to public inspection) None

IN PARLIAMENT  
HOUSE OF LORDS  
SESSION 2010-12

THE ROOKERY SOUTH (RESOURCE RECOVERY FACILITY) ORDER 2011

PETITION  
for Amendment

TO THE HOUSE OF LORDS

THE PETITION OF CENTRAL BEDFORDSHIRE COUNCIL

DECLARES THAT:

1. Your Petitioner is Central Bedfordshire Council. The above-named order (“the Order”) would authorise the compulsory acquisition of land or interests in land belonging to your Petitioner, to which it objects. Furthermore, part of the area for which your Petitioner is the local authority will be injuriously affected by the provisions of the Order, and your Petitioner accordingly objects to the Order for the reasons, amongst others, appearing in this petition.
2. The Order was made on 22nd November 2011 by the Infrastructure Planning Commission under sections 114, 115 and 120 of the Planning Act 2008. The Order was, in accordance with the Statutory Orders (Special Procedure) Act 1945, laid before Parliament by the Secretary of State on 29th November 2011. The Order, amongst other matters, authorises the development of a resource recovery facility, together with associated development (“the Facility”).

**Residual waste**

3. The Overarching National Policy Statement for Energy EN-1 (“the Statement”) sets out national policy for certain energy infrastructure, including

the type of infrastructure provided for in the Order. For applications for permission to develop such infrastructure the Statement, when combined with the relevant technology-specific energy National Policy Statement, provides the primary basis for decisions by the IPC.

4. The fourth bullet point of paragraph 3.4.3 of the Statement states –

“Energy from Waste (EfW) – the principal purpose of the combustion of waste, or similar processes (for example pyrolysis or gasification) is to reduce the amount of waste going to landfill in accordance with the Waste Hierarchy and to recover energy from that waste as electricity or heat. Only waste that cannot be re-used or recycled with less environmental impact and would otherwise go to landfill should be used for energy recovery. The energy produced from the biomass fraction of waste is renewable and is in some circumstances eligible for Renewables Obligation Certificates, although the arrangements vary from plant to plant”. [Emphasis added]

5. Paragraph 3.4.3 makes clear that only such waste which can not be reused or recycled and which would otherwise go to landfill should be subject to combustion at an EfW facility. The Statement does not allow or support an approach where waste may be sent to the Facility where it can otherwise be reused or recycled. There are sound reasons for this, not least since rates of recycling vary from area to area. (For example, recycling rates in the London boroughs vary from 17% to 55%). Unless a suitable system is in place, recyclable materials that could be retrieved from black bag waste are not recycled and are instead used for energy recovery or go to landfill. To this end some large treatment facilities (such as the Mechanical Biological Treatment Plant operated by Amey/Cespi at Waterbeach in Cambridgeshire) extract recyclables from black bag waste prior to treatment. No such system is proposed to be implemented at the Facility.

6. Paragraph 2 (Type of waste to be treated) of Part 2 of Schedule 1 (Authorised development and requirements) of the Order states –

“The waste permitted to be incinerated in Work No. 1 must be limited to waste categorised as residual municipal waste and residual commercial and industrial waste and materials derived therefrom.”.

7. The Order does not define “residual municipal waste and residual commercial and industrial waste”.

8. Sub-paragraph (1) of paragraph 41 (Residual Waste Acceptance Scheme) of Part 2 of the said Schedule 1 states –

“Incineration of waste in Work No. 1 must not take place except in accordance with the Residual Waste Acceptance Scheme dated 8 July 2011.”.

9. Sub-paragraphs (2) and (3) of the said paragraph 41 make provision for the alteration of the scheme. Sub-paragraph (4) states –

“The purpose of altering the scheme is to ensure that the scheme continues to address changes in waste management, and that Work No. 1 is used only for the incineration of residual waste.”.

10. The Order does not define “residual waste”.

11. Your Petitioner is concerned by the absence of definitions of “residual municipal waste and residual commercial and industrial waste” or “residual waste”. Without such definitions, your Petitioner considers that significant amounts of recyclable materials, which could be retrieved from black bag waste, will not be recycled and will instead be used for energy recovery at the Facility. This is also contrary to the Statement which requires that only waste which cannot be reused or recycled and which would end up in landfill should be sent to the Facility. Your Petitioner asserts that the Order does not provide sufficient certainty as regards ensuring that the Facility would only be used to burn materials that cannot be reused or recycled with less environmental impact and which would otherwise end up in landfill and therefore requests that the following amendments be made to the Order –

(a) In Part 2 of Schedule 1 (Authorised development and requirements) under the heading “Interpretation”, insert the following definition in the appropriate place –

““residual waste” means municipal waste and commercial and industrial waste which has been subject to all reasonably practicable efforts to extract recyclable material prior to incineration or co-incineration. It includes the rejects from material recovery facilities that handle source

segregated recyclables but does not include unsorted waste or source segregated recyclable waste;”;

- (b) In paragraph 2 (Type of waste to be treated) of Part 2 of Schedule 1, leave out “residual municipal waste and residual commercial and industrial waste” and insert “residual waste”.

### **The catchment area**

12. Your Petitioner is concerned by the possible extent of the catchment area from which waste will be brought to the Facility. The undertaker has identified a catchment area of approximately 67 kilometres from the Facility from which it intends to bring waste. The catchment area comprises the areas of Cambridgeshire County Council, Northamptonshire County Council, Milton Keynes Council, Bedford Borough Council, Central Bedfordshire Council, Luton Borough Council, Hertfordshire County Council, Buckinghamshire County Council and the Royal Borough of Windsor and Maidenhead.
13. Therefore, the proposed catchment area for the Facility is larger than the former local government area of Bedfordshire and the Facility is sized to take much more than ‘local’ waste. Moreover, it has not been demonstrated that such excess capacity is required when the capacity of other existing and proposed waste facilities within the area of the former local government county of Bedfordshire, and in other parts of the catchment area, are taken into account.
14. In addition, the undertaker has reserved the right to change the catchment area. It is almost inevitable that this would result in waste being sourced from an even larger area than currently proposed. If this is done after the Order comes into force, there will not have been an assessment of the potential impacts of the enlarged catchment area, for instance, in terms of where the waste is being sourced from, the increased use of the road network, and an analysis of whether such increased use is sustainable.
15. The sourcing of waste from non-local areas in the absence of a catchment area restriction would be contrary to policy WCP6 of the Bedford Borough, Central Bedfordshire and Luton Borough Council Minerals and Waste Core Strategy (Pre-Submission Document - December 2011) since the Facility would be serving more than a local need.



16. Sourcing waste in this way also conflicts with saved policies set out in the Bedfordshire and Luton Minerals and Waste Local Plan. For instance, Policy W2 (which seeks to reduce the quantity of imported waste over the Plan period of 2000-2015); policy W3 (which states that facilities intended for the management of imported wastes by means other than landfill will not be granted permission) and policy W8 (which states that waste management proposals will be expected to demonstrate that they will integrate effectively with operations to recover resources from waste). The requirement in Policy W8 has not been satisfied on this occasion.
17. Your Petitioner seeks certainty in respect of the catchment area. While your Petitioner considers that the Facility is sized to take much more than 'local' waste, it is most concerned by the prospect of the catchment area being extended at a later date. Your Petitioner asserts that certainty on this point is required to prevent the Facility from being used to burn waste which has been brought long distances to the Facility. Burning waste that has been transported in this way would risk compromising the integrity of the Facility as a sustainable enterprise.
18. Your petitioner therefore requests that the following amendment be made to the Order –

In Part 2 of Schedule 1 (Authorised development and requirements), after paragraph 41, insert –

“Catchment area

42.—(1) No waste which is to be treated at the authorised development shall be sourced from a place which falls outside the area which comprises the administrative areas of Cambridgeshire County Council, Northamptonshire County Council, Milton Keynes Council, Bedford Borough Council, Central Bedfordshire Council, Luton Borough Council, Buckinghamshire County Council, Hertfordshire County Council and the Royal Borough of Windsor and Maidenhead.

(2) A summary of the weighbridge records made in respect of vehicles entering the authorised development (which shall include a record of the origin and type of residual waste being brought to the

authorised development for treatment from 1st April in each year to 31st March of the following year) shall be submitted to Central Bedfordshire Council by 31st May following that period. At all other times, weighbridge records shall be made available to Central Bedfordshire Council within one week of any written request for them.”.

### **The Bedford to Milton Keynes Waterway Park**

19. Your Petitioner is also concerned by the detrimental impact that the Facility would have on the proposed Bedford to Milton Keynes Waterway Park (“the Waterway”) which is identified as a strategically significant green infrastructure project in policy ENV1 of the East of England Regional Plan.
20. Provision is also made about the Waterway in your petitioner’s local planning policy. Policy CS17 says that ‘the Council will seek a net gain in green infrastructure through the protection and enhancement of assets and provision of new green spaces as set out in the Strategic, Mid-Bedfordshire and Parish Green Infrastructure Plans. It will take forward priority areas for the provision of new green infrastructure (including the Bedford and Milton Keynes Waterway), it will require new development to contribute towards the delivery of new green infrastructure and the management of a linked network of new and enhanced open spaces and corridors, and it will not permit development that would fragment or prejudice the green infrastructure network. The Core Strategy also identifies the role of development in delivering the Waterway, stating that (paragraph 3.8.5) “[The Council will] formally support the creation of the Forest of Marston Vale and the Waterway Park, working with them to ensure appropriate opportunities are taken to realise these projects where new development is planned.”.
21. Therefore the Core Strategy includes policy requiring a net gain in green infrastructure through development, policy not permitting development that would prejudice the green infrastructure network, policy requiring development to contribute to the delivery of green infrastructure, policy to realise the Waterway where new development is planned, and the identification of the Waterway as a key green infrastructure project.

22. The Development Management policies for Central Bedfordshire (specifically policy DM16 – Green Infrastructure) continue this approach with your Petitioner committing to promoting and protecting green infrastructure by ensuring that proposed residential and commercial development will contribute to the provision, extension and maintenance of green infrastructure, and not permitting development that adversely affects identified green infrastructure assets and/or prevents the implementation of green infrastructure projects.
23. The priority given to the delivery of the Waterway, when considering development proposals along its proposed route is demonstrated by the approach to recent development proposals through the site allocations process, and through other development schemes, for example the new A421 road, which incorporated structures to accommodate the Waterway and associated foot and cycleway.
24. The route of the proposed Waterway cuts across Green Lane close to its junction with the C94. The Waterway is intended to follow a wide ditch that runs to the west of Stewartby Lake south of Green Lane, under Green Lane and then following the line of a ditch to the west of Stewartby landfill site before turning northwards towards Bedford.
25. As mentioned above, a culvert has already been constructed in the new A421 to the west of Stewartby landfill and this both facilitates the provision of the Waterway and restricts flexibility in respect of its route near Green Lane.
26. While there is no reason to think that it would not be possible to retrofit the Waterway under Green Lane once the Facility is in operation, structural modifications by way of a culvert or bridge would be required. The cost of retrofitting would be greater than the cost of accommodating the Waterway as part of the construction before the Facility is operational. Retrofitting would also have a disruptive impact on traffic along Green Lane, which would be to the disadvantage of the applicant for the Order.
27. The simplest and most cost effective way to retrofit the Waterway would be to close Green Lane completely while the works authorised by the Order were undertaken and your Petitioner considers it reasonable that the accommodation works should be delivered before the Facility is operational.

28. To accommodate the Waterway, structures are required for the Waterway and associated foot and cycle way to pass under Green Lane and the CopartAccess Road, and a short section of Waterway and associated foot and cycleway between these structures will be required. These elements have been identified as the minimum required in order to accommodate the route and deliver the Waterway through the site.

29. Your Petitioner therefore requests that the following amendments be made to the Order –

(a) In Part 2 of Schedule 1 (Authorised development and requirements) under the heading “Interpretation” insert the following definitions in the appropriate places –

““BMKW Specification” means enabling the provision of—

- (a) a6 metres minimum navigable water width for the Waterway;
- (b) a3 metres minimum width foot and cycle way that complies with current disability discrimination requirements;
- (c) 2 metres minimum water depth for the Waterway;
- (d) 3 metres minimum air draft from the surface of the Waterway;
- (e) 100 metres minimum radius bends on the Waterway;

“BMKW Works Phase 1” means the provision of a box culvert or a suitable alternative design bridge to accommodate the route of the Waterway across Green Lane,Stewartby in accordance with the BMKW Specification;

“BMKW Works Phase 2” means either

- (a) the provision of a box culvert or an alternative design bridge to accommodate the route of the Waterway across the Copart Access Road, Marston Moretaine in accordance with the BMKW Specification; or

- (b) the removal of the existing culvert under the current line of the Copart Access Road, Marston Moretaine and the provision of a foot and cycle bridge across the route of the Waterway; and
- (c) the clearance of the vegetation in the Watercourse Channel;

"Green Lane Bridge" means the bridge to be provided under the BMKW Works Phase 1;

"Green Lane Section" means the length of Green Lane from the access to the site of Works No. 1 and 2 to its junction with the C94;

"the Watercourse Channel" means that part of the Waterway between the western edge of the Copart Access Road, Marston Moretaine and the eastern edge of the Green Lane Bridge;

"the Waterway" means the proposed Bedford and Milton Keynes Waterway."

- (b) In Part 2 of Schedule 1 (Authorised development and requirements), after paragraph 42, insert –

"Bedford and Milton Keynes Waterway

43.—(1) No part of the development of Works No. 1 and 2 shall commence until BMKW Works Phase 1 has been completed.

(2) Commercial operation of the authorised development shall not be commenced until BMKW Works Phase 2 has been completed.

(3) The undertaker must, prior to a date to be agreed with Bedford Borough Council and Central Bedfordshire Council, and which shall not be later than the date on which the construction of the Waterway reaches either the Green Lane Bridge from the east or the Copart Access Road, Marston Moretaine from the west, upgrade the Watercourse Channel to a navigation standard commensurate with the standard of the remainder of the Waterway and provide a 3 metres minimum width foot and cycle way that complies with current disability

discrimination requirements along the length of the upgraded Watercourse Channel.”.

THE PETITIONER THEREFORE  
REQUESTS

that, should a joint committee consider this Order, it, or someone representing it in accordance with the rules and Standing Orders of the House, be given an opportunity to give evidence on all or some of the issues raised in this petition.

AND THE PETITIONER remains, etc.

SHARPEPRITCHARD

Agents for Central Bedfordshire  
Council



IN PARLIAMENT  
HOUSE OF LORDS  
SESSION 2010-12

THE ROOKERY SOUTH (RESOURCE  
RECOVERY FACILITY) ORDER 2011

P E T I T I O N for amendment  
of  
CENTRAL BEDFORDSHIRE COUNCIL

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AGAINST,  
BY COUNSEL, &c.

SHARPEPRITCHARD  
Elizabeth House  
Fulwood Place  
London WC1V 6HG



Parliamentary Agents

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IN PARLIAMENT  
HOUSE OF LORDS  
SESSION 2010-12

THE ROOKERY SOUTH (RESOURCE RECOVERY FACILITY) ORDER 2011

PETITION  
of General Objection

TO THE HOUSE OF LORDS.

THE PETITION OF CENTRAL BEDFORDSHIRE COUNCIL

DECLARES THAT:

1. Your Petitioner is Central Bedfordshire Council. The above-named order ("the Order") would authorise the compulsory acquisition of land or interests in land belonging to your Petitioner, to which it objects. Furthermore, part of the area for which your Petitioner is the local authority will be injuriously affected by the provisions of the Order, and your Petitioner accordingly objects to the Order for the reasons, amongst others, appearing in this petition.
2. The Order was made on 22nd November 2011 by the Infrastructure Planning Commission (the IPC) under sections 114, 115 and 120 of the Planning Act 2008. The Order was, in accordance with the Statutory Orders (Special Procedure) Act 1945, laid before Parliament by the Secretary of State on 29th November 2011. The Order, amongst other matters, authorises the development of a resource recovery facility, together with associated development ("the Facility").

**Summary of Objections**

3. Your Petitioner's objections can be summarised as follows:

- (a) the compulsory acquisition of your Petitioner's interests in its land is not justified.
- (b) the size and bulk of the Facility would adversely impact on the amenity of residents in your Petitioner's area by virtue of its design and scale, its visual impact, amenity impact, impacts on sustainability and impacts on the highway network in the vicinity of the site on which the Facility is proposed to be located and in other parts of your Petitioner's area;
- (c) the proposed size of the Facility is such that it would need to source waste from a much greater area than the former local government county area of Bedfordshire and, as such, the development of the Facility is contrary to national and local planning policy which provides that waste should be handled sustainably by using the nearest appropriate facility and that provision should be made for local waste recovery requirements.
- (d) The discharge of your Petitioner's functions and responsibilities as landowner, local authority, local planning authority and highway authority is undermined by the Order.

#### **Compulsory acquisition of land**

4. The Order would authorise the compulsory acquisition of your Petitioner's rights in various plots of land, in particular the highway known as Green Lane, which would be used for installing cables and to access the Facility. Your Petitioner objects to the compulsory acquisition of rights over land in its ownership. In your Petitioner's view, the adverse impacts of the proposed Facility, outlined in this petition, outweigh any benefits and it is unclear whether the compulsory acquisition of your Petitioner's rights over highway land will affect its highway powers and responsibilities. In summary, your Petitioner does not believe that the Applicant has made out that there is a compelling case in the public interest for the proposed compulsory acquisition of your Petitioner's rights in its land.

#### **Design, Landscape and Visual Impact**

5. Your Petitioner considers that if constructed, the Facility would be highly intrusive visually from the surrounding landscape, including from the Greensand Ridge, which is valued for its scenic quality, cultural heritage and recreational routes. The proposed stack of the Facility would be of a greater height than the four chimneys of the former Stewartby brickworks and would intrude on local panoramic views and on the existing skyline. The visual impact will be increased by the smoke plume and, your Petitioner submits, cannot be mitigated due to the proposed size of the built form and scale of the Facility.
6. Your Petitioner is concerned that the Facility would have an overbearing visual effect on the local landscape, adversely impacting on the amenity of the users of the nearby country park and local footpath network and the wider countryside.
7. Your petitioner is concerned that the Facility would attract additional industrial activity resulting in reindustrialisation of the area in which it is located. This would further alter and erode the semi-rural character of the part of Marston Vale in which the facility would be located. This would be contrary to your Petitioner's policies for environmental regeneration and landscape enhancement. These effects do not seem to have been properly assessed by the Applicant in the Environmental Statement ("the ES") that accompanied the application for the Order to the IPC.
8. Your petitioner is concerned that the "industrial" design of the Facility was decided upon at a stage in the process that was too early and that the justification for taking this design route was flawed. An iconic design that local residents could admire and which could become a design feature in the area might have been preferable.
9. Furthermore, your Petitioner believes that the design emphasis focuses on the main built form and does not consider ancillary areas, the whole site or the setting of the Facility. Also, your Petitioner asserts that further work needs to be done to explore the visual connection between the proposed Nirah development and the Facility.
10. Your Petitioner is of the view that insufficient consideration has been given to the extent and appropriateness of mitigation measures proposed, in

particular landscaping (including tree planting and bunding) both near the site and further afield.

**Impact on historic environment**

11. Your Petitioner considers that the scale and mass of the Facility will harm the setting and character of local heritage sites, including South Pillinge Farm, Ampthill Park House, Houghton House, Katherine's Cross (all of which are listed buildings), Ampthill Park (a registered historic park), the Millbrook and Ampthill Conservation Areas and the views from the Greensand Ridge.
12. Furthermore, your Petitioner considers that the assessment in the ES of the impact on the setting of the listed buildings, the registered historic park and the conservation areas mentioned above has been underplayed.

**Waste planning policy, catchment area and impact on waste hierarchy**

13. Your Petitioner is concerned by the possible extent of the catchment area from which waste will be brought to the Facility. The Applicant for the Order has identified a catchment area of approximately 67 kilometres from the Facility from which it intends to bring waste. The catchment area comprises the areas of Cambridgeshire County Council, Northamptonshire County Council, Milton Keynes Council, Bedford Borough Council, Central Bedfordshire Council, Luton Borough Council, Hertfordshire County Council, Buckinghamshire County Council and the Royal Borough of Windsor and Maidenhead.
14. Therefore, the proposed catchment area for the Facility is larger than the former local government county area of Bedfordshire and the Facility is proposed to be of such a size that it will be able to take much more than 'local' waste. Other local authorities within the catchment area put forward by the Applicant will also be planning for waste recovery facilities to process the waste generated within their areas and to generate electricity. This would ensure that the waste can go to the nearest appropriate facility (to accord with national, regional and local policy). But the waste treatment and electricity generating capacity of the Facility is considerably greater than that required for the Bedfordshire area and it has not been demonstrated that excess capacity is

required if the capacity of other existing and proposed waste facilities serving Bedfordshire and other parts of the catchment area are taken into account.

15. In addition, the undertaker has reserved the right to change the catchment area. It is almost inevitable that this would result in waste being sourced from an even larger area than currently proposed. If this is done after the Order comes into force, there will not have been an assessment of the potential impacts of the enlarged catchment area, for instance, in terms of where the waste is being sourced from, the increased use of the road network, and an analysis of whether such increased use is sustainable.
16. The Facility would not comply with policy emerging through the Bedford Borough, Central Bedfordshire and Luton Borough Council Minerals and Waste Core Strategy (Pre-Submission Document - December 2011) because, whilst the site of the Facility is identified for waste management development, it is only identified for waste recovery facilities to serve local need. The Facility would be of a size that would cater for the disposal of waste sourced from a much larger area.
17. Sourcing waste in this way also conflicts with saved policies set out in the Bedfordshire and Luton Minerals and Waste Local Plan. For instance, Policy W2 (which seeks to reduce the quantity of imported waste over the Plan period of 2000-2015); policy W3 (which states that facilities intended for the management of imported wastes by means other than landfill will not be granted permission) and policy W8 (which states that waste management proposals will be expected to demonstrate that they will integrate effectively with operations to recover resources from waste). Whilst your Petitioner acknowledges that the Facility would assist in treating waste higher up the waste hierarchy and reduce the need for landfill capacity, in your Petitioner's view the Facility may also result in waste being moved down the waste hierarchy if the waste is not effectively sorted to ensure that only residual waste is treated at the plant.
18. The applicant has not demonstrated that all the waste that would be treated at the plant would have been subject to maximum recycling before it is accepted by the plant. Whilst this is more likely to be the case with the municipal waste there is less certainty about the amount of pre-treatment commercial and industrial waste will have been subject to and this may vary

depending on the type of waste or the type of industry from which the waste is sourced.

19. If a new, large capacity waste combustion plant such as the proposed Facility is built that can, due to economies of scale, offer relatively cheap gate fees, then this is likely to divert waste from other facilities where the costs of transport and gate fees are higher. This would inevitably include any higher level waste management facilities currently operating in the area. In addition it is likely to discourage other higher level waste management operators from setting up facilities in the future.
20. For these reasons, your Petitioner objects to the Facility and its potential to adversely impact on local recycling targets and the ability to derive most environmental benefit from the waste feeding the facility.
21. The requirement in Policy W8 has not been satisfied on this occasion.
22. Your Petitioner seeks certainty in respect of the catchment area. While your Petitioner considers that the Facility is sized to take much more than 'local' waste, it is most concerned by the prospect of the catchment area being extended at a later date. Your Petitioner asserts that certainty on this point is required to prevent the Facility from being used to burn waste which has been brought long distances to the Facility. Burning waste that has been transported in this way would risk compromising the integrity of the Facility as a sustainable enterprise.

### **Other Planning Policy**

23. Your Petitioner is concerned that the development of the Facility would be in contravention of regional and local planning policy generally.
24. More specifically, the proposed development could impose difficulties for or even prevent the completion of the proposed Bedford and Milton Keynes Waterway. The proposed route of the waterway intersects Green Lane close to the A421 and the proposed grid connection cable routes. The Waterway is identified as a strategically significant green infrastructure project in policy ENV1 of the East of England Regional Plan.
25. The proposals for the Facility take little account of the proposed waterway. In the absence from the Order of any proposals for a culvert or underpass to



accommodate the proposed waterway, such accommodation works would need to be constructed at a later stage, which would be likely to require the lengthy closure of Green Lane, to the detriment of the Applicant. Furthermore, your Petitioner fears that if accommodation works for the proposed waterway are not taken into account at this stage, then it could prevent the waterway from being completed because an alternative location for a culvert or underpass under Green Lane may not be possible. The construction of a culvert or underpass (as happened when the new A421 was constructed nearby) would have constituted a positive community contribution.

**Impact on discharge of functions and responsibilities**

26. As a consequence of the adverse impacts summarised above, the discharge of your Petitioner's functions and responsibilities as landowner, local authority, local planning authority and highway authority is seriously undermined by the Order.
27. For all the reasons mentioned above, your Petitioner believes that the Order should not be approved.

THE PETITIONER THEREFORE  
REQUESTS

that, should a joint committee consider this Order, it, or someone representing it in accordance with the rules and Standing Orders of the House, be given an opportunity to give evidence on all or some of the issues raised in this petition.

AND THE PETITIONER remains, etc.

SHARPEPRITCHARD

Agents for Central Bedfordshire  
Council

IN PARLIAMENT  
HOUSE OF LORDS  
SESSION 2010-12

THE ROOKERY SOUTH (RESOURCE  
RECOVERY FACILITY) ORDER 2011

P E T I T I O N of general objection  
of  
CENTRAL BEDFORDSHIRE COUNCIL

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AGAINST,  
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