
Meeting: The Rookery South (Resource Recovery Facility) Committee

Date: 14 February 2013

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

Report of: Cllr 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.

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. 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. At the last meeting of this Committee on 29 November 2012, it was agreed that the current budgeted provision to cover the cost putting forward the Council's case should be £150,000. It is not expected that the final costs will exceed this.
2. The current and future financial position is set out in detail in paragraphs 23 to 27 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:

6. 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.
7. The special parliamentary process is rarely used. It has been 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.

8. 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):

9. None.

Equalities/Human Rights:

10. 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:

11. Not applicable.

Sustainability:

12. 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 19 of this report.

Procurement:

13. Not applicable.

Overview and Scrutiny:

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

RECOMMENDATION:

The Committee is asked to:

1. **note the current position of the Council with respect to it's involvement in the Special Parliamentary Process and the final decision of the Special Parliamentary Joint Committee.**

Reason for Recommendation: The Council's involvement in the Special Parliamentary Process is coming to an end and a decision has been made.

Executive Summary

15. 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 Infrastructure Planning Commission to allow the development which is subject to a special parliamentary process. At a previous meeting of this Committee it was decided to petition against the order. The Special Parliamentary Joint Committee have decided that there was a limited case to answer in respect of the petitions for amendment but only in relation to the Bedford to Milton Keynes Waterway.

Background

16. 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.
17. 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.
18. 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.
19. 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.

20. 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.
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 Special Parliamentary Joint Committee (SPJC), 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 an increase to the original amount to be taken from the Central Bedfordshire Council's contingency reserve to cover the cost of putting forward the Council's case. The Council has now allocated a provision for this financial year of £150,000 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 nine days on this matter. The last date being 13 February 2013.
24. At the time of the last Committee, the Council allocated £150,000 to cover potential costs arising from the process. Since then, the SPP have made their initial decision on 12 December 2012.
25. The total costs to date are £255,000 of which Central Bedfordshire Council's costs are £127,500. Whilst there will be some additional costs for which the Council's have not yet been invoiced, these are not likely to be significant or lead to a need to increase the currently approved budget.
26. On 12 December 2012 the SPJC decided that there was no case to answer in respect of the general petition of objection raised by the Council. The SPJC did however decide that there was a limited case to answer in respect of the petition for amendment but only in relation to proposed amendments relating to the Bedford to Milton Keynes Waterway.
27. This means that the DCO is likely to proceed and be published. The applicant will then be able to construct and operate the development. With respect to the amendment to the waterway, it is likely, at the time of writing this report that both Councils and the applicant will be in agreement as to the level of financial contribution to be made to the Waterway. This is likely to be significant and the amount will be reported to the Committee.

Conclusion and Next Steps

28. That the Committee note the decision of the Special Parliamentary Joint Committee. Once the DCO has been published, the applicant will have five years to implement the consent. There are a number of pre-commencement requirements that would need to be approved by the councils before any development could commence. The operator has applied for a permit from the Environment Agency which, if issued, will also control certain aspects of the operation.

Appendices:

None

Background Papers: (open to public inspection) None