

<p><b>SHADOW EXECUTIVE</b></p>
<p><b>30 SEPTEMBER 2008</b></p>

<b>SUBJECT</b>	<p><b>Bedfordshire Energy and Recycling (BEaR) Project: PFI Outline Business Case and Joint Working Agreement</b>          (This report summarises the key aspects of the Outline Business Case (OBC) and recommends the sign-off of the final OBC document is delegated to the Interim Head of Paid Service in consultation with the Portfolio Holder (Safer and Stronger Communities) and Portfolio Holder (Corporate Resources).)</p>
<b>REPORT OF</b>	<b>Director of Sustainable Communities</b>
<i>Contact Officer: Gary Alderson (01462 611 391)</i>	

**IMPLICATIONS**

<b>SUSTAINABILITY</b>	<p>The preparation of the Outline Business Case has considered a number of sustainable criteria, including The Environment Agency tool for sustainable waste management – WRATE (the Waste and Resources Assessment Tool for the Environment) and the Corporate policies and priorities of the Bedfordshire County Council. The proposal delivers on a proposal in the Central Bedfordshire submission document, supports Central Bedfordshire’s Vision, and Corporate Priority 3, Managing Growth Effectively. Further sustainability implications are detailed in section 5.5 of this report.</p>
<b>FINANCIAL</b>	<p>The preparatory work for the OBC has carefully reviewed and modelled selected options recognising the potential for partnership working and a Private Finance Initiative (PFI) supported residual waste treatment solution. The results of the options appraisal have confirmed that the Reference Project, Energy from Waste with Combined Heat and Power (EfW with CHP) for a shared treatment facility with increased recycling and PFI credit support is the most cost effective and environmentally friendly</p>

	<p>solution for the partnership. All cost projections and analysis have been prepared in accordance with the Department of the Environment, Food and Rural Affairs (Defra) and HM Treasury PFI guidelines and in align with good practice. Further details on the financial implications can be found in section 8 of the accompanying background report (Appendix A).</p>
<b>LEGAL</b>	<p>Concerns over the impact on the environment and decreasing landfill void space have resulted in European and National legislation driving rapid change to existing waste management practices. These laws have resulted in escalating costs for continuing to landfill through the Landfill Allowance Trading Scheme (LATS) which levies heavy financial penalties for Authorities that exceed strict landfill limits. Other legal implications include: The Environmental Protection Act 1990, the Local Government and Public Involvement in Health Bill and the Freedom of Information Act. Further details can be found under section 5.2 of this report.</p>
<b>PERSONNEL/EQUAL OPPORTUNITIES</b>	None
<b>COMMUNITY DEV/SAFETY</b>	None
<b>TRADES UNION</b>	None
<b>HUMAN RIGHTS</b>	None
<b>KEY ISSUE</b>	Yes
<b>BUDGET/POLICY FRAMEWORK</b>	No

<b>OTHER DOCUMENTS RELEVANT TO REPORT</b>	
<p>The OBC is being completed using Defra and HM Treasury PFI guidelines. Other guidance documents used include: The Environment Agency tool for sustainable waste management – WRATE and EU and UK legislation and policy.</p>	

**RECOMMENDATION(S):**

**That the Shadow Executive:**

- 1. Agree the Outline Business Case's (OBC) Reference Project of a Private Finance Initiative (PFI) supported energy from waste with combined heat and power waste disposal solution located in Bedfordshire.**
- 2. Approve the Joint Working Agreement between Bedfordshire County Council, Central Bedfordshire Council, Bedford Borough Council and Luton Borough Council and the associated Governance Structure as set out in Appendix C.**
- 3. Gives the Interim Head of Paid Service delegated authority in consultation with the Portfolio Holder (Safer and Stronger Communities) and Portfolio Holder (Corporate Services) to amend and agree for submission the final Outline Business Case document and the Joint Working Agreement.**
- 4. Commits Central Bedfordshire to**
  - (a) their division of the Reference Project cost over the period between 2016 and 2041, in the total sum set out in the exempt Appendix (not for publication by virtue of paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972); and**
  - (b) The contribution of bridging the affordability gap in the sum indicated in the exempt Appendix (not for publication by virtue of paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972.) based on the reference project assumptions and affordability envelope as outlined in the Section 8 of exempt Appendix – Future Waste Treatment – Outline Business Case and Joint Working Agreement Background Report.**
- 5. Confirms that Central Bedfordshire will aim to achieve the recycling/composting targets laid down in the Waste Strategy 2007 and where possible exceed the targets set with the aim of achieving 60% recycling in the long-term future. These targets are detailed in the supporting background report set out in Appendix A, section 3.**

*Reason for  
Recommendation:*

*Recommendation (1): Detailed modelling has shown that the Reference Project offers the most advantageous option for the future waste management of Bedfordshire County Council's municipal waste (and that of the partner authorities) when evaluated against other options using a range of environmental, economic, technical and planning delivery criteria.*

*Recommendation (2): Given the high value and lengthy nature of this joint procurement and the potentially severe financial consequences of partner authorities withdrawing from the process, a legally binding Joint Working Agreement which sets out the responsibilities and liabilities of partner Authorities is required. This will provide security to all parties involved and also detail responsibilities.*

*Recommendation (3): The Outline Business Case document is a large and complex document currently being prepared to tight timescales. Due to the amount of work involved the document is not yet finalised, however a draft can be made available on request. It is envisaged that the completed OBC will be ready for submission by the target date of the 31<sup>st</sup> October 2008 and will be made publicly available after its submission with the possible exception of specific commercial appendices. This report to the Shadow Executive along with the attached background report summarises the key OBC information for approval which will not change in the final document.*

*Recommendation (4): The Reference Project has been identified as the most economically advantageous solution for Bedfordshire although additional revenue will be required to deliver this solution. Without a firm commitment from the Council that this revenue funding will be made available, the envisaged solution will not be deliverable and DEFRA will not support the Partnership's proposals with the required PFI credit support. This would increase the envisaged affordability gap and future financial liabilities for the Authority in delivering its Waste Management Strategy.*

*The identified affordability gap represents a significant challenge for the Council although the early adoption and use of a balancing fund is a prudent method to reduce the impact on resources in future years. The proposed balancing fund allows an annual budget to be set aside so in early years a reserve is accumulated including interest earned which will, in later years, be drawn down to support the funding of the new initiatives, contract operating costs and thereby meet the affordability gap. The provision of a balancing fund budget allocation will need to be sustained throughout the length of the operating contract until 2041 although the exact scale of contribution to this fund will be periodically reviewed.*

*Recommendation (5): Bedfordshire and Luton need to strive to increase recycling and composting to maximum levels prior to any major waste treatment taking place as defined in the waste hierarchy. National targets have been set in WS2007 that need to be met by all waste disposal authorities. Meeting these targets is also a requirement of DEFRA in their PFI award. The authorities should aim towards 60% recycling/composting as a long term goal.*

## 1 SUMMARY

- 1.1 The BEaR Project is following a process that requires a series of outputs to be produced and approved in order to take part in the Department for the Environment, Food and Rural Affairs (DEFRA) Private Finance Initiative (PFI) process. In March 2008, Bedfordshire County Council approved the submission of an Expression of Interest (EoI) to DEFRA. The EoI sought confirmation from DEFRA as to whether a partnership approach to securing a long term waste treatment solution would be suitable for PFI credit support.
- 1.2 In May 2008, DEFRA confirmed that the EoI submission had met the Government's eligibility criteria for PFI support, and that the Authorities could now submit a joint Outline Business Case (OBC) to DEFRA by 31<sup>st</sup> October 2008 seeking formal PFI credit support.
- 1.3 This report and the associated OBC sets out the detailed proposals to deliver the Options Appraisal's recommended solution – that is essentially to minimise waste, optimise recycling and recover energy from the residual waste using an energy from waste/combined heat and power (EfW/CHP) type technology.

1.4 Bedfordshire County Council has worked up the proposals with the partner Authorities, through the BEaR Project Partnership consisting of Bedfordshire County Council, Central Bedfordshire Council, Bedford Borough Council and Luton Borough Council.

**2. REASON FOR REPORT**

2.1 Concerns over the impact on the environment and decreasing landfill void space have resulted in European and National legislation driving rapid change to existing waste management practices. These laws have resulted in escalating costs for continuing to landfill through the Landfill Allowance Trading Scheme (LATS) which levies in heavy financial penalties on Authorities that exceed strict landfill limits and the escalating Landfill Tax.

2.2 Bedfordshire County Council in conjunction with its financial advisers and in consultation with the Shadow Authorities and Luton Borough Council has investigated several funding routes. Work to date suggests that private sector funded procurement would be most appropriate and leveraging in PFI credits should deliver a more affordable project. It has been shown that the potential value of PFI support will reduce the affordability gap.

2.3 The BEaR project is moving at a fast pace with an urgency to meet DEFRA submission deadlines to keep all financing options open. In particular, if the County wishes to be considered for PFI credits, then an Outline Business Case (OBC) must be submitted to DEFRA by the end of October 2008. DEFRA currently have no plans for another round for allocating PFI credits to local authorities, hence the urgency to meet DEFRA's submission deadline of 31<sup>st</sup> October 2008.

2.4 As the current Waste Disposal Authority (WDA), Bedfordshire County Council has a responsibility ahead of the establishment of the new unitary authorities to provide the best future options for waste disposal at the lowest cost to taxpayers. The OBC will be completed during October, so delegated authority is requested from the Executive to finalise the OBC to enable a timely and complete submission to be made.

### 3. **ALTERNATIVES CONSIDERED**

- 3.1 Alternative funding options have been considered during the development of the OBC. A value for money assessment was undertaken for the OBC in accordance with HM Treasury's requirements, and assesses the residual treatment infrastructure included within the reference project and determines whether the use of PFI offers potentially better value for money over a solution that is procured conventionally. The assessment considered both qualitative and quantitative factors. The qualitative appraisal considers the viability, desirability and achievability of PFI. The quantitative analysis uses a prescribed methodology and electronic spreadsheet provided by Treasury to determine whether PFI represents indicative value for money compared to conventional procurement. Full details of this assessment can be found in the OBC, but in summary, the qualitative assessment produced a clear indication that the partnership is well positioned to deliver a PFI procurement. The quantitative assessment produced an indicative PFI value for money percentage of 9.47% on the base case scenario, the robustness of which has been demonstrated through sensitivity testing. Both assessments have provided a clear indication that confirms the outcome of the programme level assessment that PFI can deliver value for money for the partnership's waste.
- 3.2 In 2005 an Options Appraisal process was undertaken as part of the Bedfordshire Authorities Municipal Waste Management Strategy (BAMWMS) to find the best treatment option for Bedfordshire's residual waste in the future. In the intervening time (March 2005 to December 2007) there have been considerable developments in Government waste policy, and the best practice requirements for Option Appraisal modelling have also been reviewed nationally. The Waste Strategy 2007 considers the requirement for the adoption of a life cycle approach within the decision making process and in particular stresses the importance of considering the impact of changes to services in relation to the Global Warming Potential (GWP). The DEFRA funded Waste Infrastructure Delivery Programme (WIDP) has also issued a formal OBC template and guidance, with reporting requirements on the Options Appraisal and bankability of technologies. The Partnership believes that work should be compliant with current WIDP OBC guidance, as well as the draft guidance on the completion of Options Appraisals, issued by WIDP in April 2008. It should not be forgotten that the waste industry itself has also moved on considerably in this period.

- 3.3 In early 2008, the original process was updated by undertaking an Options Review. The updated review took new information into account and also incorporated use of the recently released Environment Agency Waste and Resource Assessment Tool for the Environment (WRATE). The review initially assessed a long list of technology options before focussing in more detail on a short list. Both technical (environmental impact, risk, robustness) and financial elements were assessed. A range of evaluation criteria was used that was weighted according to its importance to Bedfordshire. The full methodology and appraisal process can be found in the Options Appraisal Report (Appendix B).

The preferred technology option that emerged from the process was waste minimisation, increased recycling to at least 50% followed by treatment using energy from waste with Combined Heat and Power technology. This technology came first in both the technical and financial appraisal of the options.

- 3.4 The affordability analysis performed indicates that the Reference Project is the most affordable solution based on current assumptions. The Reference Project costs £80m less from the period April 2016 to March 2041 than the 'Do Minimum' alternative, further details on the affordability of the PFI project can be found in the attached background report (section 8).

- 3.5 There are significant benefits of a joint working approach for this PFI Project. The procurement costs over the next 2-3 years will be shared across each Council. It is important to note that the costs of the procurement, including the costs of consultants and the Project Board, shall be split 2/3 to Bedfordshire County Council, 1/3 to Luton Borough Council up until 1<sup>st</sup> April 2009, and thereafter 1/3 to each of the three unitary authorities. The procurement costs have already been identified and approved by the partnership and will be monitored and reported to the BEaR Project Board and the Executive throughout the procurement phase. Another significant benefit of a joint procurement project is the substantial economies of scale that will result from combining the partner Authorities' residual waste treatment needs. This will also result in a project which holds greater appeal to the market and should attract high quality bidders.

#### 4. **CONSULTATION**

- 4.1 These reports will also be considered by Bedford Borough Transition Executive (7<sup>th</sup> October 2008), Luton Council (6<sup>th</sup> October 2008) and Bedfordshire County Council (21<sup>st</sup> October 2008).



4.2 Consultation with elected members has taken place through the Bedfordshire Authorities Waste Partnership and the BEaR Project Board. Regular engagement has also taken place with the BCC Environment Services Overview and Scrutiny Committee. Full support and backing of the Project was given at the 21<sup>st</sup> December 2004 County Council Executive. The proposed sites were reported to the County Council Executive on the 30<sup>th</sup> October 2007, when members approved the site selection process, with Rookery Pit being the preferred location for the waste treatment facility.

A briefing to which Members of the Central Bedfordshire Shadow Executive, Safer and Stronger Communities and Sustainable Development Transition Task Forces were invited was held on 8<sup>th</sup> September 2008. This covered the whole of the project but with a focus on understanding the issues of affordability. This report was considered at a joint meeting of the Safer and Stronger Communities and Sustainable Development Transition Task Forces held on 24 September 2008. An invitation to that meeting was extended to all Members of Central Bedfordshire Council. An update on any recommendations arising from that meeting will be given at this Executive meeting. Briefings will continue to be provided to Members via information bulletins, seminars and further visits to waste treatment facilities.

4.3 The Communications Strategy provides a comprehensive approach to informing all stakeholders on the BEaR Project. The key aims of the strategy include:

- Identify key stakeholders and plan the most effective channels for communicating with them
- Identify how appropriate consultation shall be carried out
- Ensure that communication activities are carried out in a co-ordinated and consistent way
- Develop ways of responding to enquiries and information that may arise during the project's lifetime
- Identify the roles and responsibilities of people tasked with delivering effective communications
- Ensure that communications activity is appropriately planned, resourced and any associated risks and issues are managed
- Ensure that any reactive communications are properly managed and in line with the overall strategy.

4.4 Market testing events have taken place with a variety of potential bidders, in order to maximise competition and maintain a strong focus on market attractiveness. Companies expressed a significant amount of interest and were comfortable with the procurement approach, contract length and funding route. Two final market testing events are planned with prospective bidders prior to and during procurement.

- 4.5 A full public consultation, including road shows was launched in January 2006 to ascertain the public's views on how Bedfordshire should manage its waste in the future. When respondents were asked whether they thought rubbish remaining after increased recycling should be thermally treated to produce electricity, 98% of people agreed that residual waste should be converted into energy. A project specific micro-website was also launched in 2006 and several press releases relating to the project have been issued and related articles have been placed in the BCC magazine delivered to all households.
- 4.6 In February 2008 a letter and information sheet was sent to all residents and businesses in the vicinity of the preferred site advising them of the BEaR Project. These were supported by presentations to the local Parish Councils in May 2008. Additionally, in October 2008 the Bedfordshire Authorities plan to organise further visits to EfW facilities, inviting members and residents from Parish Councils close to the proposed site.
- 4.7 Continued open and honest stakeholder engagement and involvement will strengthen support for the project and contribute to successful project delivery. Communications will ensure stakeholders are kept informed and updated with reliable information and will reinforce widespread support from the residents of Bedfordshire and Luton.

## 5. **IMPLICATIONS/RISK ASSESSMENT**

- 5.1 Financial implications/risks including value for money:
- Financial impact modelling and the Options Review provide the financial outputs and form part of the OBC and are summarised in the supporting background report in sections 8 and 5 respectively.
  - The Project Risk Register has been finalised and is a key part of the OBC. The BEaR Project has held a number of Risk Workshops with the Project Board who have agreed all the risks and their owners. The assessment of risks and the scoring system was based on the County Council's corporate approach to risk management. The risk register is a live document and is updated and reviewed regularly throughout the project. A full copy of the Risk Register is available on request.
  - Appropriate funding provision has been made for the resources needed to develop the OBC. In addition, provision has been made through to the end of 2008/09. The costs of the procurement, including the costs of consultants and the Project Board, shall be split 2/3 to Bedfordshire County Council, 1/3 to Luton Borough Council up until 1<sup>st</sup> April 2009, and thereafter 1/3 to each of the three unitary authorities.

## 5.2 Legal implications/risks:

- Landfill has long been relied upon as the primary method of waste disposal in Bedfordshire. The objective of BCC and LBC is to ensure that waste in the county is managed in a more sustainable manner in the future. EU and UK legislation and policy have set stringent targets for reducing the amount of biodegradable municipal waste (BMW) being sent to landfill. To achieve these targets higher levels of waste minimisation, recycling and composting will be required whilst at the same time providing value for money waste disposal services.
- The Environmental Protection Act 1990, under section 51, details the functions of waste disposal authorities, stating that it shall be the duty of each waste disposal authority to arrange for the disposal of the controlled waste collected in its area and for places to be provided at which people within the area may deposit their household waste and for the disposal of waste to be deposited.
- The process of procuring an Energy from Waste Facility will be subject to the EU procurement rules.
- The project has already been subject to the Freedom of Information Act (FoIA) and The Environmental Information Regulations (EIR). This will continue. As such the project could consider proactive release of certain documentation and information through the Councils' publications scheme.

## 5.3 Human Resources implications/risks:

- A key risk is that key members of the BEaR Project Board will leave due to the re-structuring of local government, with an additional risk of not being able to recruit due to the transition. This is being mitigated through active engagement of the Shadow Authorities on the project Board and agreement of the OBC and Joint Working Agreement.

## 5.4 Equality & Diversity implications/risks:

- An inclusive public communication phase with local and surrounding communities using a variety of media has been an integral part of the project.

5.5 Sustainability implications/risks:

- The preparation of the Outline Business Case has considered:
  - a) The requirements of Waste Strategy 2007
  - b) DEFRA guidance on the submission of OBCs.
  - c) The Corporate policies and priorities of Bedfordshire County Council.
  - d) Sustainability of feedstocks
  - e) The Environment Agency tool for sustainable waste management – WRATE (the Waste and Resources Assessment Tool for the Environment).
  - f) The Bedfordshire Authorities Joint Municipal Waste Management Strategy 2006.
  - g) Bedfordshire and Luton Minerals and Waste Local Plan, adopted 2005.
- Recycling will not be compromised at the expense of Energy from Waste. Waste Strategy 2007 has clear targets of 50% recycling / composting by 2020. It is the Council's intention to meet or even exceed these targets at a point before the 2020 target year.
- Energy from Waste processes are able to provide heat and power. This reduces the amount of fossil fuels required through displacement. In addition, the emissions involved with landfill disposal for the same tonnage are avoided.
- The preferred option was the most sustainable (i.e. beneficial carbon impact compared to landfill).
- If the waste is not used to create energy it is likely to end up in landfill which is considered the least environmentally friendly option.

6. **CONCLUSION**

6.1 For years, Councils as Waste Disposal Authorities have relied on landfill as a primary method of disposing of the municipal waste. In order to satisfy the requirements of the national, regional and Bedfordshire waste management strategies together with the European Landfill Directive, it is essential that new waste management facilities are delivered to provide an alternative to landfill disposal.

6.2 Bedfordshire County Council in conjunction with its financial advisers and in consultation with the Shadow Authorities and Luton Borough Council has investigated several funding routes. Work to date suggests that private sector funded procurement would be most appropriate and leveraging in PFI credits should deliver a more affordable project.

- 6.3 The preferred technology option that emerged from the options appraisal process was increased recycling to at least 50% followed by treatment using Energy from Waste with Combined Heat and Power technology. This technology came first in both the technical and financial appraisal of the options.
- 6.4 There are significant benefits of a joint working approach for this PFI Project. The procurement costs over the next 2-3 years will be shared across each Council. Another significant benefit of a joint procurement project is the substantial economies of scale that will result from combining the partner Authorities' residual waste treatment needs. This will also result in an appealing project for the market, which should attract high quality bidders.

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**Background Papers:** Future Waste Treatment – Outline Business Case and Options Appraisal Final report – Appendix A

Options Appraisal – Appendix B

Joint Working Agreement - Appendix C

Glossary – Appendix D

**Location of Papers:** Attached

**File Reference:**