## Appendix A

# Future Waste Treatment – Outline Business Case and Joint Working Agreement Background Report.

**Contents**

## 1. Background

1.1 Bedfordshire and Luton have a clear vision for sustainable waste management and resource use, setting out to reduce waste, re-use waste, increase recycling and composting, recover value from non-recycled waste and significantly reduce the amount of waste going to landfill.

1.2 Concerns over the impact on the environment and decreasing landfill void space have resulted in new European and National legislation driving rapid change to existing waste management practices. These new 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.

1.3 Bedfordshire County Council's Options Appraisal (see Appendix B for full document) recommends an Energy from Waste with Combined Heat and Power facility as the preferred reference technology for dealing with its long term residual waste treatment needs, alongside increased efforts to minimise waste and optimise recycling.

1.4 Luton Borough Council's Strategic Waste Management Options Appraisal concluded that Luton will need to send all of its residual waste for treatment from the end of its current Private Public Partnership waste contract with WRG Ltd in 2016.

1.5 Bedfordshire County Council will move from the current two tier local authority structure to one with two unitary councils: one for Bedford and one for Central Bedfordshire effective from 1st April 2009. The transition to this new structure will have a significant impact on all services provided by local authorities in Bedfordshire, including the management of waste.

1.6 Bedfordshire County Council has secured in-principle support for the development of the project from the District Councils of Central Bedfordshire, Bedford Borough Council and Luton Borough Council as the existing Unitary Authority. Significant joint working is necessary to ensure a means to delivering a long-term waste management solution.

1.7 In March 2008, Bedfordshire County Council approved the submission of an Expression of Interest (EoI) to the Department for the Environment, Food and Rural Affairs (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 Private Finance Initiative (PFI) credit support.

1.8 In May 2008, DEFRA confirmed that the EoI submission had met the Government's eligibility criteria for PFI support, and that all the Authorities

could now submit an Outline Business Case (OBC) to DEFRA by 31st October 2008 seeking formal PFI credit support.

1.9 Bedfordshire County Council invited Luton Borough Council to join the BEaR project in May 2008, and to participate in the Project to the stage of modelling the financial outcomes for the Project, and then making a decision as to whether or not to go forward to the Outline Business Case stage of procurement.

## 2. Outline Business Case

2.1 The Outline Business Case (OBC) must be finalised and submitted to DEFRA by the end of October 2008 to meet the deadlines of this PFI credit round allocation. The OBC is being completed using DEFRA guidelines and is formatted under the following headings:

1. Executive Summary
2. Background
3. Strategic Waste Management Objectives
4. Procurement Strategy and Reference Project
5. Risk Management, Risk Allocation and Contractual Structure
6. Project Team and Governance
7. Sites, Planning and Design
8. Costs, Budgets and Finance
9. Stakeholder Communications
10. Timetable

2.2 This report summarises the key aspects of the OBC and recommends the sign-off of the final OBC document is delegated to the authorised Chief Officers, in consultation with the relevant Executive Members for each Authority. Once it is approved by all authorities involved, the OBC becomes a public document, with the exception of some commercially sensitive information which will be been removed and is exempt from the Freedom of Information Act 2000.

2.3 DEFRA will review the OBC once submitted with the potential of final adjustments being made before a further review undertaken by Partnerships UK. The Treasury Project Review Group (PRG) will then carry out a final review before a decision is made on the eligibility for PFI credit.

2.4 The table below indicates the outline Programme Timetable which estimates the issue of OJEU (Official Journal of the European Union) notice in June 2009 in accordance with advice from Government on estimated timescales to be included in PFI projects.

**Planned Procurement Timetable**

| Procurement Milestone | Target Date (TBC) |
|---|---|
| Outline Business Case Submission | 31st October 2008 |
| Approval from PRG of OBC for PFI | February/March 2009 |
| OJEU notice published | June 2009 |
| Selection of Preferred Bidder | April 2011 |
| Planning Application Submitted | Early October 2011 |
| Planning permission granted | October 2012 |
| Financial Close | June 2011 |
| Construction start on site | April 2013 |
| Commencement of Operations | April 2016 |

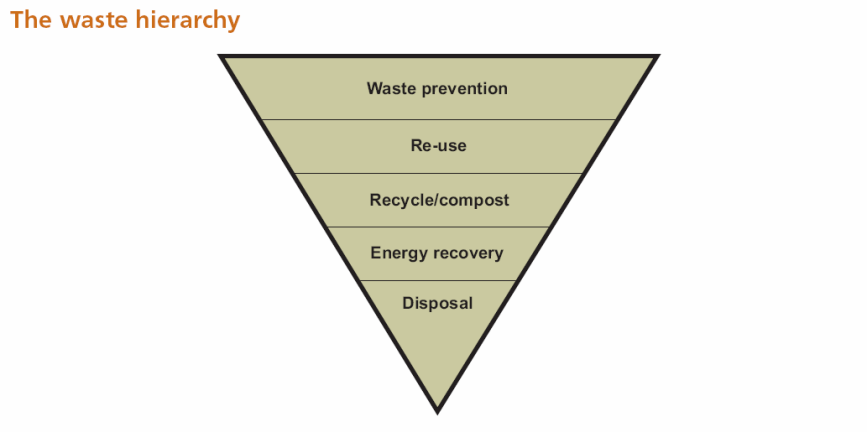
## 3 Overview of Waste Strategy 2007

3.1 The Waste Strategy for England 2007 (WS2007) builds on the work of the Waste Strategy 2000 (WS2000) but includes more ambitious targets for recycling, waste minimisation and diverting waste from landfill. The WS2007 is briefly outlined below.

Main Aims:

- Decouple waste growth from economic growth and put more emphasis on waste prevention and reuse
- Meet and exceed Landfill Directive diversion targets for Biodegradable Municipal Waste (BMW) in 2010, 2013 and 2020
- Increase diversion from landfill of non municipal waste and secure a better integration of treatment for municipal and non municipal waste
- Secure the investment in infrastructure needed to divert waste from landfill and for the management of hazardous waste
- Get the most environmental benefit from that investment, through increased recycling of resources and recovery of energy from residual waste using a mix of technologies

**Figure 3.1 Waste Strategy 2007 Waste Hierarchy**




3.2 The main elements of the new strategy are to:

- Incentivise efforts to reduce, re-use, recycle waste and recover energy from waste
- Reform regulation to drive the reduction of waste and diversion from landfill while reducing cost to compliant businesses and the regulator
- Target action on materials, products and sectors with the greatest scope for improving environmental and economic outcomes
- Stimulate investment in collection, recycling and recovery infrastructure, and markets for recovered materials that will maximise the value of materials and energy recovered
- Improve national, regional and local governance, with a clearer performance and institutional framework to deliver better coordination action and services on the ground

3.3 Incentives - The aim is to create incentives that reflect the waste hierarchy and create opportunities for the reduction, reuse and recycling of waste, and recovery of energy from waste. The Government is therefore:

- Increasing the landfill tax escalator so that the standard rate of tax will increase by £8 per year from 2008 until 2010/2011 to give greater financial incentives to businesses to reduce, re-use and recycle waste.
- Consulting on removing the ban on local authorities introducing household financial incentives for waste reduction and recycling.

3.4 Main Targets - Higher national targets than 2000 have been set for:

- Recycling and composting of household waste (figures outlined in the table below)

- Recovery of municipal waste through increased recycling of resources and energy recovery – 53% by 2010, 67% by 2015 and 75% by 2020.
- The reduction in the amount of household waste not re-used, recycled or composted. From over 22.2 million tonnes in 2010 with an aspiration to reduce it to 12.2 million tonnes in 2020 – a reduction of 45%. This is equivalent to a fall of 50% per person (from 450kg per person in 2000 to 225kg in 2020).

3.5 The waste strategy for England sits within wider EU policies that the UK are committed to achieving, particularly the EU Landfill Directive which sets targets for reducing the amount of municipal waste being sent to landfill.

3.6 **Bedfordshire and Luton Waste Strategy.**

The Bedfordshire and Luton Waste Strategy 2001 set targets for achieving 33% recycling and composting by 2015 in line with the WS2000. In 2006 the Bedfordshire Authorities Municipal Waste Management Strategy (BAMWMS) [1] was published and Luton published a LATS Strategy together with an Options Appraisal. As WS2000 had not been revised at this point, none of the documents increased the recycling/composting targets that were set in the Bedfordshire and Luton Waste Strategy 2001. Whilst the 33% target for 2015 was in line with the WS2000, the publication of the WS2007 resulted in the Bedfordshire targets being below those set nationally. This is outlined in table 3.1 below. Table 3.2 presents the modelled recycling and composting performance of the three Unitary Authorities in selected years.

**Table 3.1 Bedfordshire & Luton Recycling/Composting Targets Compared to WS2007 Targets**

| Year | National Waste Strategy 2007 | Bedfordshire & Luton Waste Strategy 2001 |
|---|---|---|
| 2010 | 40% | 30% |
| 2015 | 45% | 33% |
| 2020 | 50% | 33% |

[1] Produced in partnership between Bedfordshire County Council, Bedford Borough Council, Mid Beds District Council and South Beds District Council.

**Table 3.2 Modelled Recycling and Composting Figures**

| Year | National Waste Strategy 2007 Targets | Luton Borough Council | Bedford Borough Council | Central Bedfordshire Borough |
|---|---|---|---|---|
| **2009/10** | 40% | 36.20% | 38.26% | 49.24% |
| **20014/15** | 45% | 44.91% | 50.62% | 54.04% |
| **2019/20** | 50% | 50.42% | 53.21% | 55.44% |

The Bedfordshire Authorities will be aiming to achieve the highest rates of recycling / composting possible both up to 2020 and following this target year. As the contract period is likely to run to around 2040, the authorities should aim to continue increasing rates towards or in excess of 60% during the contract period.

3.7 **BAMWMS Review**

A review of the BAMWMS was planned to take place in-between the submission of the EOI and OBC, to capture the revised recycling targets detailed in WS2007 along with stretch targets in the new LAA Agreement (2008/09-2014). A review of the BAMWMS was not conducted at this point because as of March 2009 it would become invalid as the new unitary authorities of Bedford Borough and Central Bedfordshire will look to develop their own strategies. A time line for the production of new waste strategies has not yet been formalised, but both Councils are expecting to utilise the BAMWMS until 2010, at which point new strategies will be written taking into account the WS2007 and the new aims and priorities of the authorities, as well as the Joint Working Agreement (see Section 9) and the BEaR project.

3.8 The intention will be to create a new waste partnership between the two new Unitary Authorities of Bedford Borough and Central Bedfordshire and Luton as the existing Unitary Authority.

## 4 Procurement Strategy and Approach

4.1 The BAMWMS identifies the need for future waste treatment infrastructure for Bedfordshire. Luton has also identified this requirement and undertaken its own options appraisal. There are no Bedfordshire and Luton policies or appraisals that are inconsistent to the use of the reference technology selected through the Options Appraisal process. (Reference technology is to manage municipal waste that cannot be reused, recovered, recycled or composted).

4.2 Nationally EfW as a residual waste treatment solution remains the most attractive to councils given that it is a proven technology that has been tried and tested where risk is known and can be managed. Many of the councils currently seeking government PFI support are using EfW within their identified Reference Projects.

4.3 Work undertaken to date by Bedfordshire County Council as the current WDA and as part of the development of the OBC, demonstrates that there are significant economic, practical and environmental benefits of procuring a long-term waste management solution jointly with Luton. Joint working is also favoured by Defra.

4.4 To deliver a joint solution, it will be necessary to procure new treatment infrastructure along with an operational service contract. Given the high capital cost associated with waste treatment facilities, it is necessary to let a long-term contract so as to spread the capital cost repayments over many years. It is proposed that at least a 25-year operational contract is procured to provide certainty to Authorities and the bidders. Periodic contract review points about every 5 years may provide flexibility in the arrangements.

4.5 A comparison of the various procurement and funding options has been undertaken as part of the development of the EoI and also in more detail for the OBC. The results of a high-level funding option review clearly shows the financial benefits of procuring facilities jointly with the addition of Private Finance Initiative (PFI) credit support from central government, over conventional funding methods such as Public Private Partnership (PPP) or Prudential Borrowing (PB). The OBC therefore demonstrates that the PFI route provides better value for money over conventional procurement.

4.6 Due to the legislative drivers to divert waste from landfill many councils are currently reviewing their long-term waste treatment solutions. Given the lengthy procurement timescales and high capital cost of new waste facilities, many authorities are seeking support in the form of PFI credit funding. Defra indicates that although PFI financial support is available for the current PFI round (October 2008), its availability thereafter is not certain and competition for this funding is therefore likely to be fierce.

4.7 It should be recognised that in order to secure PFI credit financial support, the Partnership must adhere to standardised PFI procurement requirements and rigid timescales. This includes following the PFI rules, deadlines and guidelines laid down by central government and using a standardised form of contract and procurement process.

4.8 The aim of the BEaR Project procurement is to secure a long term waste treatment contract to mitigate the risk of both LATS and increasing Landfill

tax in the most environmentally sustainable and value for money way possible.

4.9 The partnership acknowledge that the procurement process, build, and commissioning periods for the residual treatment facility will take some time and are aware that the county is likely to face LATS fines before a facility comes online. The individual members of the partnership plan to mitigate the impact of these fines through several methods including; trading LATS allowances at a lower cost than fines, procuring an interim disposal contract and driving up the recycling and composting levels as high as possible to remove BMW from the waste stream.

**Procurement of Interim Waste Treatment Capacity**

4.10 With the current landfill contract due to end in October this year, the Council has completed the procurement of an 'interim' disposal contract. This contract, being let for an interim period of around 4 years, has potential impacts and opportunities for the BEaR project. The contract was let as a disposal rather than landfill contract allowing bidders flexibility to provide a solution to the LATS deficit in the interim period prior to the long term treatment contract. This procurement also offers the possibility of further waste disposal flexibility in the light of any possible slippage of the BEaR Project due to the transition to a unitary local government structure, although regard must be had to the existing and on-going contact for recycling through the material recycling facility at Elstow.

**Summary of Wider Procurement Activities**

4.11 As well as continuing with existing obligations, the partner authorities will be looking to their future obligations and procuring contracts to meet these requirements. One such requirement is that of Waste Strategy 2007 seeking 50% recycling and composting by 2020. Each authority will require additional recycling and composting schemes to be introduced to meet these targets and these will be procured via the normal methods. The costs of these contracts have been factored in to the whole system costs calculated for the OBC.

4.12 These contracts are however outside the scope of the Project and are the responsibility of each future authority.

## Procurement of the long term contract

4.13 The long term contract will focus on residual (black bag) waste disposal only and will not involve the collection or recycling elements of the waste service. It is envisaged that waste will be delivered to an in-county facility using existing collection contracts; from this point the waste becomes the responsibility of the contractor.

4.14 The chosen procurement methodology to secure the required facilities is the competitive dialogue process. This follows Office of Government Commerce (OCG) best practice guidance and is the preferred DEFRA procurement method for PFI projects of this type. Although this methodology is new, a library of procurement documentation is available from DEFRA to assist in the process.

4.15 As the partnership do not know exactly what technology would best suit the contract, an output specification will be issued to bidders to provide them with the opportunity to come forward with innovative solutions.

## Output Specification

4.16 The Output Specification is the part of the Contract through which the Authority defines the outputs that it requires from the Contractor over the term of the Contract. Fundamentally, the Output Specification specifies the outcomes that are required to be achieved not how they are achieved.

4.17 An effective Output Specification is clear, concise and unambiguous and identifies all aspects of the service that are critical to the Authority.

Together the Output Specification and the Payment Mechanism provide the means by which the Contractor's actual performance is measured against the contracted performance and the payment of the Unitary Charge for the services performed is calculated.

4.18 The component parts of the Output Specification are:

The Performance Requirements for each phase of the project i.e.:

- the Works Requirements;
- the Commissioning Requirements;
- the Service Requirements;
- the Handover Requirements; and
- the Performance Measurement Framework.

4.19 An outline draft of the Output Specification has been produced for the Outline Business Case (OBC) to inform the financial modelling of the project and procurement options. The outline draft Output Specification has, where relevant, utilised information arising from market-sounding.

## 5 Appraisal of Future Waste Treatment Options

5.1 In 2005 Bedfordshire County Council undertook an Options Appraisal, including a Best Practical Environmental Option (BPEO) study to determine the most appropriate technology to divert waste from landfill in Bedfordshire. However, in the intervening time (March 2005 to December 2007) there have been considerable developments in government waste policy, and within the waste management industry. In early 2008 this process was updated by undertaking an Options Review. The updated review took new information in to account and also incorporated use of the recently released Environment Agency Waste and Resource Assessment Tool for the Environment (WRATE) tool.

5.2 The best practice requirements for Option Appraisal modelling have 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).

5.3 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.

5.4 The Options Appraisal is split in to two sections, a technical review and a financial review. The technical review identifies which technology will deliver Bedfordshire's required performance whilst also taking in to account the environmental and socio-economic impacts of the technology. It is further split in to two parts; a long list evaluation and a short list evaluation. The shortlist is effectively created during the evaluation of the long list (a full copy of the Options Appraisal and a detailed methodology is attached at Appendix B).

5.5.1 The financial appraisal takes in to account the total costs of the technology over the contract period and allows the options to be compared against each other, the Do-minimum and also the current budget.

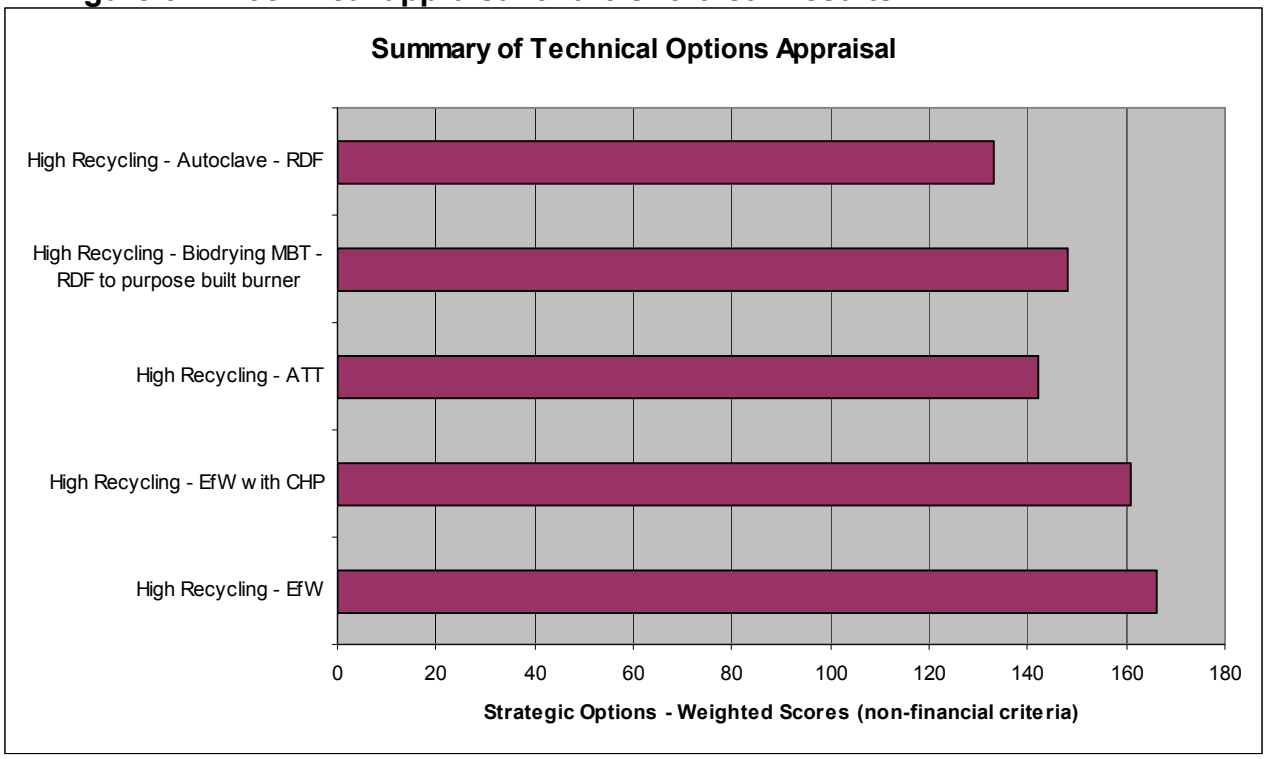
The shortlisted options are described in table 5.1.

**Table 5.1 – The shortlisted technology options.**

| =Technology | Description |
|---|---|
| Energy from Waste (EfW) | Suitable waste is sent to incineration with the recovery of electrical energy. The air pollution control residues are sent to hazardous landfill and the bottom ash is sent to landfill or recycled. |
| EfW CHP | Suitable waste is sent to incineration with the recovery of electrical energy and the harnessing of the heat that is produced by its combustion. The heat is used in a district heating network. The air pollution control residues are sent to hazardous landfill and the bottom ash is sent to landfill or recycled. |
| Pre-treatment to Advanced thermal treatment (gasification or pyrolysis) | The pre- treatment of the residual waste removes bulky items that are unsuitable for this type of facility and non combustible materials such as glass and metals. The waste is then combusted to produce a synthetic gas that is used to generate electricity. |
| Biodrying MBT to RDF Burner | Recyclables are mechanically removed prior to aerobic composting and production of a refuse derived fuel. The RDF is then burnt in a dedicated burner. Residues are sent to landfill. |
| Autoclave to RDF Burner | Rotating Autoclave drums pulp and prepare residual MSW for further sorting. Recyclables are extracted and two other waste streams are produced – a fibre which is sent to a dedicated burner and a residue that is sent to landfill. |

5.6 Once selected, the shortlisted options were evaluated against a set of technical criteria which were weighted according to their importance to Bedfordshire. The results of this technical appraisal are shown in figure 5.2.

**Figure 5.2: Technical appraisal of the shortlist – results**




5.7 Alongside the technical appraisal, a financial appraisal was undertaken on the shortlisted options. This took in to account the Shadow Cost of Carbon (SPC) which was added to the cost of each option, as required by DEFRA. The results of the financial appraisal can be seen in table 5.3, it should be noted that the financial appraisal was undertaken before Luton had signed up to the project and is therefore only based on Bedfordshire County Council tonnages. Decreasing costs upon inclusion of the SPC indicate that the option emits less carbon than the current treatment methods.

**Table 5.3 – Financial appraisal results**

| Option | NPV* of Costs | Total NPV* including SPC |
|---|---|---|
| EfW | £196,650,676 | £195,553,230 |
| EfW CHP | £196,650,676 | £186,677,154 |
| ATT | £283,592,491 | £285,409,485 |
| MBT RDF to EfW | £283,379,203 | £280,093,347 |
| Autoclave & RDF to EfW | £314,371,288 | £300,246,575 |

* NPV = Net Present Value = The present value of an investment's future net cash flows minus the initial investment. If positive, the investment should be made (unless an even better investment exists), otherwise it should not.

5.8 The outcomes of the technical and financial appraisals of the shortlist were then combined to provide an overall score for each option. The weighting for the technical and financial elements was 40 / 60 respectively. The final results of the options appraisal are shown in table 5.4.

**Table 5.4 – Final Results of the Appraisal**

| Option | Technical marks | Financial Marks | Total marks |
|---|---|---|---|
| EfW | 40.0 | 57.0 | 97.0 |
| EfW CHP | 38.8 | 60.0 | 98.8 |
| ATT | 34.2 | 39.0 | 73.2 |
| MBT RDF to EfW | 35.7 | 40.0 | 75.7 |
| Autoclave & RDF to EfW | 32.0 | 37.0 | 69.0 |

**Conclusion**

5.9 The highest scoring option in the Options Appraisal is increased recycling/composting to at least 50% followed by treatment of residual waste by EfW with CHP with 98.8 marks. EfW without CHP is the second highest scoring option with 97 marks. Only 1.8 marks separate the top two scoring options. The third highest scoring option is MBT producing an RDF which is treated in an EfW. There is over a 21 point difference between the MBT option and the EfW option. Only 5 marks separate the bottom three options.

5.10 It is noted that EfW alone achieves a higher technical score than EfW CHP. This is due to the deliverability issues associated with the CHP element. The overall score of EfW CHP is higher due to the significant reduction in carbon and subsequent cost reduction compared to the EfW alone.

5.11 Given the weightings and scores applied to the evaluation criteria, the highest scoring option for the Partnership is EfW with CHP. As detailed previously, the Partnership will seek to exploit the additional benefits that EfW CHP provide, but are aware of the possible heat off-take risks and practical deliverability issues associated with this option. Even with a significant change to the weighting of the technical and financial elements of the appraisal the top selection (CHP) does not change. The CHP approach is consistent with DEFRA and Ministers views. This option is explained in more detail in the preferred option section below, it should however be noted that the option includes a requirement to increase recycling rates in line with Waste Strategy 2007.

## 6 Reference Project

6.1 As part of the OBC, Defra requires that the partnership Authorities present a chosen solution that meets the partnership's needs and that is deliverable, bankable and affordable. This solution which is fully costed and selected through the Options Appraisal process is called the Reference Project and is based on comparable facilities and services already in operation around the country. The modelling allows the facility to be tailored to the local area and based on a known potential site for the facility. Defra stress that, and members should be aware that, in presenting the Reference Project, authorities are not committed to the specified treatment technology (or site), as this will be determined as part of the procurement process.

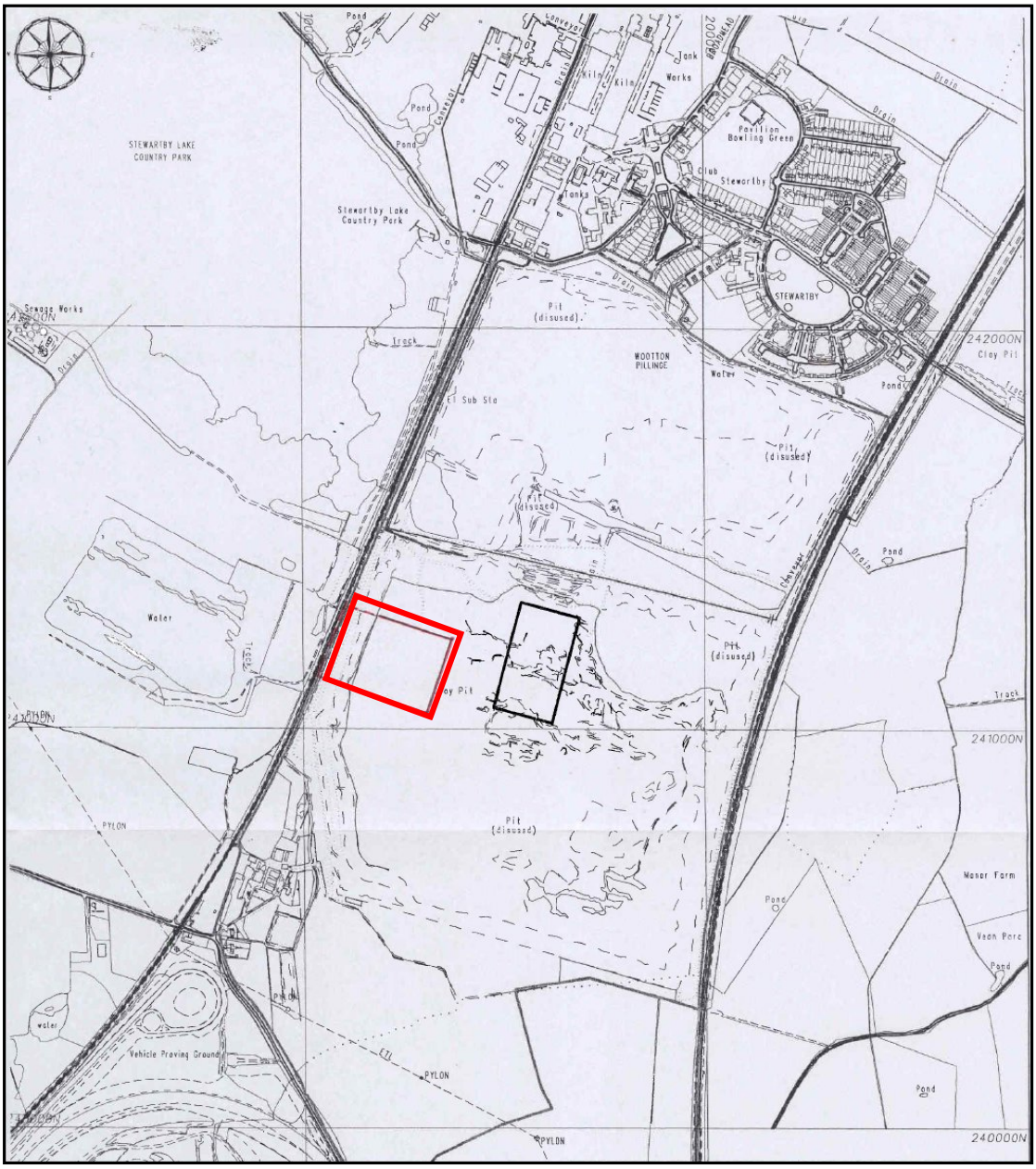
6.2 The Reference Project selected through the Options Appraisal has been used to determine the high-level cost estimates, evaluate project risks and will also be used to inform the development of procurement documentation. As detailed in the Options Appraisal section, it assumes an Energy from Waste treatment facility with Combined Heat and Power, dealing with around 194,524 tonnes of residual waste per year which is sited at Rookery South Pit near Stewartby.

6.3 The Rookery South Pit site has been used for the Reference Project solution as it has been identified within Bedfordshire's Local Development Framework**,** which is currently working towards the preferred options stage and is deemed, following a lengthy site selection process, to be the most deliverable site. Should the Rookery site not be taken forward or prove not to be deliverable then another site would be required. Two contingency sites are currently secured under lockout to help to mitigate this risk.

6.4 In addition to the major waste infrastructure identified in the Reference Project, the authorities will also require a range of recycling, composting and waste minimisation initiatives to take place to ensure at least 50% recycling is achieved. The costs associated with delivering these new initiatives and their improvements have been included in the whole system costs. These additional costs must be recognised and accepted by each Authority as part of the overall project delivery and affordability assessment.

6.5 The scope and timing of these additional initiatives varies for each of the partnership Authorities to reflect the different requirements, approaches and the differences in demographics, geography and current recycling and waste minimisation performance.

**Figure 6.1 Rookery South Pit Site – Site boundary in red.**




6.6 Implementation of new initiatives, along with improvements to the existing service arrangements will allow the partnership authorities to recycle and compost over 50% of their household waste by 2020. Failure to deliver these initiatives may result in the Partnership not meeting the National Waste Strategy 2007 targets, which in turn will result in the requested PFI credit support not being awarded by Defra.

6.7 The facility will be sized to treat all suitable residual waste based on the tonnage projected for the final contract year. This tonnage is estimated to

be approximately 194,524t per annum in 2041/42; the assumptions for this figure have been identified and approved by the Project Board.

6.8 Bedfordshire County Council does not intend to enter in to a long term contract that would restrict future recycling initiatives. The Council therefore plans to size the minimum contracted tonnage to be treated at the plant at a level that allows future diversion to take place without financial penalty.

**CHP Feasibility Study**

6.9 Bedfordshire County Council appreciates the issues surrounding deliverability of a CHP solution and has worked hard to investigate the potential for a CHP plant in Bedfordshire. A CHP feasibility study has been completed based on the preferred site location of Rookery South Pit, this study identified potential heat users, any limitations and the costs involved.

6.10 Bedfordshire County Council plan to maximise the opportunities to deliver a CHP solution, but appreciate that should an agreement with a heat sink[2] fall through, the plant may resort to being a standard EfW plant with potential for future heat delivery.

## 7 Planning/Sites

7.1 One of the biggest risks in delivering a waste treatment solution is associated with identifying and securing suitable sites and subsequently obtaining planning permission on the identified site. As such the Authorities are seeking to reduce such risk by:

- Negotiating an option for 4 hectares of land on its preferred site - Rookery South Pit (additional land is available should bidders solution require this).
- Continuing discussions with land owners on a further two sites (4 hectares) – Stewartby and Brogborough
- Submitting a Scoping report to planning authority for reference facility and carrying out EIA baseline studies at the preferred site to provide to bidders

7.2 In October 2007 Bedfordshire CC Executive voted to accept the recommendation of the Environmental Services Overview and Scrutiny Committee to:

[2] Definition of Heat Sink = An environment capable of absorbing heat from an object with which it is in thermal contact without a phase change or an appreciable change in temperature

a) Agree the Rookery South Clay Pit as the preferred site for the location of an energy from waste facility (based on site selection process detailed below)
b) Allow the Director of Environment be authorised to:

i. Acquire an option on the site to enable the planning application to be made
ii. To purchase the site on the basis of a successful planning application
iii. Commence the procurement process to deliver a long term contract to provide the Energy from Waste facility.

7.3 **Sites**

A comprehensive site appraisal selection process was carried out to identify suitable sites for major waste management facilities. This was carried out in two phases.

- Phase 1 (carried out by Terrance O'Rouke) – This consisted initially of a comprehensive spatial analysis of Bedfordshire to identify potential planning and environmental constraints and opportunities (constraints included green belt land, landscape and visual impact and nature conservation amongst others.). This produced a list of 95 sites. Sites were then reassessed against a further 14 criteria including size, proximity to sensitive receptors, accessibility, potential opportunities for CHP and Local Plan Policy W7. This process produced a short list of 10 sites.
- Phase 2 (carried out by Entec) – Entec took the 10 short listed sites and carried out a site ranking exercise based on the government guidance - Sustainability Appraisal of Regional Spatial Strategies and Local Government Documents – Guidance for Regional Planning Bodies and Local Planning Permission.

Rookery South Clay pit was identified as the most suitable site.

7.4 Following the BCC's Executive decision in October 2007 the BEaR project team commenced negotiations with O&H for the land at Rookery South Clay Pit. Draft Heads of Terms are being discussed and the Authorities aim to secure an Option by January 2009. The purchase of the land will take place once planning permission has been granted.

Figure 6.1 identifies the preferred site

7.5 **Planning**

After discussions with the Defra and analysis of the advantages and disadvantages of the Lead Authority submitting a planning

application for the reference facility the Project Board took the decision that it would not be best placed to proceed with a planning application. The main reasons for this were:

- If applications are submitted by the LA (in its capacity as WDA), there is no right of appeal against refusal of an application (see Town & Planning General Regs. 1992 Reg 5).
- By submitting a planning application for the reference facility it may deter certain bidders with alternative technology solutions
- The local authority planning application would not have final design details, so it would not be possible to address the visual impact issues which are of public concern.
- The WDA is less well placed to develop and apply for a planning permission than a Contractor that will have previous experience and a financial incentive to deliver
- The site for which the WDA has planning approval may not be the most economically advantageous once bids for submission have been evaluated. This permission may adversely affect the chances of obtaining permission elsewhere.
- Should the application be refused the contractor cannot make a subsequent application on the same site for the same facility.
- Risk that the planning application gained by the Authorities would not suit the preferred bidder and as such a second application would have to be made.

**Design**

7.6 The Authorities recognise the importance of good design in all building and infrastructure projects and will provide strong client leadership that sets and communicates achievable quality objectives, and enables the different specialists to work together to develop optimal design concepts and solutions, and to maximise the opportunities for increased sustainability in building design and facility management.

7.7 It will do this by communicating a series of design quality and sustainability criteria and objectives: a) to the architects during the planning stages of the project, and: b) to bidders in the second stage of the project, and assessing architectural proposals against a number of key criteria, which will include:

- deliverability;
- affordability in terms of initial design and construction and life cycle cost (including cost of cleaning, maintenance and repair of the building and its associated technologies);
- minimisation of design risk, including reducing the risk of accidents related to facility operation, maintenance and repair; and
- sustainability in design solutions, including

- choice and source(s) of materials,
- optimising the use of natural light,
- energy efficiency in the building and in the design and specification of equipment,
- maximising the potential for heat and power recovery from the thermal process and thereby also minimising the need for imported energy,
- using and re-using roof, yard and process water within the process to minimise water usage and discharges to sewer.

**Waste Development Framework**

7.8 County and Unitary Authorities have a statutory requirement to prepare a Waste Development Framework under the Planning and Compulsory Purchase Act 2004 and in accordance with the Town and County Planning Act (Local Development) (England) Regulations 2004. Bedfordshire County Council and Luton Borough Council are preparing a joint framework and will cover the period until either 2021 or 2026.

7.9 The Waste Development Documents (WDD's) consist of a Waste Core Strategy and Waste Sites Allocations Plan. The revision and publication of PPS12 – 'Creating strong, safe and prosperous communities through local spatial planning ' includes the option for core strategies to allocate within them strategic sites for development and as such it has been proposed that the BCC/LBC Waste Core Strategy include the strategic sites for development.

7.10 Issues and Options Papers have been prepared and consulted on for both the Waste Core Strategy and Waste Site Allocations Plan and it is expected that the Core Strategy containing the strategic sites will be complete in January 2009 with adoption February 2010.

7.11 The Authorities preferred site, Rookery South Pit plus its two back up options Stewartby and Brogborough have all been put forward to be included within the Waste Core Strategy and Waste Sites Allocations Plan. These sites are also contained within the Bedfordshire and Luton Minerals and Waste Local Plan 2000 – 2015 for which the Core Strategy and Waste Site Allocations Plan will replace.

## 8 Financial Implications

Section 8 has been removed from this document and is exempt under paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972.

## 9 Joint Working Agreement and Project Governance

9.1 In view of the high value and strategic importance of the BEaR Project, each of the four authorities is required to formally approve a legally binding Joint Working Agreement, a full copy of which can be seen in Appendix C. The agreement has been drafted with input from officers from each Authority. A summary of this agreement is set out below:

- For the management of the procurement, certain key decisions shall be reserved to members (in practice, the Executive) of each authority. A Joint Officer Project Board shall be established with powers delegated by each authority's Executive to implement the project. The Head of Service for Waste in each authority shall act as champion of the project within each authority and be responsible for keeping the Executive of each authority informed of progress, securing the authority's support and input into the project and answering for the project to the appropriate Scrutiny Committee. The Project Board shall comprise a full-time Project Manager, the Heads of Service for Waste in each of the four authorities, and a Financial and a Legal Adviser seconded part-time from one or other of the authorities. The Project Board shall be able to co-opt other officers as required, and each authority's Chief Finance Officer and Monitoring Officer shall have a right to attend its meetings.
- Decisions of the Project Board shall be taken unanimously between the three Heads of Service for Waste and the Project Manager. In the event of disagreement, there shall be a procedure to escalate a dispute to a meeting of the three Chief Executives, with mediation during the procurement phase and arbitration during the 25-year service phase.
- The Project Board shall only have powers to take those decisions which fall within the Budget and Strategic Plan Framework of each authority. "Reserved decisions" shall not be delegated to the Project Board but shall be reserved for the approval of the Executive of each authority
- 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 1st April 2009, and thereafter 1/3 to each of the three unitary authorities.
- The Contractor shall define a maximum and a minimum volume of waste which must be delivered to the facility, and shall make a standard charge per tonne of waste delivered. Each authority shall bear the costs of delivering its own waste to the facility, and shall then pay the Contractor's standard charge (and the costs of managing the contract on behalf of the three authorities) according to the actual tonnage of waste which it delivers. If the Contractor fails to perform and causes loss to a particular authority, for example by delaying the unloading of that authority's vehicles, any

penalty in the form of a reduction in the unitary tonnage charges will accrue to the particular authority which suffered the loss.

- Each authority shall be required to continue to deliver a proportion of the minimum contract volume, and must not deliver more than a proportion of the maximum contract volume. That proportion shall be determined by the respective populations of each authority, so that it adjusts to take account of new development.
- The "reserved decisions" protect the ability of each authority to withdraw from the project without penalty during the procurement process, if the project is simply unaffordable or the intended contractor's proposals are unacceptable on location or technology grounds. However, if an authority withdraws or takes an "independent decision" (where the authority takes its own decision on a matter which it has previously delegated to the Project Board) during the procurement phase, it is likely to require the remaining authorities to re-start procuring their own smaller facility, which might lead to a higher price per tonne and would not be available as soon. This in turn may mean that the remaining authorities cannot reduce their landfill requirement sufficiently until the new facilities are available, and so exceed their Landfill Allowances ("LATS Allowances") and so have to buy spare LATS Allowances from other authorities or pay a financial penalty. If an authority withdraws or takes an "independent" decision during the 25-year service phase, the worst case scenario is that it causes the contractor to terminate the contract, claiming damages on the basis of loss of anticipated profit for the balance of the contract, and causing the other authorities to incur the costs of a new procurement and LATS penalties. To cover against these unlikely eventualities, each authority will enter into a binding Joint Working Agreement in which it agrees to deliver waste as required by the main PFI contract, pay its share of the costs, and to indemnify the other authorities against any losses which it causes by withdrawing or taking an independent decision, other than on the "reserved decisions".
- Each authority shall be required to make any land which it currently uses for waste disposal functions, such as depots, available to the contractor on commercial rental terms. This ensures that the individual authority gets a fair return for its assets, and in turn the contractor's tonnage charges reflect the true cost of providing the service, and enable the authorities to reclaim full PFI credits from DEFRA.
- The Joint Working Agreement does not cover the possibility of the authorities acquiring and preparing a site, including seeking planning permission for a typical plant, so that prospective contractors know that there will be a site available and that the principle planning issues have already been addressed. This is a separate decision. In practice it would be for the authority in whose area the site fell to decide whether to acquire a site, but they would

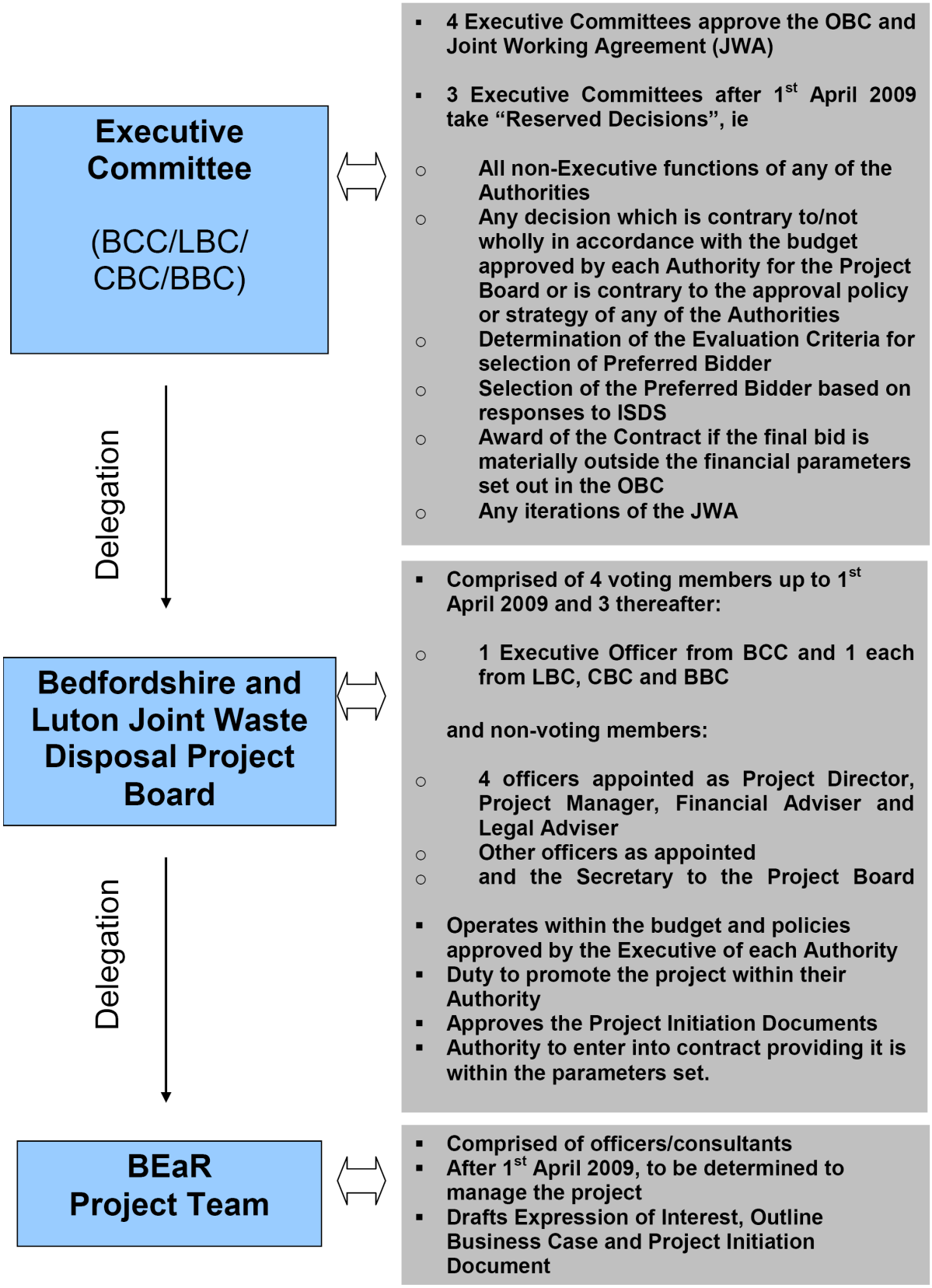
want to ensure the agreement of the other authorities to the purchase and site preparation costs, perhaps to be funded by the authorities on a 1/3:1/3:1/3 basis, with appropriate provisions to cover a sale on if the site was ultimately not required for the project. However, that would be for a separate agreement if and when the time came.

9.2 In recognition of the financial risk, the Joint Working Agreement requires any Authority withdrawing from the partnership to be liable for any consequential additional costs resulting from this action. Such costs could include any procurement costs accrued and any costs resulting from a delay to the service commencement, e.g. LATS fines.

9.3 The management structure developed under the terms of the JWA to take this project forward after submission of the OBC is shown in the below diagram 9.1.

The BEaR Project has obtained member approval to progress at key stages in the project so far and intends to continue this approach to enable members to remain informed and in control throughout procurement.

**Diagram 9.1 – Governance Structure determined by Joint Working Agreement**




- 4 Executive Committees approve the OBC and Joint Working Agreement (JWA)
- 3 Executive Committees after 1st April 2009 take "Reserved Decisions", ie
  - All non-Executive functions of any of the Authorities
  - Any decision which is contrary to/not wholly in accordance with the budget approved by each Authority for the Project Board or is contrary to the approval policy or strategy of any of the Authorities
  - Determination of the Evaluation Criteria for selection of Preferred Bidder
  - Selection of the Preferred Bidder based on responses to ISDS
  - Award of the Contract if the final bid is materially outside the financial parameters set out in the OBC
  - Any iterations of the JWA

- Comprised of 4 voting members up to 1st April 2009 and 3 thereafter:
  - 1 Executive Officer from BCC and 1 each from LBC, CBC and BBC

  and non-voting members:
  - 4 officers appointed as Project Director, Project Manager, Financial Adviser and Legal Adviser
  - Other officers as appointed
  - and the Secretary to the Project Board
- Operates within the budget and policies approved by the Executive of each Authority
- Duty to promote the project within their Authority
- Approves the Project Initiation Documents
- Authority to enter into contract providing it is within the parameters set.

- Comprised of officers/consultants
- After 1st April 2009, to be determined to manage the project
- Drafts Expression of Interest, Outline Business Case and Project Initiation Document

## 10 Risk Management

10.1 The Partnership has taken a rigorous approach to identifying, mitigating where possible and reducing likely risks associated with the project.
The Partnership agreed and implemented a robust risk management strategy to ensure a proactive and consistent approach to risk management across the project.

10.2 A series of workshops have been carried out involving key representatives from the Partnership (Bedfordshire County Council, Bedford Borough Council, Mid Bedfordshire District Council, and South Bedfordshire District Council) along with the Council's technical, legal, financial and planning advisers to identify and categorise potential risks associated with the project.

10.3 Current, emerging and anticipated risk are documented on a project risk register and classified by risk category, probability, impact and effect on the project counter measures to reduce the risk. 11 risk categories have been identified, including Procurement, Financial, Planning/Sites, Regulatory, Governance, Technology, Construction and Operational and risks have been assigned to Risk Owners, those people best positioned to manage the risk. The assessment of risks and the scoring system was based on the 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 from the Bear Project Manager.

10.4 The risk register is reviewed monthly by the BEaR Project Team and agreed by the Project Board. The current risk register was agreed by the board and the Partnership at a risk workshop on the 4th July 2008. The register was uploaded onto an electronic system which automatically sends risk owners their risks on a monthly basis for monitoring, reviewing and updating of scores and mitigation measures. The risk management procedure is a standard agenda item on the BEaR Project Board meetings and the regular internal BEaR Project Team's meetings.

## 11 Communication and Consultation Strategy

11.1 Bedfordshire Authorities have placed Stakeholder Communications at the heart of the Bedfordshire Energy and Recycling (BEaR) project. An active and robust Communications Strategy and Plan have been produced to ensure successful project delivery.

11.2 Consultation with elected members has taken place through the 'Bedfordshire Authorities Waste Partnership' (BAWP), comprising the four main authorities within Bedfordshire (excluding Luton). The BEaR Project Board is clearly represented by elected members, including BCC and more recently Central Bedfordshire, Bedford Borough Council (BBC) and Luton Borough Council (LBC).

11.3 Regular consultation with elected County members has also taken place via the BCC Environment Services Overview and Scrutiny Committee and similar committees at Bedford Borough and Central Bedfordshire have also been given briefings to ensure key stakeholders are involved in the BEaR Project.

## 11.3 Communications Strategy

11.3.1 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.

The Strategy is based on the principles that all communications are:

- Open, honest, transparent and unambiguous
- Relevant and responsive
- Easy to access
- Inclusive
- Timely

- Consistent, accurate and cohesive

11.3.2 The following key target audiences and stakeholders have been identified:

Table 11.1 – Stakeholder Identification

| Stakeholder Group | Methods of Past, Present and Future Communications |
|---|---|
| Local Residents in Bedfordshire & Luton | Contact will continue to be made through the Council's magazine, *We Love Bedfordshire*, distributed on a bi-monthly basis, *Lutonline* monthly magazine and via appropriate press releases/adverts in local media, dedicated web pages and exhibition trailer roadshows. |
| Residents in vicinity of proposed service | Contact will continue be made through relevant Community Liaison Forums such as Parish Councils, direct mail shot letters giving updates of the project, followed by contact with individual households during formal planning consultations, visits to existing facilities, project briefings at Parish Council Meetings |
| Internal audiences, both staff and councillors in Bedfordshire & Luton Councils | Including the County Council, Central Bedfordshire, Bedford Borough Council, Luton Borough Council, Bedfordshire Town and Parish Councils, all elected politicians, relevant Officers and Staff.<br>Contact made through Members Bulletins, Briefings, newsletters, workshops and seminars, and visits to existing facilities. |
| Government Department, Regulators, Local MP's and MEP's | Including MPs, MEPs, Defra, East of England Regional Assembly (EERA), 4Ps, PUK, the EA and Go East. Contact to be made through written correspondence and meetings. |
| Media | 'Own' media such as, *We Love Bedfordshire* and *Lutonline* and Bedfordshire County Council's website (links to be set up from Luton Borough Council website).<br>External media such as Local Newspapers, Trade Press Local radio and TV.<br>Press releases, press briefings and media interviews. |
| Pressure, Environmental Groups & Community sector | Relevant pressure and environmental groups, including;<br>Marston Vale Forest, Marston Vale Millennium Country Park, Greenpeace, Friends of the Earth, Bedfordshire Climate Change Forum, Wildlife Trust, Natural England, Reuse charities<br>Contact to be made through briefing packs, dedicated web pages and individual written correspondence. |
| External Advisers | External legal, technical and financial advisers have been appointed to support Bedfordshire County Council in its procurement process. |

| | |
|---|---|
| Professional & Trade Associations | Including CIWM, CBI, Chamber of Commerce & CHPA<br>Contact made through written correspondence and meetings. |
| Neighbouring Landowners, Tenants and Businesses | Including Stewartby Landfill WRG, Broadmead Business Park, Marston Vale Forest Centre, Cranfield University & School of Management, Millbrook Testing ground.<br>Contact through Parish Council liaison, direct mail shot letters giving updates of the project, followed by contact with individuals during formal planning consultations. |
| Potential Service Providers | Potential waste solution providers have been approached via soft marketing events and shall continue to be contacted at appropriate stages. A notice shall be published in the Official Journal of the European Union when the procurement stage of the project formally goes to market. A further soft market testing event and bidder's days are planned for 2009. |
| Neighbouring Authorities | Milton Keynes Council, Northamptonshire County Council, Hertfordshire County Council, Cambridgeshire County Council, Buckinghamshire County Council.<br>Contact made through meetings, liaison Forums and direct contact. |

## 11.4 Market Interest

11.4.1 The BEaR project team have undertaken market testing events (October 2004 and December 2005) 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 in the project and were comfortable with the procurement approach, contract length and funding route.

11.4.2 A final soft market testing event is planned early 2009 to maintain a high profile of the project with prospective bidders, to inform them and seek their views on how the procurement should be structured.

## 11.5 Other Relevant Authorities

11.5.1 Extensive consultation has taken place between all the local authorities in Bedfordshire, both at officer and elected member level. Luton Borough Council's Executive Committee confirmed they would like to join the BEaR project at the Executive meeting held on 15 July 2008. This has been a significant accomplishment towards achieving a sustainable long-term waste management strategy for Bedfordshire Authorities and Luton in Partnership. The BEaR Project team also engages with other neighbouring

authorities both directly and through forums such as the East of England Regional Assembly (EERA).

## 11.6 Public Engagement

11.6.1 A full consultation was launched in January 2006 to ascertain the public's views on how Bedfordshire should manage its waste in the future. The consultation included an article in the Bedfordshire Magazine, accompanied by a pull-out questionnaire. Press releases related to the consultation were supported through the local press. A series of roadshows were also conducted in support of the consultation. When residents 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.

11.6.2 A project specific micro-website was also launched in 2006 to provide background information about the project, contact information and a Frequently Asked Questions page. Several press releases relating to the project have been issued and related articles have been placed in the BCC magazine delivered to all households.

11.6.3 Extensive community sector engagement has also been identified as a vital element that will strengthen and improve service delivery, ultimately leading to a more sustainable waste solution for Bedfordshire and Luton. Bedfordshire Authorities recognise that third sector organisations will continue to play a key role assisting authorities in waste minimisation, ultimately contributing towards waste strategy objectives being accomplished. Projects with the third sector have included a Recycling Credits scheme, direct financial and officer support and publicity.

11.6.4 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 and the plans that Bedfordshire Authorities have for future consultation with residents. This has been supported by presentations to the local Parish Councils, which were held in May 2008.

11.6.5 Bedfordshire Authorities plan to organise further visits to EfW facilities, inviting members and residents from Parish Councils close to the proposed site.

## 11.7 Summary

11.7.1 Bedfordshire Authorities strongly believe that continued open and honest stakeholder engagement and involvement will strengthen support for the project and contribute to successful project delivery. Many of the communication techniques mentioned above are ongoing, particularly when key project milestones are achieved. Continued communications via internal and external channels will ensure stakeholders are kept informed

and updated with reliable information and will reinforce the widespread support from the residents of Bedfordshire and Luton.