

IN PARLIAMENT
HOUSE OF LORDS
SESSION 2010-12

THE ROOKERY SOUTH (RESOURCE RECOVERY FACILITY) ORDER 2011

PETITION
for Amendment

TO THE HOUSE OF LORDS.

THE PETITION OF BEDFORD BOROUGH COUNCIL

DECLARES THAT:

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

Residual waste

3. The Overarching National Policy Statement for Energy EN-1 ("the Statement") sets out national policy for certain energy infrastructure, including the type of infrastructure provided for in the Order. For applications for permission to

develop such infrastructure the Statement, when combined with the relevant technology-specific energy National Policy Statement, provides the primary basis for decisions by the IPC.

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

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

5. Paragraph 3.4.3 makes clear that only such waste which can not be reused or recycled and which would otherwise go to landfill should be subject to combustion at an EfW facility. The Statement does not allow or support an approach where waste may be sent to the Facility where it can otherwise be reused or recycled.. There are sound reasons for this, not least since rates of recycling vary from area to area. (For example, recycling rates in the London boroughs vary from 17% to 55%). Unless a suitable system is in place, recyclable materials that could be retrieved from black bag waste are not recycled and are instead used for energy recovery or go to landfill. To this end some large treatment facilities (such as the Mechanical Biological Treatment Plant operated by Amey/Cespi at Waterbeach in Cambridgeshire) extract recyclables from black bag waste prior to treatment. No such system is proposed to be implemented at the Facility.
6. Paragraph 2 (Type of waste to be treated) of Part 2 of Schedule 1 (Authorised development and requirements) of the Order states –

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

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

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

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

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

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

10. The Order does not define "residual waste".

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

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

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

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

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

The catchment area

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

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

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

"Catchment area

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

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

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

The Bedford to Milton Keynes Waterway Park

19. Your Petitioner is also concerned by the detrimental impact that the Facility would have on the proposed Bedford to Milton Keynes Waterway Park (“the Park”) which is identified as a strategically significant green infrastructure project in policy ENV1 of the East of England Regional Plan.
20. Provision is also made in your Petitioner’s local planning policy. For example in policy CP22 of your Petitioner’s DPD Core Strategy and Rural Issues Plan, adopted in April 2008, which states: “As a contribution to the greenspace network, tourism and the vitality of the town centre, the creation of the Bedford to Milton Keynes canal will be supported”. It further states that “where appropriate, development will provide green infrastructure in accordance with adopted local standards. Where provision on site is not possible or preferred, a contribution towards off-site provision or, where appropriate, enhancement will be required”.
21. Policy CP22 also states that “where necessary and appropriate, the council will seek the use of planning obligations to secure a contribution towards the cost of future management and maintenance of green infrastructure”. Therefore policy CP22 can be relied on to require development to include provision about green infrastructure.
22. Your Petitioner’s draft Allocations and Designations Plan (“the draft Plan”) states, at Policy AD31, that “where appropriate, development will deliver or contribute to the protection, enhancement and/or creation of green infrastructure in accordance with the priorities set out for each Green Infrastructure Opportunity Zone”. The creation of the Bedford to Milton Keynes Waterway is identified as a priority for Zone 4, Bedford to Milton Keynes – Marston Vale.

23. Policy AD34 of the draft Plan relates to the Waterway, stating that "the borough council will support the creation of the Bedford to Milton Keynes Waterway Park as a strategic green infrastructure link... Where appropriate, development will be expected to contribute towards the creation and delivery of the Waterway Park."
24. It is expected that the draft Plan will be adopted in summer 2012. It is noteworthy that during the consultation on the pre-submission draft which was undertaken in Summer 2011, no negative comments were received regarding the proposed policy relating to the Waterway, the designation of the Waterway, or the principle of including delivery of the Waterway in allocated sites along the Waterway route, and comments in respect of the Green Infrastructure policy were positive in general, with some detailed comments regarding the Green Infrastructure Zones. Therefore there are no changes proposed as a result of the consultation on the draft Plan to the Green Infrastructure policy, the Waterway policy, or the principle of including the delivery of the Waterway as part of the development of allocated sites along the Waterway route.
25. The priority given to the delivery of the Waterway, when considering development proposals along its proposed route is demonstrated by the approach to recent development proposals through the site allocations process, and through other development schemes, for example the new A421 road, which incorporated structures to accommodate the Waterway and associated foot and cycleway.
26. The route of the proposed Waterway cuts across Green Lane close to its junction with the C94. The Waterway is intended to follow a wide ditch that runs to the west of Stewartby Lake south of Green Lane, under Green Lane and then following the line of a ditch to the west of Stewartby landfill site before turning northwards towards Bedford.
27. As mentioned above, a culvert has already been constructed in the new A421 to the west of Stewartby landfill and this both facilitates the provision of the Waterway and restricts flexibility in respect of its route near Green Lane.
28. While there is no reason to think that it would not be possible to retrofit the Waterway under Green Lane once the Facility is in operation, structural modifications by way of a culvert or bridge would be required. The cost of

retrofitting would be greater than the cost of accommodating the Waterway as part of the construction before the Facility is operational. Retrofitting would also have a disruptive impact on traffic along Green Lane, which would be to the disadvantage of the applicant for the Order.

29. The simplest and most cost effective way to retrofit the Waterway would be to close Green Lane completely while the works authorised by the Order were undertaken and your Petitioner considers it reasonable that the accommodation works should be delivered before the Facility is operational.
30. To accommodate the Waterway, structures are required for the Waterway and associated foot and cycle way to pass under Green Lane and the Copart Access Road, and a short section of Waterway and associated foot and cycleway between these structures will be required. These elements have been identified as the minimum required in order to accommodate the route and deliver the Waterway through the site.
31. Your Petitioner therefore requests that the following amendments be made to the Order –
 - (a) In Part 2 of Schedule 1 (Authorised development and requirements) under the heading “Interpretation” insert the following definitions in the appropriate places –

““BMKW Specification” means enabling the provision of—

- (a) a 6 metres minimum navigable water width for the Waterway;
- (b) a 3 metres minimum width foot and cycle way that complies with current disability discrimination requirements;
- (c) 2 metres minimum water depth for the Waterway;
- (d) 3 metres minimum air draft from the surface of the Waterway;
- (e) 100 metres minimum radius bends on the Waterway;

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

“BMKW Works Phase 2” means either

- (a) the provision of a box culvert or an alternative design bridge to accommodate the route of the Waterway across the Copart Access Road, Marston Moretaine in accordance with the BMKW Specification; or
- (b) the removal of the existing culvert under the current line of the Copart Access Road, Marston Moretaine, and the provision of a foot and cycle bridge across the route of the Waterway; and
- (c) the clearance of the vegetation in the Watercourse Channel;

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

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

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

“the Waterway” means the proposed Bedford and Milton Keynes Waterway.”

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

“Bedford and Milton Keynes Waterway

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

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

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

THE PETITIONER THEREFORE
REQUESTS

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

AND THE PETITIONER remains, etc.

SHARPE PRITCHARD

Agents for Bedford Borough
Council

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AGAINST,
BY COUNSEL, &c.

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