

PLANNING POLICY CONTEXT FOR ROOKERY SOUTH RRF

Covanta's proposals for the Rookery South Resource Recovery Facility (RRF) involve both an Energy from Waste (EfW) Facility, a post treatment materials recovery facility (MRF) and associated/ancillary development, including new access, green infrastructure, rights of way improvements and a visitor centre. The proposed EfW Facility is an electricity generating plant having an annual capacity in excess of 50 MWe. Having this capacity, the RRF proposal (the Project) is being promoted under the Planning Act 2008 (the Act) by an application for a Development Consent Order (DCO) to the Infrastructure Planning Commission (IPC). As such, decisions on planning in relation to the RRF fall to be determined differently to a proposal which is promoted under the Town and Country Planning Act 1990 – the more normal route followed for planning permission. Nonetheless, planning policy is still (or may be) an important and relevant consideration in the determination of an application to the IPC. This note presents the planning policy context, and related considerations, as relevant to the Rookery South RRF.

The EfW Facility has the capacity to recover 65MW of energy (in the form of electricity) over 50% of which is renewable. This amount of electricity would supply the needs of approximately 82,500 homes, which is roughly equivalent to the residential requirements of Bedford, Ampthill, Marston Moretaine, Wootton, Houghton Conquest, Lidlington and Stewartby combined. In addition, the EfW Facility will be designed to operate as a combined heat and power (CHP) plant, enabling the supply of heat to third party developments. Potential customers are being explored (e.g. NIRAH, the Wixhams development and Centre Parcs).

This document sets out a preliminary assessment of relevant planning and other policy. The formal views of Covanta's expert team will be contained in the documents that accompany the application for the RRF.

1 IDENTIFYING RELEVANT POLICY DOCUMENTS

Section 104 of the Act requires that a decision of the IPC should be made in accordance with the relevant national policy statement (NPS) except in very limited circumstances. A number of draft NPSs have been published for consultation and the two that are relevant to the Project are:

- Draft Overarching National Policy Statement for Energy, November 2009 (draft NPS EN-1); and
- Draft National Policy Statement for Renewable Energy Infrastructure, November 2009 (draft NPS EN-3).

The consultation on these NPSs closes on 22 February 2010. The documents, and information on consultation, can be found at:
<https://www.energyngpsconsultation.decc.gov.uk/>

These NPSs incorporate requirements for the IPC to have regard to other planning documents, including the development plan and waste development plan documents for the relevant area.

The development plan for Rookery South pit is subject to change as the format and content of the relevant documents are reviewed or changed in order to comply with the Planning and Compulsory Purchase Act 2004. This requires local planning authorities to put local development frameworks in place. The adopted development plan for the Project is considered to comprise:

- The East of England Plan 2001-2021, May 2008 (EoE Plan);

- Milton Keynes and South Midlands Sub Regional Strategy, March 2005;
- Bedfordshire and Luton Minerals and Waste Local Plan First Review, adopted January 2005 (Minerals and Waste Local Plan); and
- Central Bedfordshire Core Strategy and Development Management Policies, adopted November 2009 (CBC Core Strategy).

There are also a number of documents which, whilst not strictly part of the adopted development plan, are likely to constitute important and relevant considerations in respect of the Project. These documents are set out below starting with the European level.

European

Providing the framework for the national, regional and local policy of relevance to this Project is the law contained in three key European Directives:

- Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC (the Renewable Energy Directive).
- Directive 2006/12/EC of the European Parliament and of the Council of 5 April 2006 on waste (the Waste Framework Directive or WFD); and
- Directive 2000/76/EC on the incineration of waste (the Waste Incineration Directive or WID).

National

The Government's approach to planning policy is contained in planning policy statements, ministerial circulars, white papers and other Government documents. Those relevant to this Project include:

- Planning Policy Statement 1: Delivering Sustainable Development, January 2005 ;
- Planning Policy Statement 1: Planning and Climate Change Supplement to Planning Policy Statement 1, December 2007 (PPS 1 Supplement);
- Planning Policy Statement 7: Sustainable Development in Rural Areas, August 2004;
- Planning Policy Statement 9: Biodiversity and Geological Considerations, August 2005;
- Planning Policy Statement 10: Planning for Sustainable Waste Management, July 2005 (PPS 10);
- Planning Policy Guidance Note 13: Transport, April 2001;
- Planning Policy Guidance Note 14: Development on Unstable Land, April 1990;
- Planning Policy Guidance Note 15: Planning and the Historic Environment, September 1994;
- Planning Policy Guidance Note 16: Archaeology and Planning, November 1990;
- Planning Policy Guidance Note 17: Planning for Open Space, Sport and Recreation, July 2002;
- Planning Policy Statement 22: Renewable Energy, August 2004 (PPS 22);
- Planning Policy Statement 23: Planning and Pollution Control, November 2004;
- Planning Policy Guidance Note 24: Planning and Noise, October 2004;
- Planning Policy Statement 25: Planning and Flood Risk, December 2006;
- UK Renewable Energy Strategy, July 2009;
- UK Low Carbon Transition Plan, National Strategy for Climate and Energy, July 2009;
- Energy White Paper: Meeting the Challenge, May 2007; and
- Waste Strategy for England, May 2007.

Regional

- Technical Paper on Waste for the Review of the East of England Plan, September 2009.

Local

- Bedfordshire and Luton Waste Core Strategy: Issues and Options, October 2007;
- Bedfordshire and Luton Waste Site Allocations Document: Issues and Options October 2007;
- Bedfordshire Authorities Municipal Waste Management Strategy, April 2006;
- Bedfordshire Energy and Recycling Project (BEaR) documents;
- Bedford Borough, Core Strategy and Rural Issues Plan, April 2008;
- Bedford Borough, Climate Change and Pollution Supplementary Planning Document, December 2008; and
- Marston Vale Forest Plan, 2000.

2 KEY POLICIES

Energy

The draft NPS EN-1 makes clear the significant need for new major energy generating infrastructure and advises the IPC that it should start its assessment on the basis that need has been demonstrated. Further, the IPC is not required to consider the relative advantages of one technology over another. This policy is aimed at security of energy supply, provided through a diverse range of generating technologies.

Draft NPS EN-1 presents five objectives for the power generation industry to assist in delivery of the Government's climate change plan:

- To help deliver the UK's obligation to reduce greenhouse gas emissions by 80% by 2050 and work to the carbon budgets stemming from the Climate Change Act 2008, within the context of the EU Emissions Trading System.
- To ensure that investment provides security of energy supply through a diverse and reliable mix of fuels and low carbon technologies – renewables, nuclear and fossil fuel plants fitted with carbon capture and storage.
- To further ensure that investment delivers an electricity grid with greater capacity and the ability to manage larger fluctuations in supply and demand.
- To support the elimination of fuel poverty and protect the vulnerable through ensuring energy infrastructure is delivered in a cost effective way that keeps energy bills as low as possible.
- To contribute to sustainable development by seeking energy infrastructure development that helps reduce climate change while also minimising negative impacts on the local environment.

Draft NPS EN-3 states that electricity generation from renewable energy sources is an important element in the Government's transition to a low-carbon economy.

The UK Renewable Energy Strategy highlights the important enabling role of the planning system to help deliver a step change in the level of renewable energy infrastructure capacity needed to meet ambitious government targets. These targets are intended to ensure that 15% of energy generation within the UK comes from renewable sources by 2020.

Within the Renewable Energy Strategy, the 'lead' scenario for 2020, i.e. the scenario based on the success of the latest renewable energy strategies, suggests:

- more than 30% of electricity will be generated from renewables, which accords with the targets set out in the draft EN-1;
- 12% of heat will be generated from renewables; and
- 10% of transport energy will be generated from renewables.

The PPS 1 Supplement and PPS 22 also provide national policy support for developing a robust renewable energy infrastructure, and are supplemented locally by policy in the EoE Plan, CBC Core Strategy and Bedford Borough Council policy documents.

The East of England Plan urges local authorities to ensure that development in the Region contributes towards medium and long term emissions targets through planning policies. The Plan sets a regional target of 17% energy from renewable sources.

The CBC Core Strategy states that the Council will favourably consider renewable energy proposals as long as they benefit from good accessibility, uphold residential amenity (including noise and visual amenity), not compromise the scenic beauty of the Chilterns AONB and respect the character of the general landscape. In addition, larger residential and non-residential developments are expected to incorporate at least 10% of their energy use from onsite or near-site renewable or low carbon energy generation (unless impracticable or unviable).

One of the objectives of the Bedford Borough Core Strategy and Rural Issues Plan is to promote the use of renewable and low carbon energy sources. Policy requires larger residential and non-residential developments to reduce carbon emission by 10% of that set by the normal requirement in the Building Regulations and that 10% of their energy use should be gained from decentralised and renewable or low carbon energy sources.

The Borough's Climate Change and Pollution Supplementary Planning Document presents guidance relevant to the requirements of policy, recognising combined heat and power as a viable technology suitable to increase the energy efficiency of new, large-scale developments.

Policy (and law) also requires the Project to provide details of how energy will be exported (ie where a connection will be made with the Grid) and to discuss the potential for CHP.

Waste

The draft NPS EN-3 requires the Project to demonstrate the extent of its conformity with the waste hierarchy and the extent to which the RRF proposal contributes to regional waste management targets.

These requirements reflect key principles of the Waste Framework Directive 2008 ⁽¹⁾, namely:

- Member States must establish an 'integrated and adequate' network of waste management facilities – this reflects concepts of 'proximity' and 'self sufficiency' to the extent relevant to projects.

(1) <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:312:0003:0030:EN:pdf>

- To manage waste according to the 'waste hierarchy'. As such the UK should prevent or reduce waste generation as well as its harmfulness. Where prevention and reduction is not possible, waste materials should (in order of priority) be reused, recycled or recovered. Recovery includes being used as a source of energy. If none of the above offers an appropriate solution, waste should be disposed of safely.
- Article 4 of the Directive, requires that risks to the environment and health must be avoided. Measures should be taken to ensure waste is processed:
 - without risk to water, air or soil, or to plants or animals;
 - without causing a nuisance through noise or odours; or
 - without adversely affecting the countryside or places of special interest.

These principles are also contained within the planning objectives set out at paragraph 3 of PPS 10. ⁽¹⁾

In 2008 and 2009 planning permission under section 36 of the Electricity Act 1989 ⁽²⁾ was granted for EfW facilities at Runcorn (known as Ineos Chlor, BERR reference: 01.08.10.04/8C) and at Ince Marshes (DECC reference 01.08.10.04/36C). In both Secretary of State decision letters, the sourcing of fuel (waste) for the EfW Facility is viewed as a commercial matter for the applicant, with each application viewed on its individual merits. In his decision letter on the Ince Marshes application, the Secretary of State further commented that 'neither waste nor energy policy places a rigid cap on the development of waste management capacity' (paragraph 6.4).

The EoE Plan ⁽³⁾ apportions waste management capacity to each sub region (eg Bedfordshire and Luton). The annual rates are not intended to be a detailed forecast but to provide a benchmark for the preparation of waste development plan documents. In addition, the EoE Plan addresses the matter of waste imported into the Region and seeks to limit this through policy WM3:

'... Allowance should only be made for new non-landfill waste facilities dealing primarily with waste from outside the region where there is a clear benefit, such as the provision of specialist processing or treatment facilities which would not be viable without a wider catchment and which would enable recovery of more locally arising wastes.'

Rookery South pit is located to the west of the East of England Region and consequently has a spatial relationship with adjoining regions. As waste is intended to be treated at the facility from outside the Region, the application will consider the benefits and burdens of this importation, in the context of national policy and recent decisions by the Secretary of State.

Government policy, as presented in PPS 10 and applied through the Ineos Chlor and Ince Marshes decisions, is not reflected in the Minerals and Waste Local Plan ⁽⁴⁾. This is not surprising as the Plan was adopted in the same year as PPS 10 was published and so would have been unable to incorporate the relevant policy objectives. A new waste development plan document, that should deliver national policy expectations, is currently being prepared. ⁽⁵⁾

(1) <http://www.communities.gov.uk/documents/planningandbuilding/pdf/147411.pdf>

(2) The current regime for energy plant generating over 50MW, which is replaced by the IPC.

(3) http://www.go-east.gov.uk/goeast/planning/regional_planning/

(4) http://www.centralbedfordshire.gov.uk/images/Adopted%20Plan%202005_tcm5-7715.pdf

(5) http://www.centralbedfordshire.gov.uk/environment-and-planning/planning/local_plans/minerals-and-waste-development-framework.aspx

The policy Covanta considers to have been superseded is MWLP policy W3, which states:

"Proposals for facilities primarily intended for the management of imported wastes by any means other than land fill will not be granted permission."

3 *IMPACTS FROM DEVELOPMENT*

There will be local environmental impacts from the RRF proposal, both positive and negative. The application will need to demonstrate that positive impacts have been enhanced and that negative impacts have been either designed out or mitigated so that the effects are not significantly detrimental. To enable this understanding, the application for the RRF to the IPC will be accompanied by an Environmental Statement. This will consider a wide range of topics, including:

- Transport & Access;
- Air Quality;
- Noise & Vibration;
- Cultural Heritage;
- Landscape & Visual Effects;
- Ecology & Nature Conservation;
- Land & Water Quality;
- Hydrology & Flood Risk;
- Socio-economics;
- Archaeology;
- Waste Management;
- Utilities; and
- Impact Interactions & Cumulative Effects.

The Environmental Statement will also consider effects upon human health.

The Environmental Statement will also report on those alternatives considered, principally in regard to site location, site design and transport options.

Drawing on the Environmental Statement, the application will address the development management objectives set out in the development plan and the Marston Vale Forest Plan, 2000. The East of England Plan identifies the Forest of Marston Vale as one of only two green infrastructure assets of particular regional significance in Bedfordshire (policy ENV1) and specifically supports the target of creating 30% woodland cover across the Forest area (policy ENV5). The application will demonstrate how it will need to make a significant and positive contribution to the regeneration of the Marston Vale (Minerals and Waste Local Plan policy GE2, CBC Core Strategy policy CS16, Bedfordshire and Luton Strategic Green Infrastructure Plan) through exemplary design, landscaping, habitat creation and improvements to the rights of way network.

4 *SITE CHOICE*

Waste specific

The BEaR Project undertook an extensive site search in order to identify a reference site for delivery of the residual waste management plant. Rookery South pit was concluded to be the preferred location. The site is not specifically allocated in a development plan document for waste related development, although the MWLP Inspector recognised that it had a role to play in sustainable waste management. Further, it is not expressly excluded from waste uses.

In his decision letter on the Ineos Chlor proposal, the Secretary of State concluded that 'the choice of a specific location of a generating station is a commercial matter for the applicant, subject to meeting environmental and planning considerations.' (paragraph 3.5 e). At Ince Marshes, it is commented that 'the need for a study of broad locations (in line with paragraph 12 of PPS 10) reflects the acceptance of a large scale capacity gap and need for additional sites.' (paragraph 6.4)

Paragraph 12 of PPS 10 states:

The pattern of waste management facilities should look forward over a sufficient period to prove attractive to investment but not constrain movement up the waste hierarchy. Regional planning bodies should identify in the RSS the broad locations where the pattern of waste management facilities should be accommodated.

At paragraph 20, PPS 10 advises that in searching for sites and areas suitable for new or enhanced waste management facilities, waste planning authorities should:

- consider opportunities for on-site management of waste where it arises;
- consider a broad range of locations including industrial sites, looking for opportunities to collocate facilities and with complementary activities.
- give priority to the re-use of previously-developed land, and redundant agricultural
- and forestry buildings and their curtilages.

It further advises (at paragraph 21) that the following criteria should be considered in assessing a site's suitability:

- the extent to which they support the policies in the PPS;
- the physical and environmental constraints on development, including existing and proposed neighbouring land uses (see Schedule A to this note);
- the cumulative effect of previous waste disposal facilities on the well-being of the local community, including any significant adverse impacts on environmental quality, social cohesion and inclusion or economic potential;
- the capacity of existing and potential transport infrastructure to support the sustainable movement of waste, and products arising from resource recovery, seeking when practicable and beneficial to use modes other than road transport.

Minerals and Waste Local Plan policies W7 and W13 identify the following locations as suitable for development of integrated waste management systems:

- as part of an integrated waste management facility [policy W13 only]; or
- within the area of an existing planning permission for a waste management related use; or
- on land designated for general industrial (B2) use; or
- on areas of despoiled, contaminated or derelict land.

Spatial policy

Alongside Bedford and Kempston, the Northern Marston Vale is designated as a 'Key Centre for Development and Change' within the EoE Plan (Policy SS3). Policy H1 identifies a total of 19,500 houses to be built in this area, of which the Plan identifies that over 17,000 are still to be provided.

The Milton Keynes and South Midlands Sub Regional Strategy focuses on meeting the housing and employment infrastructure required to achieve the economic goals of the sub region. It promotes development within the Northern Marston Vale and states that opportunities for resource efficiency and the use of renewables should be taken.

The CBC Core Strategy (covering the former Mid Bedfordshire area) present the Council's vision, objectives and policies for the plan area. Rookery Pit lies within the Northern Marston Vale Strategic Area (policy CS1), which is identified for planned growth that will bring about: environmental regeneration; support the urban renaissance of Bedford; and make the Vale a more attractive place to live, do business and enjoy leisure time. This policy also states that sites for the development of new homes, jobs and key infrastructure will be identified in forthcoming DPD.

The application will demonstrate that Rookery South is an appropriate site at which to locate the RRF proposal. This will be addressed through an alternative site search that will be reported in the documents accompanying the DCO application.

5 CONSULTATION

The Act makes it clear that early and effective public consultation will play an important part in the progress and success of projects. The Act requires an applicant to consult on its development proposals prior to submitting these to the IPC. ⁽¹⁾

Government guidance makes clear that a 'one size fits all' approach to consultation is not appropriate and there will be a variety of ways in which the requirement to consult persons living in the vicinity of the land may be satisfied. This will vary depending on the type of proposal and the nature of the community. As well as geographical considerations, the applicant must also consider those who work or use the area and interest groups - examples of consultation techniques that might be adopted including local exhibitions, workshops, telephone advice lines, the internet and the media. Applicants are encouraged to consider iterative phased consultation consisting of two (or more) stages. The guidance also advises that consultation will need to be proportionate.

Section 55(3) of the Act requires that the IPC must be satisfied that the promoter has properly discharged its duties in respect of pre-application consultation before it can accept an application. In doing so it must have regard to the extent to which the promoter has had regard to any guidance issued under section 50 of the Act.

In brief, the Act requires promoters to:

- consult a range of statutory consultees;
- set a deadline of at least 28 days by which responses to consultation must be received;
- notify the IPC of the proposed application;
- consult the relevant local authority on what should be in the promoter's Statement of Community Consultation (SOCC), which will describe how the promoter proposes to consult the local community about the proposals;
- have regard to the local authority's response to that consultation in preparing the SOCC;
- publish the statement in a locally circulating newspaper, and as required by secondary legislation, and carry out consultation in accordance with the SOCC;
- publicise the proposed application in accordance with regulations in secondary legislation;
- have regard to relevant responses to publicity and consultation; and
- prepare a Consultation Report and submit it to the IPC.

It is important that by the end of the principal consultation process, it is possible to clearly establish the following:

- What has been undertaken and why - the SOCC providing the context for this.

(1) <http://infrastructure.independent.gov.uk/>

- To produce, in effect, an audit trail of what has occurred – outlining how the issues raised during consultation have been addressed.
- To demonstrate/provide evidence that can be taken into account in the planning application process.

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SCHEDULE A

PPS 10, ANNEX E - Locational Criteria

In testing the suitability of sites and areas against the criteria set out in paragraph 20, waste planning authorities should consider the factors listed below. They should also bear in mind the envisaged waste management facility in terms of type and scale, taking account of best available technologies (not involving excessive costs). Advice on likely impacts and the particular issues that arise with specific types and scale of waste management facilities is given in accompanying practice guidance.

a. protection of water resources

Considerations will include the proximity of vulnerable surface and groundwater. For landfill or land-raising, geological conditions and the behaviour of surface water and groundwater should be assessed both for the site under consideration and the surrounding area. The suitability of locations subject to flooding will also need particular care.

b. land instability

Locations, and/or the environs of locations, that are liable to be affected by land instability will not normally be suitable for waste management facilities.

c. visual intrusion

Considerations will include (i) the setting of the proposed location and the potential for design-led solutions to produce acceptable development; (ii) the need to protect landscapes of national importance (National Parks, Areas of Outstanding Natural Beauty and Heritage Coasts).

d. nature conservation

Considerations will include any adverse effect on a site of international importance for nature conservation (Special Protection Areas, Special Areas of Conservation and RAMSAR Sites) or a site with a nationally recognised designation (Sites of Special Scientific Interest, National Nature Reserves).

e. historic environment and built heritage

Considerations will include any adverse effect on a site of international importance (World Heritage Sites) or a site or building with a nationally recognised designation (Scheduled Monuments, Conservation Areas, Listed Buildings, Registered Historic Battlefields and Registered Parks and Gardens).

f. traffic and access

Considerations will include the suitability of the road network and the extent to which access would require reliance on local roads.

g. air emissions, including dust

Considerations will include the proximity of sensitive receptors and the extent to which adverse emissions can be controlled through the use of appropriate and well-maintained and managed equipment and vehicles.

h. odours

Considerations will include the proximity of sensitive receptors and the extent to which adverse odours can be controlled through the use of appropriate and well-maintained and managed equipment.

i. vermin and birds

Considerations will include the proximity of sensitive receptors. Some waste management facilities, especially landfills which accept putrescible waste, can attract vermin and birds. The numbers, and movements of some species of birds, may be influenced by the distribution of landfill sites. Where birds congregate in large numbers, they may be a major nuisance to people living nearby. They can also provide a hazard to aircraft at locations close to aerodromes or low flying areas. As part of the aerodrome safeguarding procedure (ODPM Circular 1/2003) local planning authorities are required to consult aerodrome operators on proposed

developments likely to attract birds. Consultation arrangements apply within safeguarded areas (which should be shown on the proposals map in the local development framework).

The primary aim is to guard against new or increased hazards caused by development. The most important types of development in this respect include facilities intended for the handling, compaction, treatment or disposal of household or commercial wastes.

j. noise and vibration

Considerations will include the proximity of sensitive receptors. The operation of large waste management facilities in particular can produce noise both inside and outside buildings. Intermittent and sustained operating noise may be a problem if not kept to acceptable levels and particularly if night-time working is involved.

k. litter

Litter can be a concern at some waste management facilities.

l. potential land use conflict

Likely proposed development in the vicinity of the location under consideration should be taken into account in considering site suitability and the envisaged waste management facility.

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