

RECORD OF EXECUTIVE DECISION TAKEN BY AN EXECUTIVE MEMBER

This form **MUST** be used to record any decision taken by the Elected Mayor or an individual Executive Member (Portfolio Holder).

The form must be completed and passed to the Chief Officer Democratic and Registration Services no later than NOON on the second working day after the day on which the decision is taken. No action may be taken to implement the decision(s) recorded on this form until 7 days have passed and the Chief Officer Democratic and Registration Services has confirmed the decision has not been called in.

1. Description of decision

To approve a further contribution of £2,499 i.e. £2,999 in total (*includes the previous award £500*) if Bedfordshire Against Covanta Incinerator Group are granted leave to appeal the decision of the High Court. This extra contribution is in order to support an "appeal" following the unsuccessful judicial review by BACI Bedfordshire Ltd to challenge the decision to award an Environmental Permit under the Environmental Permitting Regulations (EPR) in respect of a proposed Resource Recovery Facility close to the village of Stewartby.

2. Date of decision

20th December 2018

3. Reasons for decision

To contribute to the proceedings outlined in the description above in view of the anticipated adverse impact the proposed Resource Recovery Facility will have on that area of the Borough.

4. Alternatives considered and rejected

Not to make a further contribution sum available could have detrimental implications for the appeal proceedings identified if granted.


5. How decision is to be funded

The sum is to be funded from the general contingency.

6. Conflicts of interest

Name of all Executive members who were consulted AND declared a conflict of interest.	Nature of interest	Did Standards Committee give a dispensation for that conflict of interest? (If yes, give details and date of dispensation)	Did the Chief Executive give a dispensation for that conflict of interest? (If yes, give details and the date of the dispensation).

The Mayor has been consulted on this decision

Signed  Date 20/12/2018 Name of Decision Taker ... Dave Hodgson, Mayor.....

This is a public document. A copy of it must be given to the Chief Officer Democratic and Registration Services as soon as it is completed.

Date decision published: 21st December 2018

Date decision can be implemented if not called in: 14th January 2019

(Decision to be made exempt from call in..... ~~YES~~ or NO.....)

Report by - Chief Officer for Environment

SUBJECT - To approve a further contribution of funding to Bedfordshire Against Covanta Incinerator Group.

1 Executive Summary

To approve a further contribution of £2,499 i.e. £2,999 in total (*includes the previous award £500*) if Bedfordshire Against Covanta Incinerator Group are granted leave to appeal the decision of the High Court. This extra contribution is in order to support an “appeal” process following the unsuccessful judicial review by BACI Bedfordshire Ltd to challenge the decision to award an Environmental Permit under the Environmental Permitting Regulations (EPR) in respect of a proposed Resource Recovery Facility close to the village of Stewartby.

2 Recommendations

That the Mayor considers, and if satisfied, agrees to:

Approve a further contribution of £2,499 if required to Bedfordshire Against Covanta Incinerator Group

3 Reasons for Recommendations

To contribute to the proceedings of an appeal following the unsuccessful judicial review challenge in view of the anticipated adverse impact the proposed Resource Recovery Facility will have on that area of the Borough.

4 Key Implications

(a) Policy

Corporate Plan: - (themes taken from the 2017-21 Corporate Plan)

The Council's Corporate Plan 2017-2021, Bedford Borough – the place to grow, focuses on four goals to get the best for the people of Bedford Borough. This funding meets two of these goals. ‘Enhance Places’ – enhancing the local areas we are responsible for, and encouraging positive activities; and ‘Empower Communities’ – individuals, communities and associations coming together.

(b) Legal Issues

External legal advice has been sought in relation to the risk to the Council of a third party cost order being made. The risk of such an order is reduced where a crowd funding scheme supports the litigation and in particular where any contribution from a third party is not substantial in relation to the total costs of the sum of the crowdfunding.

(c) Resource Implications

There are no conditions or future costs associated with providing this contribution and funding can be met from existing budgets.

(d) Risk Implications

As identified in the legal section above in relation to third party cost orders.

To not make the contribution sum available could have detrimental implications for the proceedings identified.

(e) Environmental Implications

By contributing to these proceedings it is perceived this will have a positive impact on the environment should the judicial review challenge be successful it will improve the air quality in that area of the Borough.

(f) Equalities Impact

In preparing this report, due consideration has been given to the Borough Council's statutory Equality Duty to eliminate unlawful discrimination, advance equality of opportunity and foster good relations, as set out in Section 149(1) of the Equality Act 2010.

There are no equality and diversity implications in connection with the proposals that are set out in this report, and no differential impacts are reasonably foreseeable.

5 Details

Following a protracted process featuring significant engagement by local groups and residents and opposition by Central Bedfordshire Council and Bedford Borough Council, Covanta was given consent following the granting of a Development Consent Order (DCO) originally on 13 October 2011, by a Panel of Commissioners appointed by the Infrastructure Planning Commission (IPC) to build an Resource Recovery Facility at the Rookery Pit South site that would burn 585,000 tonnes of waste a year generating 65MW of energy.

Although Covanta has been granted consent to build the Resource Recovery Facility and associated buildings in order to operate the buildings as an facility Covanta was required to apply for an Environmental Permit, it is this process and the Environment Agency which was challenged in court on 10 and 11 October 2018. This initial challenge was unsuccessful thus this extra contribution (*if required*) is in order to support an "appeal" process.

This extra funding will support the Bedfordshire Against Covanta Incinerator Group in relations to the costs of this appeal challenge.

Bedfordshire Against Covanta Incinerator (BACI) is a campaign group which describes itself as a 'coalition of Residents, Parish & Borough Councillors and Action Group Members opposed to the Covanta's Resource Recovery Facility.' The group launched a 'crowdfunding' appeal for donations to fund the costs of the initial Judicial Review proceedings and is now seeking extra funding for an appeals process should it proceed against the decision to award an environmental permit for the operation of the proposed Resource Recovery Facility at Rookery South Pit. .

Bedford Borough Council and Central Bedfordshire Council have also opposed the award of the environmental permit via their submission to the Environment Agency.

6 Summary of Consultations and Outcome

The following Council Units or Officers and/or other organisations have been consulted in preparing this report:

Consultation has been undertaken with:

Management Team
Finance
Legal

No adverse comments have been received.

7 Ward Councillor Views

Not applicable

Report Contact Officer: Paul Pace – Chief Officer Environment, paul.pace@bedford.gov.uk / ext. 47275

Previous Relevant Minutes: None

Background Papers: [Link: https://www.bbc.co.uk/news/uk-england-beds-bucks-herts-46116430](https://www.bbc.co.uk/news/uk-england-beds-bucks-herts-46116430)

Appendices: None