

Meeting: Joint Waste Committee

Date: 11 November 2005

Report of: Director of Transport and Environment, East Sussex
County Council, and;
Director of Environment, Brighton & Hove City Council

Subject: East Sussex and Brighton & Hove Waste Local Plan –
Next Stages

Ward(s) affected: All

1. Purpose of the report

- 1.1 To advise the Joint Waste Committee of progress being made in moving the Waste Local Plan (WLP) forward to adoption and a proposed timetable for its adoption.

2. Recommendations

That the Joint Waste Committee note the report.

3. Information

3.1 Background

- 3.1.1 The information in this section is that which is being reported to the City Council's Policy and Resources Committee on 9 November 2005 and County Council Cabinet on 15 November 2005.

- 3.1.2 On 10 February 2005, the Councils published a response to the recommendations contained in the Planning Inspector's Report on the Inquiry into objections to the WLP for a statutory six-week period of consultation. 8,429 individuals, businesses and organisations made comments. In August the Councils published summaries of the representations, although not statutorily obliged to do so. A considerable number of representations were in the form of standard letters, with at least 10 different forms. The objections relate mainly to the Councils' rejections

of the Inspector's recommendations to safeguard additional locations for waste facilities, and increase the Plan's recycling and recovery targets.

3.1.2 Analysis of the comments is complete and we do not consider that the objections raise any new matters, which materially affect the content of the Plan and which would require consideration at a further Public Inquiry. In addition, it is not considered necessary to make any substantive changes to the Plan.

3.1.3 Both Councils are now going through the formal process of considering their options, and are being recommended to adopt the WLP. Members of this Committee will have received the associated reports to Brighton & Hove City Council's Policy and Resources Committee and East Sussex County Council's Cabinet. The impact of the decisions made by both Councils, regarding adoption of the Waste Local Plan, on the development of waste management facilities, will be reported to a future meeting of this Committee.

3.2 Changes to National and Regional Policy on Waste Planning

3.2.1 In the last few months, there have been two key developments in national and regional policy on waste planning, which need consideration. They are:-

- in July, publication of National Planning Policy Statement 10 (PPS10) - 'Planning for Sustainable Waste Management';
- in August, publication of the Government's proposed changes to Regional Planning Guidance for the South East ('RPG9') concerning waste.

3.2.2 Amongst other things, PPS10 replaces 'Best Practicable Environmental Option' (BPEO), as a principle of decision-making concerning the development of waste management facilities, with the requirement for Sustainability Appraisal. The BPEO principle is currently reflected in the WLP's Strategy.

3.2.3 The changes to the partial review of RPG9, concerning waste, retain regional waste recycling and recovery targets that exceed those in the WLP and it is likely that the Government will ultimately endorse these targets. The WLP Inspector had used the higher targets in the original draft Regional Waste Management Strategy partly to justify his recommendation for increases in the WLP's targets.

3.2.4 At this late stage there is no intention to modify the WLP to reflect the changes outlined above. Instead appropriate references to changes in policy will be included as 'statements of fact' in the Plan's text. This

approach has been discussed with GOSE, which has indicated that it would be reasonable content for the Councils to proceed on this basis. The Councils are already committed to ensuring that these changes are considered in the Councils' review of the Plan, via the production of a new Waste Development Framework, as soon as practicable.

3.3 Call-in and Legal Challenge

3.3.1 Up to the time before adoption the Secretary of State could call the Plan in or issue a direction not to adopt. In addition, several objectors have signaled a possible intention to challenge any decision of the Councils' to adopt the WLP.

3.4 Timetable

3.4.1 The timetable for adoption of the Plan is set out in the Appendix.

3.5 Waste Development Framework

3.5.1 Transitional arrangements allow for the policies in the WLP to be saved for at least three years. In some cases it may be possible to extend this period where the policies are compatible with new guidance on the content of Waste Development Frameworks (WDF) but there is no guarantee of an extension. A timetable for preparation of the WDF will be prepared in due course and this will be reported to Members for their approval. It is possible that the Joint Strategic Planning Advisory Committee (JOSPAC) will need to convene to advise on the development of the WDF.

3.5.2 Following adoption of the WLP, there will be a need to commence work on a review of the Plan. Under the new planning system, Waste Development Frameworks have taken the place of Waste Local Plans.

3.5.3 Ongoing joint working between the two authorities on waste planning matters is considered beneficial for a number of reasons including the following:

- coordinated reviews on the implementation of the joint Waste Local Plan will be possible;
- some policies being prepared at the regional level identify requirements for the sub-region of East Sussex and Brighton and Hove;
- the management of most waste, other than household waste, does not respect local authority boundaries and a joint plan provides a consistent framework for businesses operating across the two authorities areas;

- the authorities are already committed to working on waste via the Joint Integrated Waste Management Contract;
- other well established areas of cooperation and communication links between the two authorities;
- financial savings derived from economies of scale.

3.5.2 It is anticipated that waste planning authorities should collaborate in the preparation of plans especially on cross-border issues. It is suggested that discussions are held with West Sussex County Council to consider any benefits of closer joint working on waste policy issues.

3.6 Conclusion

3.6.1 Representations on the Councils' responses to the Inspector's Report are currently being considered and Members are being recommended not to make further changes to the WLP or hold a second Public Inquiry. The formal decision making process on the next stages of the Waste Local Plan is not yet complete and the outcome and impact on the Councils' separate responsibility to provide facilities for the management of municipal waste will be reported to this Committee in due course.

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Appendix One

Outline of Nature of Main Representations and Councils Proposed Response.

Please note this summary is only intended to provide an outline of the nature of the main representations received and the Councils' proposed response. Full summaries of representations and the Councils' responses to them are set out in separate schedules which have been placed in the Members' Rooms for inspection.

Summary of Representation	Proposed Councils' Response
<p>Recycling and Recovery Targets</p> <p>The Plan's recycling and recovery targets are too low – object to Councils' rejection of Inspector's recommendation to increase the Plan's targets.</p>	<p>The targets set by the plan already exceed the government's current targets and reflect what could be practically achieved. If subsequently higher targets are approved in alterations to the Regional Spatial Strategy (RSS) then the implications of these targets will be considered in the review of the Waste Local Plan undertaken as part of the preparation of the Waste Development Framework.</p>
<p>Lack of a strategic facility in the east of the County</p> <p>By deleting Mountfield as an allocation for an Energy from Waste Facility and rejecting a wider range of uses at Pebsham, all waste will be managed at an incinerator in Newhaven. This contravenes the proximity principle and will result in increased transport of waste and emissions associated with additional traffic.</p>	<p>Any proposals for an Energy from Waste (EfW) facility to serve the east of the County, would be considered on the basis of the development control policies in the Plan, especially WLP 19. WLP19 includes a requirement that 'proposals shall be well related to major sources of waste'.</p> <p>The site at Pebsham has not been fully assessed for the additional waste uses put forward by the Inspector nor has there been consultation on any additional uses (apart from material recovery/waste transfer), therefore it is considered that it would be inappropriate to identify the site as being suitable for these uses at this stage.</p> <p>Following the change to the planning system, these matters will be considered via the preparation of a new Waste Development Framework. New uses on existing sites and/or the development of new sites are not precluded because the Plan allows for them to come forward via the development control process and be determined in relation to the other waste policies in the Plan.</p> <p>Not all waste will be treated by any plant proposed for Newhaven. The Plan is not specific concerning the destination of any waste. The location and type of any</p>

	<p>waste treatment facility will depend on the type, quantity and source of the waste to be managed.</p> <p>The location of North Quay Newhaven would be suitable for rail or water transfer of waste or onward transfer of recyclates, subject to the mineral rail link being reconnected and/or the site selected having access to the wharf.</p> <p>The Plan advocates the proximity principle of dealing with waste as close to the source as practicable. Practical application of the proximity principle is dependant on factors such as environmental constraints and whether sites have been fully assessed for the proposed use.</p> <p>It is Plan policy that rail or water transfer of waste should be utilised where possible and practicable therefore limiting the number and length of road journeys, as set out in Plan policies WLP2 (and WLP4).</p>
<p>Alternative Sites and Technologies</p> <p>Objections to the Councils' rejection of the Inspector's recommendations to safeguard additional sites in the Plan and incorporate additional forms of waste management at sites already identified in the Plan. These should be included to increase the Plan's flexibility. Considered that there are 'more environmentally friendly ways', such as Mechanical Biological Treatment, of managing waste.</p>	<p>The Inspector recommended that uses on sites allocated in the Plan should be widened out to include a range of waste management uses and that new sites should be identified and safeguarded. Where sites have not been fully assessed or where there has not been consultation on any additional uses, it is considered that it would not be appropriate to include them at this stage in the Waste Local Plan.</p> <p>Following the change to the planning system, these matters will be considered via the preparation of a new Waste Development Framework. New sites and uses are not precluded because the Plan allows for them to come forward via the development control process and be determined in relation to the other waste policies in the Plan. Any new sites proposed for allocation in a Waste Development Framework would have to undergo a 'Sustainability Appraisal' and 'Strategic Environmental Assessment' requirements under new planning legislation that will supersede the Waste Local Plan.</p> <p>The setting of higher targets by the EU, the government and the Regional Spatial Strategy provide the incentive for waste treatment higher up the hierarchy. The Waste Local Plan has limited powers but its role is to facilitate the implementation of policy by providing sites or setting out the criteria by which sites for the treatment of waste can come forward.</p> <p>Councils have accepted Inspector's text further explaining</p>

	<p>advantages of Mechanical Biological Treatment (MBT) plants and their flexibility of format. WLP13 states that provision of mechanical-biological facilities is permitted subject to other policies of the Plan. MBT improves the efficiency of a facility in reducing the amount of residual waste, accordingly such facilities will be encouraged, subject to the same locational criteria as Materials Recovery Facilities (MRFs).</p>
<p>Incineration</p> <p>Objections to inclusion of incineration as a method of waste management.</p> <p>More specific objections to Councils 'ignoring point in para 36.29 of Inspector's report - if Plan were robust incineration wouldn't be necessary'.</p>	<p>The Inspector did not accept that incineration should be banned. He considered that the Plan should set criteria against which proposals for incineration or alternative types of thermal treatment should be determined. The Plan neither recommends nor excludes 'incineration' as a final treatment option (after the removal of recyclates) but refers to 'energy from waste' which can involve different technologies: including anaerobic digestion as well as thermal treatments such as gasification, pyrolysis or incineration.</p> <p>The Inspector did not ban incineration. In paragraph 36.29 the Inspector states: <i>'To be robust, the Plan must allow for a situation where acceptable proposals for incinerators may not come forward.'</i></p> <p>but this is in the context of the Inspector's recommendation that under policy WLP19, sites should be referred to more generally as being suitable for 'thermal treatment', rather than specifically for 'incineration' which is only one form of possible thermal treatment available.</p> <p>The Inspector's recommended text for WLP19 was largely accepted (deleting 'incinerators and thermal treatment' for 'EfW') where proposals for EfW will be permitted, subject to other relevant policies in the Plan, where a need is demonstrated which cannot practically be met by waste management methods higher up the waste hierarchy.</p> <p>Policy WLP19 requires proposals for Energy from Waste to include an assessment of the environmental and health impacts and to demonstrate that the development will not materially endanger human health or harm the environment.</p>
<p>Ashdown Brickworks</p> <p>Objection to landfill at Ashdown Brickworks and suggestion in Plan that landfilling could commence from 2008/9. Concerns with</p>	<p>The Inspector recommended that Ashdown Brickworks has the potential to accept an infill of up to 100,000 tonnes per year before the Bexhill to Hastings Link Road is constructed provided there is a new access road from the A269 and agreed lorry routing to avoid Sidley district shopping centre.</p>

<p>access and general environmental impacts.</p>	<p>Pollution control is the primary responsibility of the Environment Agency. Ameliorating the impact of development that falls within the scope of the Waste Local Plan, is addressed by the development control policies in the Plan.</p>
<p>Best Practicable Environmental Option</p> <p>The modified Plan requires Sustainability Assessment to show it represents the Best Practicable Environmental Option</p>	<p>BPEO was a key principle in the Plan and reflected government guidance set out in PPG10. The Councils carried out a BPEO assessment for the WLP Inquiry. However, government policy was revised in July 2005 such that BPEO assessment is no longer required. As soon as this Plan is adopted, work will begin on the replacement Waste Local Development Framework (LDF), which requires sustainability appraisal at every stage of its preparation in place of BPEO.</p>
<p>General Process</p> <p>Objections which make the general point that the Councils have not accepted all the Inspector's recommendations</p>	<p>Under the planning regulations being used to undertake the Local Plan process, the Inspector's role is to make recommendations which the Councils are not obliged to accept or reject. In this case the Councils have accepted the majority of the Inspector's recommendations and given reasons where they have been rejected.</p>

Appendix Two

Waste Local Plan Timetable

Members of both Councils consider representations received on the joint Councils' response to the Planning Inspector's report on the Waste Local Plan and their response including decision to adopt Plan.	B&HCC Policy and Resources Committee – 9 November 2005 ESCC Cabinet – 15 November 2005 B&HCC Full Council – 24 November 2005 ESCC Full Council – 6 December 2005
Councils give statutory 28 days notice of intention to adopt Plan.	Mid December 2005 to Mid January 2006
Notice of adoption.	End January 2006