

1 TOPIC PAPER LAL – W1 PROCEDURAL AND CONFORMITY MATTERS

LEICESTERSHIRE – WDF CORE STRATEGY AND DEVELOPMENT CONTROL POLICIES

RESPONSE SUBMITTED BY HEATON PLANNING LTD ON BEHALF OF LAFARGE AGGREGATES LTD

ISSUES AND MATTERS FOR DISCUSSION – WASTE DEVELOPMENT FRAMEWORK

PROCEDURAL AND CONFORMITY MATTERS

Key Issue: Whether the DPD has been prepared in accordance with the relevant legal requirements.

- 1.1 We do not believe that the County/ City councils have paid sufficient regard to national policies and advice contained in guidance issued by the Secretary of State.
- 1.2 PPS12 states in paragraph 4.5 that it is essential that the core strategy makes clear spatial choices about where developments should go in broad terms. We believe that the Core Strategy fails to do this.
- 1.3 PPS12 states in paragraphs 4.6 and 4.7 that core strategies may allocate strategic sites for development. These should be those sites considered central to achievement of the strategy. The Core Strategy fails to do this. We believe that the management of wastes is strategically important and that sites that will deliver this strategy should be identified within the Waste Core Strategy.
- 1.4 PPS12 states in paragraph 4.13 that the time horizon of the core strategy should be at least 15 years from the date of adoption. The Core Strategy does not comply with this. The very earliest the Core Strategy can be adopted will be in 2009, the plan period proposed within the Core Strategy is to 2021, thus equating to only a 12 year plan period. Furthermore, the plan period for the RSS for the East Midlands is until 2026, to conform to the RSS it is our recommendation that the plan period for the Core Strategy runs until at least 2026.
- 1.5 We are concerned that a number of the core strategy policies go over and above the level of control advocated by national and regional policy. Policies CS1, CS2, CS3, CS4, CS5, CS6, DC14, DC22, DC24 and DC25 all include the wording ‘...where they will not cause unacceptable harm to the environment or communities’. This wording is too strong and should provide for development to be able to mitigate

any impacts or be clearly justified by a need for the development. For example the final part of Policy DC4 states:

Unless it can be demonstrated that there is an overriding need for the development and any impacts can be mitigated or compensated for, such that there is a net gain to their condition.

1.6 If Policy DC4 were amended to read ... need for the development or any impacts can be mitigated..., this would provide a suitable approach to be taken through out the core strategy.

1.7 Also by way of example the wording in protecting biodiversity and geological interests, PPS9, bullet (vi), states:

The aim of planning decisions should be to prevent harm to biodiversity and geological conservation interests. Where granting planning permission would result in significant harm to those interests, local planning authorities will need to be satisfied that the development cannot reasonably be located on any alternative sites that would result in less or no harm. In the absence of any such alternatives, local planning authorities should ensure that, before planning permission is granted, adequate mitigation measures are put in place. Where a planning decision would result in significant harm to biodiversity and geological interests which cannot be prevented or adequately mitigated against, appropriate compensation measures should be sought. If that significant harm cannot be prevented, adequately mitigated against, or compensated for, then planning permission should be refused.

1.8 PPS23, paragraph 26 recommends:

polluting activities that are necessary for society and the economy should be so sited and planned, and subject to such planning conditions, that their adverse effects are minimised and contained to within acceptable limits.

1.9 Policy 27 of RSS8 seeks to protect and enhance the Region's Natural and Cultural Assets. This establishes the need to protect the highest level of designation, to avoid damage and mitigate to ensure no net loss, but that development should be clearly justified by a need.

- 1.10 We recommend that Policies (CS1, CS2, CS3, CS4, CS5, CS6, DC14, DC22, DC24 and DC25) are amended to recognise that the need for the development should be included within the planning balance, and that appropriate mitigation measures controlled by planning condition can facilitate development that otherwise might be refused.

2 TOPIC PAPER LAL – W2 SPATIAL VISION AND OBJECTIVES

LEICESTERSHIRE – WDF CORE STRATEGY AND DEVELOPMENT CONTROL POLICIES

RESPONSE SUBMITTED BY HEATON PLANNING LTD ON BEHALF OF LAFARGE AGGREGATES LTD

WASTE – SPATIAL VISION AND OBJECTIVES

Key Issue – General:

Whether the Spatial Vision and Waste Development Objectives are sufficiently focussed, consistent with national policy, aligned to the RSS, spatial and locally distinctive; also whether they give adequate direction to the strategic policies. (National Policy, PPS12, Paras 4.1-4.3)

Specific Issues and Matters for Discussion:

Whether the vision is expanded into the key specific objectives that need to be addressed

- 2.1 We do not believe that a specific objective is required for Charnwood Forest, Policy 30 of RSS8 adequately identifies those initiatives to protect and enhance the natural and heritage landscape assets, including Charnwood Forest, should be promoted. This is supported by the recently published Landscape and Settlement Character Assessment for Charnwood Forest (October 2008).

3 TOPIC PAPER LAL – W3 NEW WASTE MANAGEMENT CAPACITY

LEICESTERSHIRE – WDF CORE STRATEGY AND DEVELOPMENT CONTROL POLICIES

RESPONSE SUBMITTED BY HEATON PLANNING LTD ON BEHALF OF LAFARGE AGGREGATES LTD

WASTE – NEW WASTE MANAGEMENT CAPACITY

Key Issue – General:

Whether there is clarity over the amount and type of waste facilities that are likely to be required and the timing of their provision. (National Policy, PPS12, Para 4.1)

Whether the choices are backed up by adequate facts. (Justification/ Evidence Base, PPS12, Para 4.37)

Specific Issues and Matters for Discussion:

Whether the Background Section adequately informs the strategic policies

The Inspector asks in question 7 whether longer term projections would be helpful if available. We believe that longer term projections should be made to 2026 so that the Core Strategy conforms with RSS8.

Whether there is clarity over the type, size and number of waste management facilities that will be required and the timing of their provision

- 3.1 We still do not believe the approach being taken by the councils is clear over the type, size and number of waste management facilities that will be required, and can only conclude that this is largely due to uncertainty over what form of waste management will result from the procurement process. The Core Strategy does provide the flexibility by recognising that a varying number of different facilities will be required, however, we remain concerned over whether this will be deliverable.

Whether alternatives for the landfilling of inert waste have been appropriately considered

- 3.2 The Inspector asks at question '20' should permission for inert waste landfill sites be granted where the prime consideration is the restoration of mineral extraction

sites? We believe it should, without the disposal of waste many mineral workings would be left with a void which is not always appropriate. The disposal of waste can secure the appropriate restoration of mineral workings to provide environmental, amenity and economic benefits to an area. In areas to the north west of the County in proximity to East Midlands Airport there are issues of bird strike with sand and gravel workings along the River Trent and River Soar valleys. The restoration of these areas without the disposal of inert waste would be back to water features, attractive to nesting birds, and this would not be appropriate. For example, at LALs sand and gravel site at Lockington, for which an extension was permitted in September 2008, there is a fine balance between the extraction of mineral and the progressive restoration by importing inert fill to limit the areas of open water at any one time.

- 3.3 It is also within this area that there may be a need for some cross boundary movement of wastes, whilst we accept the approach of the council to take into consideration Policy CS8 we do not agree with bullet point (iv) of Policy CS8. Bullet point (iv) of Policy CS8 should be amended to recognise that the need for the development should be included within the planning balance, and that appropriate mitigation measures controlled by planning condition can facilitate development that otherwise might be refused. Cross boundary movements of waste occur at LAL operations at Lockington and Shawell.

4 TOPIC PAPER LAL – W4 DISTRIBUTION AND LOCATION OF NEW FACILITIES

LEICESTERSHIRE – WDF CORE STRATEGY AND DEVELOPMENT CONTROL POLICIES

RESPONSE SUBMITTED BY HEATON PLANNING LTD ON BEHALF OF LAFARGE AGGREGATES LTD

WASTE – DISTRIBUTION AND LOCATION OF NEW FACILITIES

Key Issue – General:

Whether there is clarity in matters relating to the intended location of future waste management facilities. (National Policy: PPS 12, Para 4.1). Whether the strategy in respect of energy/ value recovery from waste is justified having regard to the evidence base and reasonable alternatives. (Justification/ Evidence Base/ Reasonable Alternatives, PPS12, Para 4.37)

Specific Issues and Matters for Discussion:

Whether there is clear evidence and guidance on what would constitute strategic waste sites and where they should be located

- 4.1 The Core Strategy, para 4.16, page 23, states that sites will be considered strategic if they will provide a significant contribution to meeting the targets for municipal waste management, and may have the potential to deal with other waste streams. The Inspector asks in question ‘1.’ Is there a need for a more precise definition of “strategic sites”? We believe there is. We do not think that strategic sites should be focussed specifically for the management of municipal waste. Para 4.6 of PPS12 states that strategic sites should be those sites considered central to achievement of the strategy. We therefore recommend that the definition of strategic sites be expanded to include the management of municipal, commercial & industrial and construction & demolition waste.
- 4.2 Within the Core Strategy and as confirmed within Topic Note LCC W1 para 4.4, produced by the councils, there is an identified need for disposal of waste to landfill during the plan period. Para 4.47 of the Core Strategy identifies that there is insufficient permitted non-inert landfill space available. We would state at this stage that the Core Strategy should be clear on how waste can be disposed of to landfill, we would recommend rather than using the term non-inert waste that the

categories inert, non-hazardous and hazardous should be used. By combining non-hazardous and hazardous waste together suggests co-disposal of these wastes which is no longer allowed. A separate landfill strategy should be made for inert, non-hazardous and hazardous waste.

- 4.3 In answer to question '4' by the Inspector, we recommend that landfill is included within the definition of strategic site. With this in mind we also recommend that proposed landfill sites are included within the Key Diagram.

Whether there is clear evidence and guidance on the locations that would be suitable for non-strategic sites

- 4.4 We do not believe there is clear evidence and guidance on the locations that would be suitable for non-strategic sites. If we look at what the councils consider to be strategic sites this does not include landfill, therefore by implication to the councils view landfill must be considered a non-strategic site.
- 4.5 It is not clear within either section on Strategic or Non-Strategic Sites how landfill is to be planned for.
- 4.6 Para 4.26 of the Core Strategy states *'that landfill will still have a role to play within the WDF Period and continues by stating that the alternatives for siting landfills are restricted because the location of landfill development is almost exclusively limited to former minerals sites in need of reclamation and, therefore, greenfield land'*. It is our contention that the councils accept that there is a need to identify future sites for landfill and that this will have to be from existing mineral workings. Therefore the councils are in a position to be able to identify where future landfill sites could be located. We recommend that the Key Diagram is amended to include those mineral workings where the councils would consider the principle for landfill for different waste categories to be appropriate.

Whether there is an appropriate strategy for locating waste sites

- 4.7 Policy CS4 relies upon the objectives of Policies CS2 and CS3 in locating waste sites. As stated above we have some concerns over the approach promoted in Policies CS2 and CS3.

- 4.8 We also recommend that the last sentence in Policy CS4 is amended to recognise that the need for the development should be included within the planning balance, and that appropriate mitigation measures controlled by planning condition can facilitate development that otherwise might be refused.

Whether there is an appropriate strategy concerning re-use, recycling, waste transfer and composting facilities

- 4.9 We are concerned with the final part of Policy CS5 which uses the words ‘...provided the proposal does not cause unacceptable harm to the environment or communities.’ This policy should be amended to recognise that the need for the development should be included within the planning balance, and that appropriate mitigation measures controlled by planning condition can facilitate development that otherwise might be refused.

Whether there is clear evidence and guidance on the locations where new or additional landfill could be acceptable

- 4.10 In response to the Inspector’s question ‘20’, we do not believe there is sufficient clarity within para 4.48 or the remainder of the Core Strategy with regard to the allocation of non-inert landfills. Firstly, in terms of landfill we consider that the Core Strategy should be clear on how waste can be disposed of to landfill, we would recommend rather than using the term non-inert waste that the categories inert, non-hazardous and hazardous should be used. By combining non-hazardous and hazardous waste together suggests co-disposal of these wastes which is no longer allowed. A separate landfill strategy should be made for inert, non-hazardous and hazardous waste.
- 4.11 The Core Strategy is clear in para 4.47 that there is insufficient permitted non-inert landfill space available. Para 4.48 states that there may need to be allocations for non-inert landfills. It is our contention that there is a need to identify future sites for landfill and that this is likely to be from existing mineral workings. Therefore the councils should identify where future landfill sites could be located. We recommend that the Key Diagram is amended to include those mineral workings

where the councils would consider the principle for landfill of inert, non-hazardous and hazardous waste to be appropriate.

- 4.12 We also recommend that Policy CS7 be amended to include a bullet point that includes the words, *'it can be demonstrated that allocated sites are not meeting requirements'*.
- 4.13 We also recommend the rewording of bullet 'iii' in Policy CS7 and bullet 'iv' in Policy CS8 which should be amended to recognise that the need for the development should be included within the planning balance, and that appropriate mitigation measures controlled by planning condition can facilitate development that otherwise might be refused.

Whether there is a clear spatial strategy concerning other forms of waste management

- 4.14 In response to the Inspector's question '23' we do not believe that Policy CS9 provides clear guidance to developers, although it does imply an open door to other forms of waste management. We recommend that the final words of the policy are amended to recognise that the need for the development should be included within the planning balance, and that appropriate mitigation measures controlled by planning condition can facilitate development that otherwise might be refused.

5 TOPIC PAPER LAL – W5 ENVIRONMENTAL MATTERS

LEICESTERSHIRE – WDF CORE STRATEGY AND DEVELOPMENT CONTROL POLICIES

RESPONSE SUBMITTED BY HEATON PLANNING LTD ON BEHALF OF LAFARGE AGGREGATES LTD

WASTE – ENVIRONMENTAL MATTERS

Key Issue – General:

Whether the strategy would secure adequate environmental and landscape protection; support for the objectives of the National Forest and Charnwood Forest; and provision of new habitats, increased biodiversity and other green infrastructure. (National Policy, PPS10, Annex E)

Specific Issues and Matters for Discussion:

Whether the development control provisions in respect of the natural environment are clear and appropriate

5.1 In response to the Inspector’s question ‘11’ it has not been clearly shown why the reference to special landscape areas has been included. PPS7, Paras 24 and 25, recommend that utilising tools such as landscape character assessment should provide sufficient protection to landscape areas without the need for rigid local designations. We recommend that the reference to special landscape areas is removed from Policy DC4.

5.2 We would also recommend the wording in the final paragraph of Policy DC3 is amended. We recommend that the word ‘and’ be replaced with ‘or’ so that the final paragraph reads:

Unless it can be demonstrated that there is an overriding need for the development or any impacts can be mitigated or compensated for, such that there is a net gain or improvement to their condition.

5.3 In response to question 12 we believe that Policy DC5 offers too much weight to protecting open countryside. The guidance provided within PPS7 overrides the need for a policy on the protection of open countryside. We recommend that Policy DC5 be deleted.

- 5.4 We agree with question 16 that there should be explicit recognition of composting opportunities in the open countryside.
- 5.5 We agree with question 17 that new woodland planting should be encouraged and not required.
- 5.6 We agree with the approach promoted within question 18 that woodland planting should have regard to Landscape Character Areas and that reference to the relevant documents should be provided within paras 5.13/5.14. We support the promotion of planting within National Forest area.
- 5.7 In response to question '19'. The aims of Policy DC12 are supported; however, they repeat guidance offered in both PPS23 and PPS25. We recommend that Policy DC12 is deleted with reference given to the guidance within PPS23 (Appendix A) and PPS25.

6 TOPIC PAPER LAL – W6 DEVELOPMENT CONTROL POLICIES

6.1.1 LEICESTERSHIRE – WDF CORE STRATEGY AND DEVELOPMENT CONTROL POLICIES

6.1.2 RESPONSE SUBMITTED BY HEATON PLANNING LTD ON BEHALF OF LAFARGE AGGREGATES LTD

6.1.3 WASTE – DEVELOPMENT CONTROL POLICIES

Key Issue – General

Whether there are clear and appropriate development control policies that, amongst other things, accord with and do not repeat or reformulate national policy and regional policy. (National Policy: PPS12, Paras 4.30 and 5.2; Planning and Minerals Practice Guide, Para 21)

Specific Issues and Matters for Discussion:

Whether there would be inappropriate repetition or reformulation of national policies.

Having regard to Annex E of PPS10, are elements of national policy repeated in Policies CS10, DC2, DC4, DC8, DC10, DC12, and DC13?

If so, what amendments would be appropriate?

- 6.2 DC2, 'Sites of National Historic Importance', repeats the approach recommended in PPG15 and PPG16. Policy DC3 should be amended to remove the protection to Scheduled Ancient Monuments and Listed Buildings.
- 6.3 Policy DC4, 'Archaeology', repeats the guidance in PPG16. Policy DC4 should be deleted.
- 6.4 Policy DC8, 'Health and Amenity', provision for the protection of amenity from the adverse effects from noise, dust, vibration, odour, emissions, illumination, visual intrusion or traffic to adjoining land users and those in proximity to the minerals development can be found within PPS10 Annex E and PPS23. Policy DC8 is not necessary.
- 6.5 Policy DC12, 'the Water Environment'. The aims of this policy is supported, however, they repeat guidance offered in both PPS23 and PPS25. We recommend

that Policy DC12 is deleted with reference given to the guidance within PPS23 (Appendix A) and PPS25.

- 6.6 In response to the Inspector’s question ‘3’, it remains our concern how the collective effects of different impacts of an individual proposal will be assessed.
- 6.7 PPS10, Para 21(i), does not make reference to the collective effects of waste management development. It is our recommendation that Policy DC9 is deleted with reference given to PPS10, Para 21(i).
- 6.8 In response to the Inspector’s question ‘4’, Policy DC6, ‘Agricultural Land’, is superfluous to policy contained within PPS7. We recommend that Policy DC6 be deleted.

Whether the provisions in respect of the historic environment are clear and appropriate

- 6.9 In response to question ‘9’, Policy DC2, ‘Sites of National Historic Importance’, repeats the approach recommended in PPG15 and PPG16. Policy DC2 should be amended to remove the protection to Scheduled Ancient Monuments and Listed Buildings.
- 6.10 In response to question ‘12’, Policy DC4, ‘Archaeology’, repeats the guidance in PPG16. Policy DC4 should be deleted.

Whether the provisions in respect of transport are clear and appropriate

- 6.11 In response to question ‘13’, we would agree that expressing Policy DC10 in positive terms is a better option.

Whether the provisions in respect of the control of waste development as well as reclamation, after-care and after-use are clear and appropriate

- 6.12 Question '15' is supported, Box 1 (Policy DC14) should refer to the need for Appropriate Assessment for any development having an impact on the River Mease SAC.
- 6.13 In response to Question '16', we feel that adequate protection to flood risk is provided within PPS25.
- 6.14 Question '17' is supported, 'bird strike' conditions should be added to the list at Box 2.
- 6.15 Question '19' is supported, agriculture should be listed as an alternative after-use.

7 TOPIC PAPER LAL – W7 MISCELLANEOUS POINTS

LEICESTERSHIRE – WDF CORE STRATEGY AND DEVELOPMENT CONTROL POLICIES

RESPONSE SUBMITTED BY HEATON PLANNING LTD ON BEHALF OF LAFARGE AGGREGATES LTD

WASTE – MISCELLANEOUS POINTS

Key Issue:

***Whether the DPD is justified, effective and consistent with national policy.
(Soundness, PPS12, Para 4.52)***

3. *How appropriate is the timing of the DPD given that the procurement process has not been completed?*

- 7.1 The Core Strategy makes a lot of assumptions over the number or type of facilities required and the broad locations that they will be located but cannot make any precise decisions or provide any clarity until the procurement process for the municipal waste management for the County has been completed.
- 7.2 We feel that the Core Strategy would be a more useful document if the outcome of the procurement process is known, this will allow a clearer direction to how waste is to be managed over the plan period and allow a greater understanding how residual wastes will need to be managed. At present we are concerned that the Core Strategy does not provide clarity how the objectives will be achieved.