

WASTE - DEVELOPMENT CONTROL POLICIES

(See also Environmental Matters)

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, PPS 12, Paras 4.30 and 5.2)

Specific Issues and Matters for Discussion:

Whether there would be inappropriate repetition or reformulation of national policy

1. *Having regard to Annex E of PPS 10, are elements of national policy repeated in Policies CS10, DC2, DC4, DC8, DC10, DC12 and DC13. If so, what amendments would be appropriate? [GOEM]*

In general, elements of each of the policies listed in the question above are repeated within Annex E of PPS10 (WCD 2). The scale of this repetition is described below for each policy. However, it is the Councils' belief that these DC policies go further than the Annex because the phrase used in the PPS is '...waste planning authorities should consider...' whereas the policies clarify how the considerations will be taken into account in assessing proposals and what would or would not be deemed acceptable. This gives readers of the core strategy, particularly industry, greater confidence in how the Councils will judge acceptability. Indeed, a general comment made by Ibstock Brick on all the development control policies is that "*The DC policies provide an insight into the final means of future development control in the County.....*".

CS10 – Yes, some of the text in the first bullet point is a repeat of that in Annex E. However, the 'BAPs' and 'settlements' bullet points are not covered in PPS10 and are locally distinctive. SITA UK and Natural England both generally support the policy. No changes are proposed.

DC2 – All bar historic landscapes are repeated in Annex E. Yet, for this policy, removal of particular designated sites was done based on guidance issued in PPS9: Biodiversity and Geological Conservation (WCD 13) which, it was felt, was more definitive than that in PPS10, hence those which remain are those not covered in PPS9. No changes are proposed.

DC4 – Annex E refers to Scheduled Monuments only but this policy goes further by seeking to ensure protection of all archaeological remains, and in part (ii) those, as of yet, not designated. No changes are proposed.

DC8 – The only item not directly listed in the Annex is 'illumination'. Blaby District Council supports the inclusion of this policy. No changes proposed.

DC10 – In parts the policy does repeat the Annex but the wording of the Annex is not as definitive as the policy because it states 'the suitability of the road network...' is one consideration. Policy DC10 is clearer as to what exactly the Councils would be looking at in terms of the highway network when determining waste proposals. The Highways Agency supports the

policy "...as it aims to control the granting of planning permission where sites would have a detrimental effect on the SRN, whilst supporting the use of more sustainable transport modes. Particularly supports statement in Policy DC10 that planning permission for waste development involving road transport would not be granted unless highway network is able to accommodate the increase in traffic generated." No changes are proposed.

DC12 – The first bullet point is repeated in PPS10 but the second goes further than the Annex and its inclusion was endorsed by the EA at the preferred options stage with the comments '*It is pleasing to see a document that is inclusive of flood risk within its framework.*' No changes are proposed.

DC13 - NEMA supports the inclusion of this policy. No changes are proposed.

2. *Having regard to the contents of Circulars 02/08, 11/95 and 05/05, how appropriate is the inclusion of Policies DC14, DC17 and DC18? Do they present policy that should be the starting point for the consideration of planning applications? [GOEM]*

Policy DC14 goes further than the Local Validation requirements and as such gives great clarity to applicants on what information would be expected to be submitted with an application. Similarly DC17 and DC18 indicate the matters that may be covered by conditions and/or planning obligations and are of assistance to applicants and a useful checklist to the WPA. Policy DC17 and Box 2 set out matters to be covered by conditions in order to control the effect of the development, thereby delivering in part Core Strategy objective 8. Policy DC18 and Box 3 set out matters to be covered by obligations in order to control and mitigate/compensate for the effect of the development, thereby delivering in part Core Strategy objectives 7 and 10. The Councils would wish to seek their retention in their current form.

3. *Does Policy DC9 duplicate PPS 10 at Para 21(i)? If so, what amendments would be appropriate? [GOEM]*

Para 21 (i) refers to the cumulative effect of previous waste disposal facilities. Policy DC9 in addition addresses the collective effect of different impacts of the same development and the effects of several waste developments on the same locality. This is not properly explained in the text preceding the policy therefore a change to the text is proposed.

4. *Does Policy DC6 add anything to the content of PPS 7? If so, what amendments would be appropriate? [GOEM]*

It clarifies how PPS7's (WCD 12) principles will be applied in the framework area. Bullet point (ii) does appear in PPS7 but wording is 'should seek to use poorer quality land'. This policy is more explicit and in accordance with text earlier in PPS7 (paragraph 16) which states that '*When preparing policies for LDDs and determining planning applications for development in the countryside, local planning authorities should:..... (iii) take account of the need to protect natural resources;.....*'

No change to the policy is proposed.

Whether the provisions in respect of design are clear and appropriate

5. *Should Policy DC1 also refer to minimising the production of waste in the operation of new development?*

Bullet point (iii) covers this – ‘minimising the production of waste’ as it does not specify that this is only during construction. But, it could be made clearer to state in the first sentence ‘*minimised during construction and operation by appropriate measures to:*’.

6. *If Policy DC1 and the supporting text were headed “Sustainable Design”, would this better reflect the policy intentions?*

Yes, agree to amend.

7. *In Para 5.3, is sufficient clarity given to the importance of visual appearance? Should there be “hooks” to design tools and mechanisms?*

Yes, paragraph 5.3 explains the importance of external design, which is essentially about visual appearance and fit within surroundings. There is Government Guidance in Paragraphs 35 and 36 of PPS10 (WCD 2) which give some general guidance to design.

Since publication of the submitted Core Strategy an Enviro written publication has emerged; *Designing Waste Facilities: a guide to modern design in waste*. It would seem prudent to now refer to this in the supporting text to assist developers.

8. *In Policy DC1, how realistic is a criterion requiring enhancement? Would an alternative be to require development to contribute positively?*

Accept that inclusion of word ‘enhance’ would be better replaced and agree to amend to ‘contribute positively’.

9. *Is it necessary to include listed buildings and scheduled ancient monuments within Policy DC2 given their statutory protection? [EH]*

Yes, the legislation which covers them is not the same as Government guidance which guides the determination of applications affecting these sites. For example, the [Planning] Listed Buildings and Conservation Areas Act 1990 merely states the regulations that must be followed in determining and submitting applications affecting listed buildings. As mentioned in the answer to question 1, PPS9 (WCD 13) has been used rather than Annex E of PPS10 and, as such, listed buildings and scheduled ancient monuments are not covered by this guidance.

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

10. *In Policy DC2 should there be a distinction between direct and indirect effects; also to the effect that any overriding reasons should be of national importance? [EH]*

PPS1 (WCD 11) paragraph 19 refers to direct and indirect impacts, the policy says ‘effects’ which would include both. Part (d) of Annex E of

PPS10 only uses the phrase 'adverse effect'. On balance the Councils think that making a distinction between direct and indirect impacts will add to the interpretation of the policy. Although the use of the phrase 'national importance' adds the difficulty of defining what this means in a waste planning context because a waste facility is not likely to serve a national market it nevertheless emphasises that nationally important designations must be afforded the greatest protection. The Councils' accordingly propose that Policy DC2 is amended to read: 'Planning permission will not be granted for waste management development that would have *significant adverse direct effects* on sites of national historic importance or on their character, appearance or setting, including...' *...unless there are overriding reasons of national importance for development* in that location that clearly outweigh the impacts that it is likely to have on the features of interest.'

11. *Should Paragraph 5.8 recognise that some Conservation Areas may be of national importance? [EH]*

No. It is unnecessary to state the variation in designations because the policy covers all Conservation Areas. Adding the text would be inconsistent with Conservation Areas being dealt with in DC3.

12. *Does Policy DC4 add anything to the content of PPG 16? If so, what amendments would be appropriate? How are "important archaeological remains" to be defined and where could developers find details?*

The policy is repetitious of PPG16 (WCD 14) but accords with the desire of paragraph 15 of the PPG which suggests plans should contain policies covering those elements that DC4 does. EH support the policy.

No amendments suggested.

'The County's Sites and Monuments Record and the City's Archaeological Alerts Map provide a full list of archaeological sites and contain information on the known and reported archaeology. Developers should look to the Council's archaeological curator to identify those areas that have archaeological potential and in turn to recommend how that potential should be assessed'. The Councils' suggest the inclusion of such a statement in the supporting text to the policy to help explain how sites of potential archaeological interest will be identified.

Whether the provisions in respect of transport are clear and appropriate

13. *Would Policy DC10 be better expressed in positive terms? For example, developers could be required to examine and pursue alternatives to road transport where such opportunities are presented by the location and site.*

At Preferred Options Policy 23: Transportation of Waste was worded slightly more positively. As a general rule, development control policies are more effective when expressed negatively, i.e. stating the circumstances when permission will not be granted.

14. *In the policies referring to transport impacts, should there be reference to minimising adverse effects?*

No, Policy DC8: Health and Amenity refers to significant adverse effects from traffic which the Councils believe is the appropriate way to address this.

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

15. *Should Box 1 (Policy DC14) refer to the need for Appropriate Assessment for any development having an impact on the River Mease SAC?*

Yes, needs to be added.

16. *In respect of the water environment, and in areas without a strategic flood risk assessment, should there be a requirement for site specific flood risk assessments for waste development in Zones 2 or 3? [EA]*

There is through Annexes D and E of PPS25: Development and Flood Risk (WCD 15) which states when and what is required within Flood Zones 1 to 3, so, there is no need to repeat this.

17. *Should "bird strike" conditions be added to the list at Box 2?*

No, but 'bird management/control' should be.

18. *Policies DC15 and DC16 are directed at temporary uses. Do the same policy considerations apply to permanent installations and, if so, would any related change of wording be appropriate?*

No. The policies are only for temporary uses and would mainly apply to landfills, waste development associated with landfill sites where operations are tied to the life of the landfill, and time limited composting or other waste development in the countryside. Permanent development will not require reclamation, restoration, afteruse or aftercare. No changes proposed to policies. Addition of text to paragraph 5.29 stating that waste facilities co-located with landfill would possibly need to be temporary.

19. *In Policy DC16, should agriculture be listed as an alternative after-use?*

No, the policy states that the items noted in the bullet points would be sought in appropriate cases. So, in cases where those uses listed are not appropriate other after uses would be sought, i.e. agriculture. As per paragraph 5.33, the spirit of the policy is to encourage alternatives other than agriculture. Policy DC6 addresses the need to protect existing agricultural land.

20. *In respect of after-use (Policy DC16), should there be reference to linking public access and improvements to the public rights of way network? [NE]*

Yes, text to be amended.

Main contributors:

WPAs
GOEM
English Heritage (EH)