

Waste – Distribution and Location of New Facilities

Specific issue: Whether there is an appropriate strategy for locating waste sites

Issue 10 – Is Policy CS4 flexible enough to take account of changing economic conditions?
(SITA)

Introduction

1. This statement is in support of the representations of SITA UK Ltd in respect of Policy CS4 and addresses the question at the head the statement. SITA UK Ltd is the United Kingdom operating subsidiary of Suez, which is the European leader in the provision of environmental services to commerce, industry and the public sector. SITA UK is one of the largest waste management and related service companies in the United Kingdom, with substantial experience in all aspects of integrated waste management including transfer station operation, recycling, composting, energy from waste and landfill disposal. The company has in excess of 4,500 employees with an annual turnover of approximately £500 million.
2. SITA UK Ltd is primarily interested in sites of strategic importance to the county and this analysis therefore concentrates on Policies CS2 and CS4.

Reason for Unsoundness

3. The objector believes that the policy is unsound by reason of failing to be effective in that it has not been demonstrated to be sufficiently flexible in accordance with paras 4.44 and 4.52 of PPS12.

National Policy Background

4. PPS12 para 4.46 advises that core strategies are unlikely to be effective if they cannot deal with changing circumstances. Plans should be able to show how they will handle contingencies and should show what alternative strategies have been prepared to handle uncertainty.

Interpretation of Policy CS4

5. The text of policy CS4 links it with the preceding policies CS2 and CS3 which together form the locational strategy. For strategic proposals a site must lie within the Broad Locations mentioned in CS2 and be subject to the sequential approach of CS4. The text of the policy strongly indicates that

it should be considered sequentially so that after Priority One all of the lettered criteria under the second bullet point follow in order of preference. This seems to be confirmed by the supporting text; for example, “*where possible the facilities will be on previously developed land and then derelict or contaminated land*” quoted in paragraph 4.22, and “*the next priority*” quoted in paragraph 4.24. (my emphasis)

6. This is also confirmed by reference to the Site Allocations Preferred Options Consultation document (SAPO) published in July 2006. 18 sites were identified in this document, 5 of which were Priority One status, none were in Priority 2a, 8 were in Priority 2b-d, 8 were in priority 2e, none were in priority 2f, and 2 sites were located on agricultural land (NB. Totals sum to more than 18 because some sites fall into more than one category). A summary of the site selection process is shown in table 4.1 of SAPO.
7. The sequential approach is found in a number of policy documents, most notably PPS6 paras 2.44-2.47 and 3.13-3.19 for retailing together with PPS25 paras 14-17 for flooding. These policies are usually applied strictly (albeit exceptions are allowed for) in priority order. For example, in retailing all town centre sites must be thoroughly assessed before less central sites are considered (PPS6 para 3.14), and in respect of flooding LPAs must apply the sequential test “*to demonstrate that there are no reasonably available sites in areas with a lower probability of flooding that would be appropriate to the type of development or land use proposed.*” (PPS25 para 16) [emphasis added]. Policy CS4 has been interpreted by SITA in the same way, i.e. that all potential sites in a higher category must be advanced or shown to be inadequate before sites in a lower category can be considered.

Analysis of Priority Order and Site Selection

8. The supporting text from paragraphs 4.20 to 4.26 explains the reasons for the priority ranking. Priority One is for the location of waste management uses on land allocated/used for that purpose. This is justified by the synergies which are expected from integrated waste management facilities. There will be a restricted number of sites where this will be appropriate given the limited existing network of facilities which policy seeks to address, the size range of existing sites and whether activities can be expanded within the site. In addition, such sites will not always be the most environmentally acceptable because of amenity conflicts and traffic limitations. What is not clear from the policy is whether extensions to existing waste management uses on land not allocated for

industrial uses will be acceptable. Nevertheless, five preferred sites out of 18 (28%) have been identified from this category.

9. The second priority is for land forming part of new development proposals (2a), followed by the use of existing industrial land (2b). However, the Plan text accepts (para 4.21) that there are probably limits to the establishment of waste management uses on such sites. Indeed, there is an extant objection to the use of major new development areas for waste management on the basis of incompatibility with a primarily housing based allocation, which illustrates the Councils' point well. In addition, although sites will be allocated for specifically industrial purposes (Strategic Employment Sites or SESs) it is unlikely that waste management will be welcome on them for exactly the same reasons that the industry finds it difficult to establish facilities on existing industrial land, to which the Councils refer in the plan text. Specifically, the industry finds that sites are denied by landlords and vendors or that planning permission is discouraged because the image of the industry does not align with the perception of what modern industry should be like.
10. The third priority is previously developed or contaminated land (2c and d). Very little is said about this category except that sites must have good transport connections and be proximate to waste sources.
11. At the time that SAPO was published there were no sites in category 2a, and categories 2b-d were considered together. Eight sites were identified in SAPO (most of which were apparently in category 2b), six of which (33%) had not previously been allocated to a category.
12. Former mineral sites are the next priority (2e) since these may have the advantage of existing infrastructure and opportunities for co-location. SAPO identified 8 sites in this category, 5 of which (28%) had not previously been allocated to a category.
13. There were no sites identified in category 2f. However, SAPO identified two sites (11%) located on agricultural land, which fell outside of the preferred priorities.

The Need for Flexibility in Locational Policy

14. The Waste Issues and Options consultation document said (para 6.35) that a "search sequence" was suggested in draft PPS10. However, the final version of PPS10 does not use the term

15. Nevertheless, the company does not oppose the adoption of a sequential approach to site selection in Leicestershire as long as its delivery is flexible and it is not unduly restrictive. An examination of the Site Allocations Preferred Options has shown that a number of sites have been identified from lower down the hierarchy of priorities, suggesting that either the Councils have taken a flexible approach in practice, or that the stock of potential sites in the higher levels of the sequence have been exhausted. However, the company believes that policy CS4 as submitted does not indicate flexibility, and could be read in a very restrictive way.

16. The company's representations mentioned an economic scenario, which is readily believable in current economic circumstances, of the substantial delay in the implementation of SUEs and SESs. In that case, there would be no sites coming forward from category 2a. The company fears that if an interpretation of policy CS4 similar to town centre retailing availability or flooding potential is adopted such that sites further down the hierarchy cannot be considered until category 1 or 2a sites are judged unavailable or unsuitable, then the strategy could be put into jeopardy. Indeed, the sequential approach relies for its success on there being an adequate supply of the higher priority sites. If that assumption proves wrong, the policy approach may only serve to stifle the development it seeks to promote.

17. Alternatively, in the current climate it may be difficult for companies, particularly the smaller ones, to access capital for sites in premium locations, despite a general increase in availability of industrial locations through vacation caused by company failures. Similarly, with falling contract values and spot prices for waste management it may not be economic to treat contaminated or derelict land in preference to the development of say, unused agricultural or forestry buildings or indeed, agricultural land. Whilst some of the locations preferred by the Councils have benefits in terms of infrastructure and proximity, it is also true that they may suffer from a higher need for investment to make them acceptable in planning terms.

18. The company has already seen a partner cancel a Joint Venture based on inability to access capital because of uncertainties over expected financial returns caused by the collapse of the recycled materials market. This may only be a temporary situation, but it indicates the difficulties the industry may face in implementing an overly restrictive planning framework. Allied to this is the continued public prejudice which is still evident in Leicestershire to waste management (in common with other areas). In particular, the company has seen opposition to continued waste management at a composting site at Lount, at a HWRC at Kibworth and a landfill site at Narborough. What the company believes this demonstrates is that it cannot be assumed that priority One sites will be available or developable in sufficient numbers to secure the strategy.
19. Policy should clearly state that securing an adequate supply of waste management facilities is the first priority for the Core Strategy, with maximising the reuse of previously developed land and encouraging co-location as important but secondary objectives. This is necessary because the length of time required for the development of previously developed sites and urban extensions is frequently longer than that needed for greenfield sites. Consequently, an over prescriptive application of the sequential approach may risk causing an under provision in the short and medium term with possible negative economic effects, even if targets for provision are met in the longer term.
20. Moreover, a sequential approach should not be used as a method of rationing the supply of lower priority sites, but should provide a flexible choice of sites, the majority of which might be on previously developed land. The policy should prioritise previously developed areas where sites are available, but it needs to acknowledge that the release of other types of site may be essential if the availability of previously developed land is insufficient to accommodate provision. A major uncertainty from the potential developer's perspective is a requirement under Policy CS4 when proposing a site lower down the priority list, that no sites in higher categories (including the allocations) are available or suitable or will achieve the plan's objectives. This may indeed be an impossible task and will surely favour already identified sites.
21. Indeed, one of the criticisms of the sequential approach of current retail policy is that the strict adherence to a centre-first approach gives an unfair advantage to incumbent retailers. The current version of PPS6 requires a 'needs' test for edge-of-centre and out-of-centre sites, which includes a sequential test of whether there are no more central sites for development. Recent proposals to

change PPS6 were published for consultation which suggested the removal of the 'needs' test, in order to address the criticism that existing policy has been seen as a barrier to competition. In the context of the Waste Core Strategy the company notes that the Councils' sequential approach has resulted in fully one third of all Preferred Sites identified in SAPO being held by one operator, whilst a further 11% appear to be in the hands of contract incumbents. In order for the MSW tendering process to be truly competitive, potential participants need to be assured that their sites can come forward under local waste planning policy without any artificial barriers to competition in the site selection process. In arguing this the company is not attempting to suggest that environmental standards should be compromised; merely that a level playing field is established for all potential tenderers.

Suggested Changes to Policy CS4

22. What is needed, in the company's view, is for Policy CS4 to be seen to be much more flexible in the way it is implemented. This could be accomplished by a simple change of the policy wording to leave out a reference to the sequential approach, which may mislead plan users about the intentions of policy, plus a clearer statement of the Councils' priorities. The following wording should be adopted (strikethroughs in red denote proposed deletions; proposed additions in blue bold).

Policy CS4 The strategy for **locating waste sites** is to locate waste sites in accordance with the objectives of Policies CS2 and CS3 and the following ~~sequential approach~~ **general order**:-

- ~~Priority one will be given to~~ land with an existing waste management use **or adjacent to such use**, where transport, operational and environmental benefits can be demonstrated as a consequence of the co-location of waste management facilities
 - ~~Thereafter, priority will be given to~~ **any of the following types of site:**
 - a) land forming part of new major development proposals,
 - b) existing industrial/employment land;
 - c) other previously-developed land;
 - d) contaminated or derelict land;
 - e) existing mineral workings;
 - f) unused and under-used agricultural and forestry buildings and their curtilages;
 - **greenfield sites**
- providing that there is no unacceptable harm to the environment or communities.