



# Report to Leicestershire County Council and Leicester City Council

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**PLANNING AND COMPULSORY PURCHASE ACT 2004**

**SECTION 20**

**REPORT ON THE EXAMINATION INTO THE  
LEICESTERSHIRE AND LEICESTER WASTE CORE STRATEGY AND  
DEVELOPMENT CONTROL POLICIES  
DEVELOPMENT PLAN DOCUMENT**

Document submitted for examination on 23 June 2008

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## **ABBREVIATIONS USED IN THE REPORT**

CAA	Civil Aviation Authority
C&I	Commercial and industrial
CABE	Commission for Architecture and the Built Environment
DCLG	Department for Communities and Local Government
DEFRA	Department for Environment, Food and Rural Affairs
dpa	dwellings per annum
DPD	Development Plan Document
DRSS	Draft Regional Spatial Strategy
EMA	East Midlands Airport
LCC	Documents in the series published by Leicestershire County Council / Leicester City Council (LCC 1, 2 etc)
MWS	Municipal Waste Strategy
ONS	Office for National Statistics
Para	Paragraph
PPG	Planning Policy Guidance note
PPS	Planning Policy Statement
PUA	Principal Urban Area
RSS	Regional Spatial Strategy
RWS	Regional Waste Strategy
SAC	Special Area of Conservation
SUE	Sustainable urban extension
tpa	tonnes per annum
WAS	Prefix for evidence base documents submitted with the Waste Core Strategy and Development Control Policies DPD (WAS 1, 2 etc)
WCD	Prefix for Waste Core Documents (WCD 1, 2 etc)
WDF	Waste Development Framework
WPC	Prefix for Waste Proposed Changes (WPC1, 2 etc)

## **INTRODUCTORY MATTERS**

### **1 Introduction and Overall Conclusion**

- 1.1 Under the terms of Section 20(5) of the Planning and Compulsory Purchase Act 2004 ("the 2004 Act"), the purpose of the independent examination of a development plan document (DPD) is to determine:
- (a) whether it satisfies the requirements of Sections 19 and 24(1) of the 2004 Act, the regulations under Section 17(7) and any regulations under Section 36 relating to the preparation of the document; and
  - (b) whether it is sound.
- 1.2 This report contains my assessment of the Leicestershire and Leicester Waste Core Strategy and Development Control Policies DPD (WAS 1) in terms of the above matters along with my recommendations and the reasons for them as required by Section 20(7) of the 2004 Act. In this regard, I am satisfied that the DPD meets the requirements of the 2004 Act and the Town and Country Planning (Local Development) (England) Regulations 2004 ("the Regulations").
- 1.3 My role is also to consider the soundness of the submitted DPD against the three tests of soundness set out in Planning Policy Statement (PPS) 12, Paragraphs 4.51 - 4.52. In line with national policy, the starting point for the examination is the assumption that the local authorities<sup>1</sup> have submitted what they consider to be a sound plan.
- 1.4 The changes I have specified in this binding report are made only where there is a clear need to amend the document in the light of the legal requirements and/or the tests of soundness in PPS 12. None of these changes should materially alter the substance of the overall plan and its policies or undermine the sustainability appraisal and participatory processes already undertaken.
- 1.5 My report firstly considers the legal requirements. It then deals with the relevant matters and issues considered during the examination in terms of testing justification, effectiveness and consistency with national policy. My overall conclusion is that the DPD is sound provided it is changed in the ways specified. The principal changes which are required are, in summary:
- including details of policies to be superseded by policies in the DPD;
  - amending the Spatial Vision;
  - amending and adding to the Waste Development Objectives;

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<sup>1</sup> The DPD has been prepared jointly by Leicestershire County Council and Leicester City Council acting as the Waste Planning Authorities for the area.

- clarifying and re-ordering the discussion on the national and regional policy context;
- re-writing the section on the need for new waste management capacity;
- including a commitment to a review of the Plan if and when there is no longer conformity with the RSS;
- defining strategic sites and clarifying the role of strategic and non-strategic sites as well as locational policy;
- expanding references to the National Forest, Charnwood Forest Regional Park, the River Mease Special Area of Conservation and other aspects of green infrastructure;
- strengthening certain development control policies;
- tightening the monitoring provisions; and
- making minor changes to the text in the interests of overall soundness.

1.6 Annex A to my report sets out all the detailed changes required, including those suggested by the Councils, to ensure that the plan meets the legal requirements and the three tests of soundness. I formally recommend these changes. "Minor" soundness matters that have been accepted by the Councils and reflected in their suggested proposed changes (LCC W12b) are not discussed in the report.

## **LEGISLATIVE MATTERS**

### **2 Legal Requirements**

- 2.1 The Leicestershire and Leicester Waste Core Strategy and Development Control Policies DPD is contained within the Councils' Local Development Schemes. The updated version of Leicestershire County Council's Minerals and Waste Development Scheme (WAS 9) was approved on 27 April 2007. There, it is shown as having a submission date of June 2008. The updated Local Development Scheme of Leicester City Council (WAS 9a) was approved on 30 March 2007. Again, the submission date is given as June 2008.
- 2.2 In both Development Plan Schemes, the date for the examination / public hearing is recorded as January 2009. In the event, and with the agreement of the Planning Inspectorate, the hearings were held in February 2009. However, I am satisfied that this is not a significant variation and that the DPD has been prepared in accordance with the Councils' Local Development Schemes. The identified role and content of the Plan also accords with the Schemes.
- 2.3 The Councils' Statements of Community Involvement (WAS 5 and WAS 5a) have been found sound by the Secretary of State and were formally adopted by the Councils before the examination

hearings took place. It is evident from the documents submitted by the Councils, including the Regulation 28 (WAS 3) and 31 Statements and the Self Assessment Paper (WAS 6), that the Councils have met the requirements as set out in the Regulations.

- 2.4 Alongside the preparation of the DPD it is evident that the Councils have carried out a parallel process of sustainability appraisal. The sustainability assessment provides a sound basis for assessing the sustainability of the Plan and has influenced the preparation of the DPD at various stages during its progress.
- 2.5 With regard to the Habitats Directive, I am satisfied that as a result of the scoping exercise carried out (WAS 7 and Addendum) there is no need for an Appropriate Assessment. The results have been agreed with Natural England.
- 2.6 I am satisfied that the DPD has regard to national policies and guidance issued by the Secretary of State. Detailed issues regarding consistency with national policy are dealt with later in the report.
- 2.7 The East Midlands Regional Assembly is of the view that the DPD is in general conformity with the approved Regional Spatial Strategy (RSS 8, March 2009).<sup>2</sup> A similar view was expressed in respect of the former RSS (WAS 24, March 2005) and the Secretary of State's proposed changes to that document (WCD 10). I am also satisfied as to general conformity. Detailed issues concerning consistency are dealt with below.
- 2.8 I am satisfied that the DPD has had regard to the sustainable community strategies for the area (WAS 11 to WAS 18 and WCD 9).
- 2.9 I am satisfied that the DPD complies with the specific requirements of the 2004 Regulations including the requirements in relation to publication of the prescribed documents; availability of them for inspection and local advertisement; and notification of DPD bodies.
- 2.10 In terms of "saved" policies, Regulation 13(5) of the Regulations requires that, where a DPD contains a policy that is intended to supersede another policy, it must state that fact and identify the superseded policy. In this regard, Paragraph 1.1 of the DPD indicates that the existing Leicestershire, Leicester and Rutland Waste Local Plan 1995 – 2006 (WAS 20) will be replaced under the Waste Development Framework. However, the specific policies to be superseded by the DPD are not identified.

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<sup>2</sup> The version of RSS 8 now adopted (East Midland Regional Plan, March 2009) was published during the preparation of this report. The report has been amended to reflect the new RSS. The DPD itself will need to be up-dated throughout to delete reference to the draft RSS.

- 2.11 In order for the DPD to comply with the legislation, the superseded policies in the existing Waste Local Plan must be identified. The Councils have proposed that the policies should be identified in an appendix. Reference to the superseded policies and the appendix will also be necessary in the text of the DPD.
- 2.12 Subject to identification of the superseded policies, I am satisfied that the legal requirements have all been satisfied.
- 2.13 **In order for the DPD to comply with the legislation, insert an appendix listing the "saved" policies in the existing Waste Local Plan that are intended to be superseded by policies in the DPD, with linking text, as set out in Annex A to my report (WPC8 and 71).**

## SOUNDNESS MATTERS

### 3 Spatial Vision and Objectives

***Key Issues – Whether the Spatial Vision and Objectives are sufficiently focussed, aligned to the Regional Spatial Strategy, spatial and locally distinctive; also whether they give adequate direction to the strategic policies.***

- 3.1 The Spatial Vision and Waste Development Objectives are set out in Section 3 of the Plan. This follows an analysis of the spatial characteristics of the area in the preceding section. The main thrust of the Core Strategy is to increase recycling and reduce landfill thereby reducing Leicestershire's impact on climate change. In this and other respects the Plan closely relates to the sustainable community strategies for the area.
- 3.2 There are, however, areas where the Strategic Vision does not adequately reflect policy as set out in the Regional Spatial Strategy (RSS) or Government policy. Particularly, although the vision reflects the Government's Waste Strategy,<sup>3</sup> there is no recognition of the role of energy recovery. In addition, the vision refers to providing sufficient waste facilities to manage the area's waste. Potentially, this could lead to provision in excess of the county's requirement. This would not accord with the RSS.
- 3.3 The preparation and examination of the DPD paralleled that of the Regional Spatial Strategy as now adopted. It was only with the publication of the Secretary of State's proposed changes to the emerging RSS that the Councils had the opportunity to reflect on the wording in the latest version of both emerging plans. Nevertheless, it is necessary for the plan to be adopted to be aligned to national and regional plans.

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<sup>3</sup> Waste Strategy for England 2007, DEFRA, May 2007

- 3.4 **In order for the Core Strategy to be sound, amend the Spatial Vision to refer to energy recovery; also to waste facilities with capacity equal to the amount of waste generated and requiring management within the Plan area, both as set out in Annex A of my report (WPC13).**
- 3.5 With regard to the Waste Management Objectives, I am aware that Para 2.1 of PPS 12 (WCD 1) refers to spatial planning as a process of place shaping and delivery that, amongst other things, aims to produce a vision that responds to local distinctiveness. Securing a delivery strategy is given further emphasis at Para 4.1. In this regard, the Plan has been criticised for its "anywhere" objectives and its lack of local focus.
- 3.6 Lack of clarity in the delivery process is the subject of particular criticism in the discussion (below) on new waste management capacity. The discussion underlines the importance of appropriate delivery of waste management facilities at key dates. To my mind, to ensure the soundness of the Plan, the related objective (Objective 2) must seek the timely delivery of appropriate facilities at key dates.
- 3.7 In terms of local distinctiveness, Leicestershire has many attributes that make the county what it is. In particular, there is the National Forest, Charnwood Forest and various aspects of the county's green infrastructure such as green wedges and strategic river corridors. In this regard, the River Mease is a Special Area of Conservation (SAC) and the only nature conservation site of European importance within the county.
- 3.8 In order for the objectives to be locally distinctive, in line with national policy, I consider that there should be specific reference to the River Mease SAC, the National Forest and Charnwood Forest as well as to green infrastructure projects and strategies in general.
- 3.9 In addition to the above, it is necessary for Objective 1 (waste minimisation facilities) to refer to minimising waste in the construction and operation of new development. This is to avoid confusion with technical developments or marketing initiatives, for example in the packaging or retail industries.
- 3.10 **In order for the Core Strategy to be sound, amend the Waste Development Objectives to refer to:**
- **the timely delivery of waste management facilities at 2009/10, 2014/15 and 2019/20;**
  - **the River Mease SAC;**
  - **green infrastructure projects such as the National Forest and Charnwood Forest Regional Park; and**

- **minimising waste in the construction and operation of new development,**
- all as set out in Annex A of my report (WPC14, 15, 73 and 74).**

#### **4 New Waste Management Capacity**

***Key Issues – Whether there is clarity over the amount and type of waste facilities that are likely to be required and the timing of their provision; and whether the choices are backed up by adequate facts.***

- 4.1 Amongst other things, Section 2 of the Plan aims to set out the national and regional policy context for the DPD and other parts of the Waste Development Framework. Included are targets from Leicestershire's Municipal Waste Strategy (MWS). However, it is not possible to compare the MWS targets with those emanating from the Regional Spatial Strategy and hence gain any sense of the success of actions to date or necessary shifts in policy direction. The discussion within the section on national policy of targets from the Municipal Waste Strategy adds to the confusion.
- 4.2 Through further interpretation, the Councils have been able to identify targets for the recycling or composting of municipal waste that equate with the dates in the Regional Spatial Strategy. It is also possible to identify and set out the RSS minimum targets for the recycling and composting of municipal solid waste. These are 30% by 2010, 50% by 2015 and 50% by 2020. The equivalent targets from the MWS are 50% by 2010, 53% by 2015 and 58% by 2020.
- 4.3 By including this up-to-date and comparable information, the Plan will be supported by the evidence base. A re-ordering of the text will also facilitate understanding and accurate interpretation of the Plan. Clarification of the situation in Rutland will aid interpretation of the up-to-date requirements in Leicestershire and Leicester.
- 4.4 **In order for the Core Strategy to be sound, amend the DPD by:**
- **re-ordering the text under Paragraphs 2.12 and 2.18 of the Plan;**
  - **enabling comparison of the targets within Leicestershire's MWS with equivalent targets at the dates set out in the RSS;**
  - **adding the targets from the RSS for the recycling and composting of municipal solid waste; and**
  - **clarifying the situation in respect of Rutland,**

**all as set out in Annex A of my report (WPC4 to 7).**

- 4.5 The next section to be considered, that part of the Core Strategy that relates to the need for new waste management capacity, is of fundamental importance. Through this section, and as required by Paragraph 4.1 of PPS 12 (WCD 1), will emerge a strategy that sets out what type of facilities are needed, of what capacity and by what dates. It is also the section of the Plan that has proved most problematical with several versions of a topic note attempting to grapple with the fundamentals (LCC W1, W1a and W1b).
- 4.6 The submission version of the Plan examines the situation in a series of discrete paragraphs. These deal with municipal and commercial and industrial waste; energy / value recovery facilities; non-inert landfill sites; inert landfill sites; and hazardous waste.
- 4.7 With regard to municipal and commercial and industrial waste, Table 4.1 of the Plan purports to show the indicative scale and number of facilities required for the recycling and composting of municipal and commercial and industrial waste. However, the requirement is only shown for 2021. There is no indication of the shortfall or surplus of capacity that there would be at the appropriate intermediate dates of 2009/10 and 2014/15. The delivery imperatives cannot be discerned.
- 4.8 In addition, there is an artificial distinction between municipal recycling facilities and facilities for the recycling of commercial and industrial waste. This is in circumstances where both waste streams are likely to be managed together.
- 4.9 The need for energy / waste recovery facilities is described in Paragraph 4.3 of the submission version of the Plan. However, there are a number of problems of interpretation. Firstly, there is no indication of the range of energy / waste recovery facilities that are being contemplated including any that are to be ruled in or ruled out.
- 4.10 Second, a figure of 114,000 tonnes per annum is given as the minimum capacity of facilities that will be needed to recover energy / value from municipal and commercial and industrial waste. Although not stated, this is the figure for 2019/20. There is no indication of the requirement at intermediate dates or how the 2019/20 figure would change following earlier provision.
- 4.11 The second half of Paragraph 4.3 deals with the amount of residual municipal and commercial and industrial waste requiring treatment or disposal after recycling. However, the number of energy / value recovery facilities identified and their likely land take do not exactly accord with the evidence base (WCD 7).

- 4.12 Turning to non-inert landfill, Paragraph 4.4 of the Plan indicates that at least one site will be required by 2014 and a further one or two additional sites could be needed at other dates depending on the amount of energy / value recovery that is actually developed in the Plan period. However, this position needs further analysis, notably to highlight current or short-term requirements.
- 4.13 It is to be assumed that some provision will be made with the aim of meeting the municipal landfill diversion requirement. However, if no other energy / value recovery capacity is developed within the Plan period, and only minimum recycling / composting rates are reached, the situation would be different from that stated in the Plan. Two further landfill sites may be required by 2009/10. A further site may be needed by 2014/15 when there is predicted to be a significant drop-off in the total capacity of existing sites.
- 4.14 In terms of inert landfill sites, the submission version of the Plan gives a 2019/20 requirement for the provision of additional recycling capacity. Again, there is no indication of the requirement at intermediate dates or how the 2019/20 figure would change following earlier provision. In addition, there is no clear statement of the indicative scale and number of facilities required for the landfilling of inert (construction and demolition) waste at the key dates of 2009/10, 2014/15 and 2019/20.
- 4.15 Finally, and with regard to hazardous waste, the submission version of the Plan is unclear on the matter of existing capacity and the ability to manage regional increases through the Plan period. As it is, by securing sufficient capacity for commercial and industrial waste, provision would be made for this waste stream.
- 4.16 Suitable replacement text and tables in relation to the above matters are set out in the latest topic note (LCC W1b). This covers the matters set out in Paragraph 4.17 below. With these amendments in place, and in accordance with PPS 12, there would be clarity over the amount and type of waste facilities that are likely to be required and the timing of their provision.
- 4.17 **In order for the Core Strategy to be sound, amend Paragraphs 4.2 to 4.7 as follows:**
- **for municipal and commercial and industrial waste, indicate the shortfall or surplus of capacity likely at 2009/10, 2014/15 and 2019/20; also, for the indicative scale and number of facilities required for recycling, take the two waste streams together;**
  - **for energy / waste recovery facilities, state the range of facilities that are being contemplated; also the likely facilities requirement at 2009/10, 2014/15 and 2019/20;**

- **for municipal and commercial and industrial waste requiring treatment or disposal after recycling, accurately state the number and land-take of the facilities that could be required;**
- **for non-inert landfill, give the up-to-date landfill requirement as anticipated at 2009/10, 2014/15 and 2019/20;**
- **for inert landfill, give the up-to-date landfill requirement as anticipated at 2009/10, 2014/15 and 2019/20; also the indicative scale and number of facilities likely to be required at those dates;**
- **for hazardous waste, clarify how the requirement would be managed over the Plan period,**

**all as set out in Annex A of my report (WPC16).**

- 4.18 There is a further matter that is potentially controversial. In calculating the need for new waste management capacity, the Councils have concentrated on a period extending until 2019/20. Indeed the whole of the Plan has this general time frame. This is in circumstances where the RSS extends to 2026. In addition, PPS 12 (WCD 1) at Paragraph 4.13 states that the time horizon of the core strategy should be at least 15 years from the date of adoption.
- 4.19 The shorter time frame of the Plan has not been the subject of any particular representations. Indeed, the Government Office's representative at the related examination hearing recognised that the Plan had been caught in the cleft of Government policy. For my part, I can see that very substantial delays would be caused if the time frame were now to be extended. Bearing in mind also the uncertainty regarding figures in the RSS for the period post-2020, the alternative of a future review of the Plan can be commended.
- 4.20 In my opinion, it would not be in the public interest to delay progression of the Core Strategy on this ground. I am also mindful of the fact that it has been possible to up-date some of the background information, information that will inform policy consideration. In particular, information on future population growth to 2026, and the implications for urban expansion, is now available. However, there should be a commitment to a review of the Plan if and when it is no longer in general conformity with the RSS.
- 4.21 **In order for the Core Strategy to be sound, replace Paragraph 2.34 with a paragraph giving the latest position on population growth and the likely direction of urban expansion; also include a commitment to reviewing the Plan if and when it is no longer in general conformity with the RSS (Paragraph 6.3), all as set out in Annex A of my report (WPC10 and 65).**

## 5 Distribution and Location of New Facilities

### ***Key Issue – Whether there is clarity in matters relating to the intended location of future waste management facilities.***

- 5.1 The Councils' strategy for locating waste sites is based on a division into strategic and non-strategic sites. In order for the right sort of facilities to be provided in the right sort of locations, it is of fundamental importance that the difference between the two types of site is readily apparent. In turn, and given that the related Policies CS2 and CS3 draw on the supporting text, clarity in the reasoned justification is essential.
- 5.2 In the submission version of the Plan, the discussion on strategic sites in Paragraphs 4.16 and 4.17 is not sufficiently clear. There is a need to give emphasis to locational principles (near to centres of high population density); the ability to divert a significant proportion of municipal and/or commercial and industrial waste away from landfill by value and/or energy recovery; and the potential to deal with municipal and/or commercial and industrial waste.
- 5.3 At the examination hearings, and in response to representations, there was discussion about whether strategic sites should include landfill sites. I appreciate that such sites have an important role to play in the disposal of residual waste after treatment; also in advance of the establishment of new alternative waste management facilities. In addition, the role of landfill in securing the restoration of despoiled and previously quarried land should be explicitly recognised.
- 5.4 Be that as it may, landfill sites are not sites that meet the essential requirements of strategic sites and that should be used in establishing locational policy. In this regard, they are sites where the location is pre-determined by the fact that there is a hole in the ground not by the ability to serve local communities in the most sustainable way.
- 5.5 On a further point, Policy CS4 indicates that first priority in locating waste sites is to be given to land with an existing waste use and where transport, operational and environmental benefits can be demonstrated as a consequence of co-location. For consistency, this criterion should also be carried into Policy CS3 on non-strategic waste sites. Without such an amendment, policy could be interpreted as promoting development at existing waste sites outside the preferred locations.
- 5.6 A further Policy CS3 point relates to the siting of non-strategic waste sites within sustainable urban extensions. I can see that this is a very real concern, for example in marketing terms and having regard to the possibility of "bad neighbour" development. However,

as recognised in the Companion Guide to PPS 10 (WCD 2, Para 7.31), some waste facilities may be compatible with residential development. Given the safeguard of "no unacceptable harm to the environment or communities" (Policy CS4), I do not consider that this is a soundness issue.

5.7 Finally, it is to be noted that the locational priorities set out in Policy CS4 on locating waste sites do not accord with the evidence given to the related examination hearing. It is now clear that the matters under the second bullet point in Policy CS4 are not intended to be in any order of preference. In addition, no mention is made of greenfield sites. These should be added as a third class of priority. Consequential amendments to the text are also necessary.

5.8 **In order for the Core Strategy to be sound, amend the DPD by:**

- **defining strategic sites and clarifying their characteristics (Paragraphs 4.16 and 4.17);**
- **recognising the role of landfill in securing the restoration of despoiled or previously quarried land (Paragraph 4.19);**
- **requiring a demonstration that transport, operational and environmental benefits would arise from co-location (Policy CS3 criterion (iv)); and**
- **clarifying the priorities in Policy CS4 and in the related text,**

**all as set out in Annex A of my report (WPC18, 19 and 21 to 27).**

5.9 A further soundness point arises from consideration of Policy CS6 on energy / value recovery technologies. Reference to the Plan makes clear that the considerations within the policy are not arranged in any hierarchy. However, some of these considerations refer to elements of the waste hierarchy as set out in Annex C of PPS 10 (WCD 2). To accord with national policy, the considerations should be arranged in an order that reflects the waste hierarchy.

5.10 **In order for the Core Strategy to be sound, and to reflect the waste hierarchy, rearrange the considerations in Policy CS6 as set out in Annex A of my report (WPC30).**

5.11 Before leaving the topic of the distribution and location of new facilities, I consider the matter of radioactive waste. This has not been the subject of a detailed needs assessment in the Plan area. Rather, it is dealt with in a discussion on "Other Forms of Waste Management Development" where there is stated to be no particular requirement at present but that a strategy is being prepared. My concern is that this aspect of policy is not adequately dealt with.

- 5.12 I am aware that, at the present time, there is something of a national / regional policy vacuum regarding radioactive waste. However, a national study for the management of non-nuclear industry low level radioactive waste is currently being prepared by the Government. Reference to this study and its potential relevance to the on-going strategy of the Councils would be in the interests of soundness.
- 5.13 **In order for the Core Strategy to be sound, add reference in Paragraph 4.57 to the Government's emerging strategy on non-nuclear industry low level radioactive waste as set out in Annex A of my report (WPC34).**

## 6 Environmental Matters

***Key Issues – Whether the strategy would secure adequate environmental and landscape protection; support the objectives of the National Forest and Charnwood Forest; and provide new habitats, increased biodiversity and other green infrastructure.***

- 6.1 In the above discussion on the Spatial Vision and Objectives, attention focussed on various aspects of green infrastructure including the National Forest, Charnwood Forest and the River Mease SAC. In this regard there are a number of related policies. Policy CS10 covers protection of the natural (and built) environment; Policy CS11 concerns the National Forest; and Policy CS12 addresses land within or adjacent to Charnwood Forest.
- 6.2 I have already determined that the Waste Development Objectives should be amended to refer to these specific features of the green infrastructure. However, the question remains as to whether other parts of the Plan need to be changed in order to give appropriate recognition to these matters.
- 6.3 I am generally satisfied that the Core Strategy, amended as discussed above, would make adequate reference to the National Forest, Charnwood Forest and River Mease SAC. However, there are certain amendments that should be made for the provisions to be effective.
- 6.4 First, reference should be made in the supporting text to the overall vision and overarching aim of the National Forest Strategy; also to having regard to cultural heritage as well as conservation sensitivities and opportunities. Second, reflecting the National Forest Strategy should be at the heart of Policy CS11. Third, by including specific reference to the River Mease SAC in the discussion on sites of international and national importance, the effectiveness of the related provisions would be better assured.

- 6.5 **In order for the Core Strategy and Development Control Policies to be sound, amend the DPD by:**
- **referring to the overall vision and overarching aim of the National Forest Strategy (Paragraph 4.64);**
  - **including reference to cultural heritage sensitivities and opportunities (Paragraph 4.66);**
  - **placing reflection of the National Forest Strategy at the heart of Policy CS11; and**
  - **adding specific reference to the River Mease SAC in Paragraph 5.6,**
- all as set out in Annex A of my report (WPC36 to 38 and 45).**
- 6.6 On the matter of Green Wedges, the submission version of the Plan draws a parallel with Green Belt policy and the Government's policy on waste management facilities within Green Belts. However, this is a matter that is referred to in the Regional Spatial Strategy<sup>4</sup> at Para 4.2.18. It is confirmed that Green Wedges are not supported by Government policy in the same way as Green Belts. Paragraph 4.70 of the Core Strategy does not reflect national or regional policy. Deletions from the paragraph are necessary.
- 6.7 Also on the matter of Green Wedges, Policy CS13 as currently expressed indicates that planning permission for waste management development on greenfield sites will not be granted unless certain criteria are met. However, the evidence indicates that the criteria are intended to apply to all sites within Green Wedges, not just greenfield sites. The wording of the policy needs to be changed.
- 6.8 **In order for the Core Strategy to be sound, amend the DPD by deleting comparisons with Green Belts in Paragraph 4.70; also reference to "greenfield" sites in Policy CS13, both as set out in Annex A of my report (WPC39 and 40).**
- 6.9 Turning to the discussion on the open countryside, I note that the terminology as used in the RSS is "countryside". The related text and policy should therefore be headed "Countryside". More particularly, the Companion Guide to PPS 10 (WCD 3) at Paragraph 7.33 refers to the preference to be given to suitable sites that are previously developed land but that greenfield allocations are not ruled out. The wording of Paragraph 5.11 of the Plan needs to be changed to reflect this national guidance.
- 6.10 **In order for the DPD to be sound, amend Paragraph 5.11 to recognise that greenfield sites should not be ruled out and that composting in particular may need a countryside location, as set out in Annex A of my report (WPC49)**

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<sup>4</sup> East Midlands Regional Plan (RSS 8), March 2009

## 7 Development Control Policies

***Key Issue – 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.***

- 7.1 Planning Policy Statement 12 (WCD 1, Para 4.30) is clear in stating that the core strategy should not repeat or reformulate national or regional policy. The same stricture also applies to development control DPDs (See Para 5.2 of PPS 12).
- 7.2 National planning policy is set out in a series of Planning Policy Statements. If it is the intention of a waste planning authority simply to apply national and regional policy in its decisions it does not need to reiterate it in its DPDs in order to do so; nor reformulate it by devising a similar kind of wording that achieves the same result. Plan making resources are scarce and need to be concentrated on the tasks which only the core strategy can achieve.
- 7.3 In this regard, Annex E of PPS 10 (WCD 2) provides a useful national policy context for decision making. There is concern that various policies in the Plan repeat this guidance or duplicate national policy in other planning policy statements or planning policy guidance notes. Attention has focussed on Plan Policies CS10 (Environmental Protection), DC2 (Sites of National Historic Importance), DC4 (Archaeology), DC6 (Agricultural Land), DC8 (Health and Amenity), DC9 (Cumulative Impact), DC10 (Transportation of Waste), DC12 (The Water Environment) and DC13 (Air Safeguarding).
- 7.4 On a preliminary note, I note that Annex E is principally directed at testing suitability at the site and area identification stage rather than in relation to planning applications. However, it is to be expected that the policies in the Plan will guide both site allocation and development control.
- 7.5 I have examined the various policies by reference to national (and regional) policy. In some cases, the policies in the Plan come perilously close to a repetition or reformulation of national policy. For example, Policy DC4 on archaeology, as well as lacking in local distinctiveness, adds little to Government Policy in PPGs 15 and 16 (WCD 14). Nevertheless, it satisfies the requirement (PPG 16, Para 15) of including policies on protection, enhancement and preservation. Furthermore, through additions to the text, the provisions would be locally distinctive and explain how sites of potential archaeological interest would be identified.
- 7.6 It is likely that, if starting again, the development control policies and text could be radically simplified so as to avoid unnecessary content. Other local planning authorities would do well to adopt

such an approach. However, to do so now in the present case would be counter-productive and would lead to further expenditure of scarce resources.

- 7.7 In all cases I have been able to distinguish the policies set out in the Plan from the precise guidance in Government policy. I can see that the Councils' aim has been to clarify how relevant considerations will be taken into account in Leicestershire and Leicester. Taking all matters into consideration I am satisfied that the soundness of the Plan has not been compromised.
- 7.8 A further area where compliance with national policy has been questioned is in relation to Policies DC14 (Information in Support of Planning Applications), DC17 (Planning Conditions) and DC18 (Planning Obligations).
- 7.9 On the matter of information in support of planning applications, and post-dating the drafting of the Plan, I note that Circular 02/2008 has been published by the Department for Communities and Local Government.<sup>5</sup> Amongst other things, the Circular provides that local planning authorities can set out local requirements as to the information that should accompany planning applications. On the face of it, the new provisions would render unnecessary the related content of the Plan.
- 7.10 Be that as it may, the subject matter can again be distinguished. Circular 02/2008 is concerned with matters that go to the heart of whether a planning application would be legally valid. Policy DC14 gives greater clarity to applicants on the information that is likely to be required in support of planning applications. In that regard, it is also a useful vehicle for emphasising aspects of local distinctiveness and additions to the box referred to in the policy would be appropriate.
- 7.11 In respect of Policy DC17 (Planning Conditions) and Policy DC18 (Planning Obligations), related provisions are to be found respectively in Circulars 11/95<sup>6</sup> and 05/2005.<sup>7</sup> However, I do not consider that national policy is being repeated or reformulated. In this regard, there is clear value in including the matters set out in Boxes 2 and 3.
- 7.12 I now turn to Policy DC1 on Design and the related section of the Plan covered by Paragraphs 5.1 to 5.4 (more appropriately "Sustainable Design"). Sustainable design is, of course, an area of planning policy that is given particular emphasis in national policy. That emphasis should be reflected in the provisions of the Plan. As such, there are important amendments to be made by way of clarification; to underline the need to contribute positively to the

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<sup>5</sup> Circular 02/2008, Standard Application Form and Validation, 12 March 2008

<sup>6</sup> Circular 11/95, The Use of Conditions in Planning Permissions, 20 July 1995

<sup>7</sup> Circular 05/2005, Planning Obligations, 18 July 2005

character and quality of an area; and to refer to the latest available guidance.

7.13 In terms of other development control policies and related text, there are a number of instances where additions are needed to better reflect national policy. Several relate to green infrastructure. However, I have treated these as "minor" soundness matters that have been accepted by the Councils and reflected in their suggested proposed changes (LCC W12b). It is not necessary for them to be discussed in detail in my report.

7.14 **In order for the DPD to be sound, amend the Development Control Policies by:**

- **explaining how sites of potential archaeological interest would be identified (Paragraph 5.10);**
- **making additions and amendments to Box 1; and**
- **strengthening Policy DC1 and the related text on sustainable design,**

**all as set out in Annex A of my report (WPC42 to 44, 48 and 58).**

## **8 Monitoring**

***Key Issue – Whether there are clear arrangements for managing and monitoring the delivery of the strategy.***

8.1 Following the changes and additions to the Waste Development Objectives, it will be necessary to reflect those amendments in the monitoring tables where the objectives are listed. The main changes are to give particular emphasis to the National Forest, Charnwood Forest Regional Park and the River Mease SAC. The National Forest is already the subject of monitoring indicators and targets. In terms of Charnwood Forest and the River Mease, I would expect these features to be monitored under existing indicators that cover sites or areas of historic and natural environment importance.

8.2 Other changes are necessary in order to make clear what action would be taken if targets are consistently missed. In this instance the occurrences would be used to inform a five-yearly review of the Plan.

8.3 Finally, there are occasions when targets could be achieved too easily and are unlikely to drive forward the provisions of the Plan. In particular, and so as to reflect existing progress, the 2010 target for improving current composting and recycling levels should be advanced to 100% of the levels set out in the Leicestershire Municipal Waste Management Strategy. Similarly, and save only in

the case of kiosk-type structures, there is no reason why all buildings should not incorporate sustainable design principles.

- 8.4 **In order for the DPD to be sound, amend the monitoring provisions by:**
- **making additions and amendments to the objectives listed in the monitoring tables;**
  - **indicating that, where targets are consistently missed, this would be used to inform the five-yearly review; and**
  - **increasing certain targets,**
- all as set out in Annex A of my report (WPC65, 66, 69 and 76).**

## 9 Other Matters

***Key Issue – Whether the DPD is justified, effective and consistent with national policy.***

- 9.1 At the examination hearings into the Plan, various miscellaneous points were discussed. These included changes to the Key Diagram such as removing sustainable urban extensions and showing East Midlands Airport. In addition, consideration was given to the timing of the DPD preparation relative to the Councils' waste facility procurement programme. However, other than the matters discussed in the foregoing text, there are no additional matters that would affect the soundness of the Plan.

## OTHER CHANGES

### 10 Minor Changes

- 10.1 The Councils wish to make several minor changes to the submitted DPD in order to clarify, correct and update various parts of the text. Although these changes do not go to the heart of the soundness of the DPD, they will assist in understanding the operation and application of the policies and the underlying strategy. I recommend these changes in the interests of clarity, accuracy, consistency and general soundness. In a few cases, I have made minor changes to ensure clarity and consistency. These changes are included in Annex A.
- 10.2 **In order for the DPD to be sound, I endorse the remaining minor changes to the policies and text of the DPD, as suggested by the Councils and included in Annex A of my report, in the interests of clarity, consistency and accuracy. Any further consequential changes made to the DPD by the Councils should be limited to alterations to spellings and paragraph or page numbers.**

## **OVERALL CONCLUSION**

### **11 Conclusion**

- 11.1 I conclude that, with the amendments I recommend, the Leicestershire and Leicester Waste Core Strategy and Development Control Policies DPD satisfies the requirements of Section 20(5) of the 2004 Act and meets the tests of soundness in Planning Policy Statement 12.

*Andrew S Freeman*

INSPECTOR

### **Annex A: Schedule of Required Changes**