United Nations Global Compact

ENVIRONMENTAL SERVICES ASSOCIATION

Land-use Planning for Sustainable Waste Management

How the UK Can Become More Resource Efficient

INVESTOR IN PEOPLE

ACHIEVING SUSTAINABILITY ACROSS THE UK

This work was commissioned by the Environmental Services Training and Education Trust (ESTET) as a positive contribution to the debate on how the planning system can enable the UK to become more resource efficient.

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The Challenge

Thousands of new waste management facilities will be needed over the next decade to meet the requirements of waste producers and to comply with EU Law. The Environment Agency estimates that 2,000 new waste management facilities will be required to meet the EU Landfill Directive alone. Improving the UK's recycling performance will require many more facilities to separate and treat waste and to reprocess recyclates, and sufficient capacity must be available to manage residual waste.

To facilitate this step-change, the planning process must provide greater certainty, minimise investment risk and deliver decisions more quickly. The private sector will only be able to raise capital for new facilities if it can demonstrate to financial institutions that the prospective development is commercially viable. An appropriate economic and regulatory framework must be put in place urgently, if there is to be a realistic prospect of developing a waste management infrastructure fit for the Twenty First Century on the basis of partnership.

Decisions about waste management facilities cannot be deferred as it can take several years for a waste management facility to become operational. A developer has to identify a suitable site, secure funding, acquire planning permission (meeting any requirement for an environmental impact assessment), obtain a PPC permit/waste management licence and construct the facility. Many facilities only start to manage waste three years after the planning permission has been granted.

Currently, the planning process is not providing these conditions. Delays in making decisions are common and the planning process is not delivering the recycling/recovery infrastructure sufficient to enable the UK to comply with EU Law. This document sets out key land-use planning issues at national, regional and local levels and suggests how they can be addressed now to achieve more sustainable use of resources. This Statement sets out ESA's views on the operation and performance of the planning process in England. It is a response to the emerging planning framework as set out in the Planning and Compulsory Purchase Bill and also summarises what ESA's members hope revision of Planning Policy Guidance Note 10 will deliver. The general principles of this Statement apply with equal relevance to the Devolved Administrations.

ESA recognises the need to work in partnership with central, regional and local planning bodies. We want to make a full contribution to building a more resource efficient UK. **We invite ODPM and DEFRA together to secure an agreement during 2004 with the Local Government Association and ESA on a schedule of achievements the planning system must deliver to secure the diversion targets required for 2010 by the Landfill Directive.**

> ***"We estimate that 2000 new facilities will be needed in the next few years."***
>
> The Environment Agency's written evidence to the House of Commons Environmental Audit Committee's Inquiry: Waste - An Audit 2003

ESA's Commitment

Working in cooperation with a wide range of partners, ESA's Members want to play a key role in enabling the UK to achieve compliance with EU laws relating to waste. This contribution includes investment in a new generation of waste and secondary resource management infrastructure, compliance with regulation, and provision on a basis of co-operation of sound technical advice to partners across the public and private sectors.

ESA and/or ESA's Members will:

■ **STATISTICS ON WASTE**
Provide relevant, non-confidential data on waste arisings and management.

■ **BPEO**
Contribute constructively and fully to a review of the principle and application of BPEO and, if required, continue to provide expertise and resources to develop BPEO assessments.

■ **CONSULTATION**
Engage proactively with local communities when submitting major planning applications.

Engage in pre-application discussion for significant waste management facilities with both the relevant waste planning authority and the principle statutory consultees.

Liaise with the Environment Agency and other consultees on planning applications.

■ **WASTE DEVELOPMENT FRAMEWORKS**
Contribute fully to the preparation of Waste Development Frameworks.

■ **LOCAL DEVELOPMENT ORDERS**
Work in partnership with a Waste Planning Authority to define Local Development Orders.

■ **EFFECTIVE TRAINING**
Support the effective training of councillors and local planning officers on waste planning issues.

National Action

A: *Planning Framework*

STRONGER LEADERSHIP AND CLEARER GUIDANCE FROM THE GOVERNMENT

The Government must specify the national waste management capacity and the environmental outcomes that need to be achieved to meet the requirements of EU Law.

There is no "magic bullet" technology. The Government must advise Waste Planning Authorities that the UK will require a variety of waste management solutions, including technologies that can extract energy from waste, to achieve compliance with its legal duties to the EU.

More resources should be allocated to the waste planning function within ODPM.

A coordinating committee chaired jointly by the Deputy Prime Minister and the Secretary of State for Environment, Food and Rural Affairs should be established, and meet regularly, to promote effective, regular and structured coordination between DEFRA and ODPM.

The Government should produce and promote model Plans and policies to help Waste Planning Authorities efficiently to produce a Waste Development Framework.

BETTER STATISTICS ON WASTE

ODPM should regularly provide information on the status of each Regional Spatial Strategy and each Waste Development Framework.

ODPM and the Devolved Administrations should every quarter publish information on the additional waste management capacity that has been consented and the waste management capacity that has been lost during that period.

The Government must urgently improve data on waste flows.

NATIONAL STATEMENT ON POTENTIAL HEALTH EFFECTS

The Government must provide clear information and guidance on the potential effects of waste management facilities on human health.

The Government should issue guidance on the health related issues that should be covered in the application for a planning consent and those that should be covered in the application for a PPC permit/waste management licence.

BETTER INTEGRATION OF PLANNING POLICY STATEMENTS

All relevant PPSs should advise a Planning Authority that, when it considers a planning application, it should attach appropriate weight to national, regional and local targets for waste management and the social, environmental and economic benefits that a waste management facility offers.

AN ENVIRONMENTAL BUSINESS PLANNING ZONE

The Government should encourage the development of environmental business-planning zones which would bring together a cluster of compatible environmental industries, such as renewable energy production, waste and secondary resource management and material reprocessing, on the same site to produce a localised environmental supply-chain.

CHARACTERISTICS OF WASTE

To avoid duplication, the planning system should address principal physical characteristics of waste rather than the source of waste.

The Environment Agency rather than the local authority should determine the detailed specification of the wastes going into sites.

BETTER INTEGRATION OF THE LAND-USE PLANNING AND ENVIRONMENTAL PROTECTION REGIMES

To avoid duplication, the Government should provide clearer guidance on the respective roles of the planning and environmental protection regimes.

Whilst ESA does not support a single planning and environmental protection permit, developers should have an option to apply for planning permission and a PPC permit/waste management licence at the same time.

LOCATIONAL POLICY

There are many different types of waste and secondary resource management facility. Increasingly, the new generation of facilities will fit in well in commercial and industrial areas. Others will continue to add value on brownfield land. As the South East Regional Assembly has been among those to recognise, other facilities will continue to play a valuable environmental role in designated areas. Revision of PPS2 should reflect these varying circumstances.

INTRODUCTION OF PERMITTED DEVELOPMENT RIGHTS AND WASTE USE CLASS

Permitted development rights on a scale consistent with those available to the minerals industry and other utilities should be introduced for the waste management industry.

The Government should explore opportunities to introduce a use class for waste management.

B: *Planning Principles*

REVIEW BPEO

ESA agrees with the Government that in the context of the revision of PPG10, and the quinquennial review of the Waste Strategy 2000 which will take place in 2005, the time is right to review the principle and application of BPEO. Currently BPEO creates more problems than it addresses, resulting in unnecessary costs for private and public sectors. Uncertainties and inconsistencies in the application of BPEO have the potential to undermine the whole of the waste planning system.

A full review of the application and operation of BPEO should be carried out, examining the role of BPEO and its relationship with other planning and analytical tools such as Strategic Environmental Assessment, with the aim of exploring more simple means of identifying the need for facilities and their broad locations, not dissimilar to the principle of aggregate apportionment.

If, following review it is decided to continue to follow the principle of BPEO, the process should be simplified so that the Government's waste strategy is clearly recognised as representing the national BPEO, and that a regional BPEO should inform the waste development framework and therefore the consideration of all applications. In any event, it is important to align economic and environmental outcomes.

THE PROXIMITY PRINCIPLE

The Government should clearly recognise that the proximity principle will not always be consistent with those environmental outcomes it aims to achieve.

C: *Operation of the Planning Process*

IDENTIFYING THE NEED FOR NEW WASTE MANAGEMENT CAPACITY

The Government must quantify the need for waste management capacity for all waste streams until 2020.

The Government must outline how a Regional Spatial Strategy and a Waste Development Framework would provide for the need identified by the Government until 2020.

GREATER EFFICIENCY WHEN MANAGING CALL IN APPLICATIONS AND RECOVERED APPEALS

The Government should publish targets for the handling of planning decisions made by the Government Offices and provide clearer information about why it has taken jurisdiction.

Regional Action

A: *Planning Principles*

BPEO

If the Government is to continue to use BPEO as a tool, the preparation of a regional BPEO assessment should follow revised guidance produced by ODPM to ensure consistency in approach across the Country.

The lifespan of the BPEO assessment should align with the requirements of the Landfill Directive and be reviewed every five years. When the longer-term strategy has been identified, intermediate stages can be developed.

The adopted regional BPEO assessment should be incorporated into the Regional Waste Strategy, Regional Spatial Strategy and Waste Development Frameworks and give appropriate weight to economic, environmental and social issues.

FLEXIBILITY WHEN APPLYING THE WASTE HIERARCHY

The waste hierarchy is a conceptual tool that should be flexibly applied.

The targets of regional waste strategies relating to waste minimisation and recycling need to be based on a rigorous cost-benefit analysis and on evidence and sound science rather than assumption.

SELF-SUFFICIENCY

Regional self-sufficiency should be defined as the need for a region and/or sub-region to manage the broad equivalent of the waste it generates.

Regional self-sufficiency should not be used as a mechanism artificially to block the movement of waste.

PROXIMITY PRINCIPLE

Regional bodies should clearly recognise that the proximity principle will not always be consistent with the environmental outcomes they aim to achieve.

B: *Operation of the Planning Process*

IDENTIFYING THE NEED FOR WASTE MANAGEMENT

Regional Spatial Strategies should identify the overall requirement for waste management capacity in the region and indicate how this requirement will be met in the sub-regions.

TARGETED CONSULTATION

Consultation on draft regional waste strategies should be targeted to reflect the interest of all residents and local businesses rather than a minority.

Consultation must be managed according to the timetable of enabling the UK to achieve compliance with relevant EU Law such as the Landfill Directive.

By 2016, the United Kingdom might have to divert over 26 million tonnes of biodegradable municipal waste from landfill.

European Environment Agency: Biodegradable Waste Management in Europe, 2002

Local Action

A: *Planning Principles*

BPEO

If the Government decides to continue to use BPEO, a planning application for a waste management facility should be required to demonstrate that the proposed development conforms with the BPEO rather than to show that the proposal itself represents BPEO.

PROXIMITY PRINCIPLE

Waste Planning Authorities should clearly recognise that the proximity principle will not always be consistent with the environmental outcomes they aim to achieve.

SELF-SUFFICIENCY

Self-sufficiency should be applied flexibly and be defined as the need for the Waste Planning Authority to make provision for the management of the broad equivalent of waste generated in its territory.

WASTE HIERARCHY

The waste hierarchy is a conceptual tool that needs to be flexibly applied to align environmental and economic outcomes.

The targets of municipal waste strategies relating to waste minimisation and recycling should be based on rigorous cost-benefit analysis and on evidence and sound science rather than on assumption.

B: *Operation of the Planning Process*

GREATER EFFICIENCY

No Waste Planning Authority can afford to defer decisions on new waste management infrastructure. It can take considerable time to develop and commission waste management infrastructure: energy from waste (10 years), gasification (7 years), MBT (3 years), MRF (3 years) and composting (2 years).

IDENTIFYING THE NEED FOR NEW WASTE MANAGEMENT CAPACITY

Waste Development Frameworks should state the overall requirement for new waste management capacity to meet the needs of all waste producers.

The policies of a Waste Development Framework should outline how the identified capacity requirements will be delivered.

The policies of all Local Development Documents should be consistent with and support the Waste Development Framework.

TARGETED CONSULTATION

Consultation by the Waste Planning Authority of local businesses and residents during the preparation of a Waste Development Framework must be carefully targeted and be in accordance with the timetable of achieving the UK's compliance with EU Law relating to waste.

The Waste Planning Authority should be entitled to assume that a consultee does not wish to comment or object to a planning application where it fails to respond within the prescribed timescale.

WASTE DEVELOPMENT FRAMEWORKS

A Waste Planning Authority should pay due regard to the model policies and model Plans issued by the Government.

A Waste Planning Authority should have the flexibility to adopt either a site-specific or criteria based approach to its Waste Development Framework, or a mixture of both.

Key criteria include: proximity to existing waste management facilities and waste sources, the size of the site,

the requirements of different waste management facilities and environmental constraints.

The Waste Development Framework should not prejudice sites emerging in response to, for example, the development of new technologies where they do not conflict with those sites that have been allocated.

The Waste Planning Authority should safeguard sites that have been allocated in the Waste Development Framework for waste management from non-waste developments.

A Waste Planning Authority should list the criteria and the procedures it has followed where it intends to identify sites in the Waste Development Framework. A Waste Planning Authority should not prioritise sites.

REQUESTS FOR INFORMATION

Where requested, a Waste Planning Authority should engage in pre-application discussion with the developer and the statutory consultees.

The Waste Planning Authority should not charge for pre-application discussions and should treat them as strictly confidential.

At a pre-application meeting, the Environment Agency should specify the issues on which it is qualified to provide advice.

EFFECTIVE TRAINING FOR COUNCILLORS AND OFFICERS

The Waste Planning Authority should ensure that officers and councillors receive regular and relevant training on waste management issues. For example, the Waste Planning Authority must ensure that it is able effectively to advise on an Environmental Impact Assessment to avoid judicial review.

BETTER INTEGRATION OF THE LAND-USE PLANNING AND ENVIRONMENTAL PROTECTION REGIMES

To avoid duplication, matters that can be resolved by the Environment Agency after planning applications have been determined should not be considered as part of the planning process.

The Environment Agency's response to a consultation should identify the mitigation measures that should be secured through planning conditions. Mitigation measures to be secured through the permitting process should be addressed as part of the permit authorisation process.

LOCAL DEVELOPMENT ORDERS

Waste Planning Authorities should define Local Development Orders for minor, ancillary waste developments.

PERMITTED DEVELOPMENT RIGHTS

A Waste Planning Authority should not introduce conditions to remove permitted development rights as a matter of routine and without specific justification.

SAFEGUARDING WASTE MANAGEMENT FACILITIES

Modern waste management facilities can co-exist with other types of development.

In addition to the statutory consultation that will be undertaken by the Environment Agency, an operator of a waste management facility should be consulted if a new development is proposed within 250 metres of the site boundary.

A Waste Planning Authority should only grant planning permission for a non-waste development proposed within 250 metres of a permitted or allocated waste management facility where it is satisfied that it would not unduly restrict current and future waste management operations.

GREATER USE OF RECYCLED MATERIALS IN CONSTRUCTION

Planning conditions should, when economically and environmentally sustainable, require a minimum content of recycled materials to be used in the construction of new and significant developments.

Planning conditions should require the provision of appropriate facilities in new developments for the storage and collection of recyclables.

"By 2020 the current position needs to be turned on its head. The logistics and scale of facilities will need to be radically different, with a different built infrastructure, equipment and vehicle fleet."

The Mayor of London's Municipal Waste Management Strategy

"If the targets set out in the Landfill Directive are to be achieved there has to be a rapid and exponential increase in facilities to process waste in other ways."

RICS: Can the Waste Planning System Deliver, 2004

The Planning Framework

STRONGER LEADERSHIP AND CLEARER GUIDANCE FROM THE GOVERNMENT

The UK requires a strong land-use planning framework in order to comply with the Landfill Directive and other EU Laws regarding waste. Currently, this framework is not in place. The planning process is becoming slower and more capricious and the costs incurred by ESA's Members in preparing an application have increased substantially. ESA does not believe that the Planning and Compulsory Purchase Bill will increase certainty or result in faster decisions with regard to applications for new waste management facilities.

The Government needs to provide clear guidance and strong leadership on waste management policy. International experience indicates that recycling alone cannot deliver the requirements of the Landfill Directive and of other EU legislation such as the Packaging Directive. Countries achieving the highest levels of recycling, such as the Netherlands, also extract substantially more energy from waste than the United Kingdom. The Government must clearly state that a range of waste management solutions, including technologies that can extract energy from waste, will be required over the next decade. The Government then needs to ensure that national objectives are implemented effectively at regional and local levels.

Adequate resources must be available to the waste planning function within ODPM. The revision of PPG10 and the progress of the Regional Technical Advisory Bodies have both been delayed by lack of resources. Secondment of industry experts into ODPM could provide an appropriate technical resource.

The pressures on the resources of a Waste Planning Authority to develop a Waste Development Framework are considerable. The Government should help by producing model policies and model Plans. For example, the Government could suggest policies relating to the need for waste management facilities. Model policies enable the dissemination of good practice throughout the Country.

If the UK is to comply with EU Law, ODPM and DEFRA need effectively to work together and take joint responsibility for compliance. A coordinating committee jointly chaired by the Deputy Prime Minister and the Secretary of State for Environment, Food and Rural Affairs could facilitate greater synergy and coherence between the Departments and provide a more effective national framework. For example, it could identify the planning implications for all sectors of society, including ODPM's Sustainable Communities Programme, of implementing the Government's policy on waste.

BETTER STATISTICS ON WASTE

Reliable and accurate statistics at national, regional and local levels are vital. Currently, statistics on waste planning are inadequate, particularly for commercial and industrial waste streams. The Environment Agency's strategic waste management assessments do not provide the required real-time data on waste flows and waste management capacity.

Whilst the Government collects statistics on the approval rate for all waste management related applications these do not reveal the true performance of the planning process. For example, they do not reveal the additional waste management capacity that has been consented or the waste management capacity that has been lost. This constrains the Government from measuring whether the UK is consenting infrastructure sufficient to meet the requirements of EU Law. In contrast, the Department of Trade and Industry collects information on the additional renewable energy capacity that has been granted.

The Environment Agency might be the body best suited to collect this vital information as it could report on the additional capacity that had been permitted/licensed.

NATIONAL STATEMENT ON POTENTIAL HEALTH EFFECTS

All waste management facilities must operate to standards defined by the European Union and be regulated by the Environment Agency on a basis safeguarding the environment and human health. Typically-and contrary to public opinion-their impact on the environment and human health is far less than that of other industries such as iron and steel and everyday activities such as transport.

The Government's support for an approved range of safe and proven waste management technologies capable of enabling the UK to achieve compliance with the Landfill Directive has been muted. This has contributed to severe

delays and increased significantly the costs incurred by Waste Planning Authorities and the waste management industry as the alleged impacts of a facility on the environment and human health are debated endlessly during applications and public inquiries.

The acceptance by the Government of the Strategy Unit's recommendation to produce a report on the impacts on human health and the environment was welcomed by ESA. It is an opportunity for the Government to separate fact from fiction and to provide a much more effective framework for discussion on the alleged impacts of waste management facilities. The findings of this report should be presented in a summary leaflet to make the facts more accessible to communities. This approach was adopted successfully in the case of the alleged health effects of mobile telephone masts.

Currently, many bodies offer opinions on health-related issues of waste management facilities. This can cause confusion and duplication. ESA believes that Primary Care Trusts, working under clear guidance prepared by the Health Protection Agency, should be recognised as the authoritative voice.

To avoid duplication between the planning and environmental protection regimes, the Government should issue guidance to the Primary Care Trusts on what health related issues should be covered in the application for a planning consent and what should be covered in the application for a PPC permit or waste management licence.

CALL-IN APPLICATIONS AND RECOVERED APPEALS

Applications can be delayed by the failure of the Secretary of State promptly to deliver decisions on applications under his jurisdiction. This results in significant costs for ESA's Members in legal expenses and potential lost revenue. The Planning Inspectorate already works according to targets when determining planning appeals. We believe the Secretary of State should also be subject to targets for those applications he determines.

AN ENVIRONMENTAL BUSINESS PLANNING ZONE

The Department of Trade and Industry's Innovation and Growth Team has set a target of increasing the global market share of the UK's environmental sector from 4.7% to 7% by 2010. Meeting this objective will require many new facilities.

We believe that the Government should use the opportunity provided by the Planning and Compulsory Purchase Bill to encourage the development of "environmental business planning zones". Such zones would bring together a cluster of compatible environmental industries, such as renewable energy production, waste and secondary resource management and material reprocessing, on the same site to produce a localised environmental supply-chain. It could help to regenerate areas of the UK.

The establishment of an environmental business planning zone would save local authorities considerable resources and avoid the delays associated with many waste management applications. It would provide certainty as to what is permitted whilst allowing flexibility to make changes in a project within the framework of the scheme to meet market demand. This approach would create less scope for litigation.

Other benefits of an environmental business planning zone would include:

Environmental
- Reduced traffic movements and their associated environmental impact.

Social
- Job creation.
- Development of new skills.

Economic Potential
- Wealth creation opportunities with local, regional and national benefits.
- Development value in land.
- Reduce risk in investing in new facilities.

BETTER INTEGRATION OF PLANNING POLICY STATEMENTS

ESA strongly supports the principle of separate Planning Policy Guidance for Waste (PPG10). Waste cuts across a range

of other planning considerations and the approach set out in PPG10/PPS10 must be integrated into other relevant PPGs/PPSs. For example, PPS1 should state that providing adequate waste management infrastructure is a key principle of the planning process. Furthermore, PPS7 (Sustainable Development in Rural Areas) should reflect the need of towns and villages to have adequate recycling/recovery infrastructure. PPS7 should also encourage the development of new waste management infrastructure to manage agricultural waste which will soon be brought within the scope of the controlled waste regulations.

LOCATIONAL POLICY

There are many different types of waste and secondary resource management facility. Increasingly, the new generation of facilities will fit in well in commercial and industrial areas. Others will continue to add value on brownfield land. As the South East Regional Assembly has been among those to recognise, other facilities will continue to play a valuable environmental role in designated areas. Revision of PPG2 should reflect these varying circumstances.

PERMITTED DEVELOPMENT RIGHTS

Despite the similarities between the essential activities carried out by the waste management industry and the minerals and water sectors, the waste management industry does not benefit from a set of permitted development rights which would allow environmental and operational improvements to be made in an efficient and cost-effective manner. Widening the permitted development rights available to the waste management industry on a similar basis to those enjoyed by the minerals and water sector would enable ESA's Members and Waste Planning Authorities to prioritise resources to consider planning applications for new recycling/recovery facilities.

Permitted development rights for the waste management industry might be applied to small-scale, non-controversial development such as small scale leachate storage tanks (with restrictions on size and volume), odour control equipment such as spray masts, environmental monitoring equipment, fuel tanks, weighbridges and vehicle cleaning equipment. A fuller proposal for permitted development rights for the waste management industry is contained in Appendix A.

WASTE USE CLASS

The Government should clarify the status of B2 activities by introducing a use class for waste management. The use class would need to be tightly regulated, comparable with general and industrial storage use B2 and B8 and cover processes such as materials separation - including materials recovery facilities - and the storage of waste prior to treatment. There would be a need for interchangeability between B2 and B8 and waste 1 (waste activity) and waste 2 (waste transfer). Composting or extraction of energy from waste should not be included and activities should be limited to 100 tonnes of processing per day.

Planning Principles

BPEO

The requirement to demonstrate BPEO only applies to applications for waste management facilities and not to other sectors such as transport and energy production. These sectors often have much greater environmental impact. In addition, an Environmental Impact Assessment is required for many waste management facilities, local authorities will shortly be subject to the requirements of the Strategic Environmental Assessment Directive and the application for a PPC permit requires the applicant to demonstrate that the facility proposed will operate according to the Best Available Technique (BAT).

ESA believes that in the context of the revision of PPG10, and the quinquennial review of the Waste Strategy 2000 which will take place in 2005, the time is right to review the principle and application of BPEO. Currently BPEO creates more problems than it addresses, resulting in unnecessary costs for private and public sector. Uncertainties and inconsistencies in the application of BPEO have the potential to undermine the whole of the waste planning system.

A full review of the application and operation of BPEO should be carried out, examining the role of BPEO and its relationship with other planning and analytical tools such as Strategic Environmental Assessment.

If the Government is to continue to use BPEO, ESA suggests that the process should be simplified along the following lines:

First, the Government should clearly state that its Waste Strategy represents a national BPEO.

Second, the Government should set out a simpler and quicker process for identifying a BPEO at a regional level. This will then inform the development of the Regional Waste Strategy, the Regional Spatial Strategy and the Waste Development Frameworks.

We do not believe that Waste Planning Authorities have the resources required to complete a BPEO assessment in accordance with the methodology set out in the Government's Waste Strategy. It might take several years for BPEO assessments to be in place at national, regional and local levels which would delay hundreds of applications for new waste management facilities.

Third, following a Public Inquiry, the Inspector's report on the Waste Development Framework should state that it represents BPEO. The requirement of the developer would be then to demonstrate that its application conforms to the Waste Development Framework and therefore BPEO.

The Government will need to offer guidance to Waste Planning Authorities on what should happen in the absence of a regional BPEO assessment. For example, the Government could suggest that, if the application meets a need identified at a national level, it should be considered as conforming to BPEO. The Government's guidance ought also to advise that a BPEO assessment can produce a range of equally valid BPEOs rather than an absolute BPEO.

ESA has consistently stated that the UK should aspire to comply with the Landfill Directive in 2016. However, regulation drives the waste management industry and the Government has confirmed that it intends to apply for the available four-year derogation and meet the requirements of the Landfill Directive in 2020 rather than 2016. BPEO assessments should therefore be aligned to 2020 to enable each Regional Planning Body and each Waste Planning Authority to plan for the long term.

To release capital, financial institutions require ESA's Members to demonstrate a rate of return on investment. A BPEO assessment therefore needs to give due weight to economic considerations in order to deliver infrastructure.

THE PROXIMITY PRINCIPLE

To the extent that the Government promotes the proximity principle, it should clearly recognise that the proximity principle will not always be consistent with the environmental outcomes it aims to achieve. The cost of transport will prevent most waste from travelling significant distances.

In some cases no land in urban areas will be available and in other cases, certain waste streams need to be transported over longer distances to specialist facilities. For example, Aylesford Newsprint sources its waste paper from a number of regions as this helps to minimise risk and to generate economies of scale.

SELF SUFFICIENCY

Self-sufficiency should be flexibly applied and be defined as the need for the region and Waste Planning Authority to make provision for the management of the broad equivalent of waste generated in its territory. For example, it could be better to locate a facility near to the region's boundary to accept waste from another region if that waste would otherwise be transported over longer distances.

WASTE HIERARCHY

The waste hierarchy should be seen as a guide to identifying the preferred waste management option. All tiers of the waste hierarchy have a role in a sustainable waste management strategy. For example, landfill can play an important role in treating residues from the processing of waste. The choice of option needs to be determined by reference to cost, impact and practicability.

Economic and environmental outcomes need to be closely aligned. Again, to raise capital for new facilities, ESA's Members need to demonstrate to financial institutions that the application of the waste hierarchy can be commercially viable.

Operation of the Planning Process

ESTABLISHING THE NEED FOR WASTE MANAGEMENT CAPACITY

The Government's Waste Strategy and PPG10 did not rigorously quantify the overall requirement for new waste management capacity for all waste streams. The Government already quantifies the national need for aggregates and should make available resources to do this for waste management capacity. This should also include facilities to reprocess the recyclates. The need identified at the national level should then be incorporated into Regional Spatial Strategies and Waste Development Frameworks.

A Waste Development Framework should demonstrate to the Regional Planning Body and to the Government how the required waste management capacity, identified at the regional level, will be provided. This enables the industry to be confident that the local authority is delivering on its responsibilities regarding waste.

Each Waste Development Framework should outline the waste management capacity that will be required until 2020. This provides clear guidance to ESA's Members and helps them to identify the most appropriate types and sizes of facilities for its customers. The Waste Development Framework should be sufficiently flexible to respond to the emergence of new technologies and solutions.

The policies of the Waste Development Framework need to enable market forces efficiently to respond to the need that has been identified for new waste management capacity. Commercial pressures will act as a check to substantial over-supply as a company will be unable to raise capital for investment if it cannot identify a market.

CONSULTATION

The planning process must be accountable to decisions taken within the framework of the democratic process and consultation must reflect the views and interests of all residents and local businesses.

Awareness of waste management issues is low among the general public. It is vital that local authorities inform residents and local businesses that many new waste management facilities will be required to enable them to comply with their landfill allowance and their statutory recycling target. Residents need to know that the failure of the Waste Planning Authority to facilitate the necessary infrastructure is likely to lead to an increase in Council Tax to accommodate the penalties that would be levied.

Inadequate responses from statutory consultees can cause considerable delay and lead to the Waste Planning Authority and the waste management company incurring significant costs. To prevent this, the Waste Planning Authority should be entitled to assume that a consultee does not wish to comment or object where it fails to respond within the prescribed timescale.

PLANNING IMPLICATIONS OF DIFFERENT WASTE TYPES

The Landfill Directive classifies waste into three types: inert, non-hazardous and hazardous. In many instances the method of managing one source, such as commercial waste, is similar to another, such as municipal waste. ESA therefore believes that a Waste Development Framework should ensure that all waste related development is addressed using the physical properties of the waste, rather than the source, to define the nature and type of facility required. Managing waste from a number of sources at a single facility can generate economies of scale.

Some facilities are only commercially viable at a regional or even national basis and it is vital that the Waste Planning Authority identifies its own capacity requirements for all waste streams.

WASTE DEVELOPMENT FRAMEWORKS

Local circumstances can vary and therefore ESA believes that a Waste Planning Authority should have the flexibility to choose whether a site-specific or criteria-based Plan is most appropriate.

If a Waste Planning Authority decides to allocate sites in its Waste Development Framework it must state clearly the basis on which they are allocated. The Waste Development Framework should not prejudice sites emerging in response to, for example, the development of new technologies where they do not conflict with those sites that have been allocated.

Waste Planning Authorities need to ensure that when they identify land to be available for waste management

facilities, they take into account the requirements of EU Law which are interpreted by the Environment Agency.

CRITERIA-BASED PLANS

A criteria-based approach must not be too restrictive and the Waste Planning Authority should take account of the totality of the policies of the Local Development Documents. The criteria should set out the circumstances in which development is acceptable and outline the principal issues that need to be addressed.

Key criteria include the proximity to existing waste management facilities and waste sources, the size of the site, the physical characteristics and requirements of different waste management facilities and environmental constraints.

CONSULTATION ON SELECTION OF SITES

A Waste Planning Authority must make sure that sites identified in the Waste Development Framework for waste management are safeguarded from other forms of development. ESA's Members have the experience and operational knowledge to advise a local authority on the criteria to determine the most appropriate sites.

A Waste Planning Authority should not prioritise sites as this assumes that sites will come forward in a certain order; if the first site does not come forward quickly, the development of other sites would be delayed.

LOCAL DEVELOPMENT ORDERS

A Local Development Order (LDO) can allow a Waste Planning Authority to expand on the General Permitted Development Order and introduce local permitted development rights. A LDO has the status of a planning permission and would apply to minor, non-controversial developments. ESA views a minor development as ancillary to an existing waste management operation which would include, for example, boreholes, weighbridges, wheel-washes and gas wells.

REQUESTS FOR INFORMATION FROM A LOCAL AUTHORITY

Pre-application meetings can help the applicant to know what issues need to be resolved and how to present the information. The pre-application meetings should continue to be free as they save time and resources of the applicant and of the Waste Planning Authority.

At pre-application meetings, the Environment Agency should confirm in writing the issues on which it can offer expert advice. All discussion and information presented at a pre-application meeting should be treated as strictly confidential.

EFFECTIVE TRAINING FOR COUNCILLORS AND OFFICERS

The Waste Planning Authority should ensure that officers and councillors receive regular and relevant training on waste management issues. For example, waste management applications can be subject to judicial review and ESA's Members should be able to expect that Members and officers are fully aware of the procedures that must be followed. In addition, training can help to raise awareness of specific waste issues and increase knowledge of the capability of waste management technologies.

BETTER INTEGRATION OF THE LAND-USE PLANNING AND ENVIRONMENTAL PROTECTION REGIMES

Duplication between the environmental protection and planning regimes continues to occur. This increases costs for the Waste Planning Authority and the waste management industry, can cause considerable delay and delivers no discernible benefit in protecting human health and the environment.

The Government needs to provide clearer guidance on the respective roles of the planning and environmental protection regimes and monitor closely its implementation. For example, the Environment Agency should not raise objections to planning applications on those matters that will be satisfactorily addressed through the permitting process. To avoid duplication, the Agency's response to a consultation should identify those mitigating measured that will be secured through planning conditions rather than its authorisation.

Applying for planning permission and a PPC permit at the same time ("parallel tracking") should be an option available to the developer depending upon the particular circumstances of the case rather than a statutory requirement.

SAFEGUARDING WASTE MANAGEMENT FACILITIES

Compared to many other industries, the emissions and impact on human health and the environment of waste management facilities are low. ESA's Members must operate facilities to standards defined by the European Union and be regulated by the Environment Agency on a basis safeguarding the environment and human health.

Most waste management facilities will fall within the PPC regime. This will require the operator to demonstrate that the facility has no impact beyond its permit boundary. The character of waste management is also changing, with more recovery/recycling of waste taking in place in buildings that resemble industrial units.

In addition, to the statutory consultation that will be undertaken by the Environment Agency, an operator of a waste management facility should be consulted if a new development is proposed within 250 metres of the site boundary. A Waste Planning Authority should only grant planning permission for a non-waste development proposed within 250 metres of a permitted or allocated waste management facility where it is satisfied that it would not unduly restrict current and future waste management operations. Otherwise, the ability of the facility to manage waste could be significantly constrained and lead to the developer incurring significant costs.

GREATER USE OF RECYCLED MATERIALS IN CONSTRUCTION

ESA recognises that the nature of construction materials is not normally a planning consideration. However, specifying a requirement for recycled materials in the construction of new developments through planning conditions, when it is economically and environmentally sustainable to do so, will help to stimulate demand and enable the UK to recycle more waste. Increasing the level of recycling is in full accordance with the European Union's Communication on a Thematic Strategy on the Prevention and Recycling of Waste and the Government's own Waste Strategy.

"300 landfill sites could close and will need to be replaced by as many as 3,000 smaller sites."

Biffa: Future Perfect, 2003

APPENDIX A:

ESA's Proposals for Permitted Development Rights for the Waste Management Industry

1. *Development Ancillary to Landfill/Landraising Operations*

Class A

PERMITTED DEVELOPMENT

The carrying out of operations for the erection, extension, installation, rearrangement, replacement, repair or alteration of any –

(a) plant or machinery;
(b) buildings or structures;
(c) private ways, hardstandings or private railways or sidings;
(d) equipment required for the control or monitoring of landfill or other gas, leachate, surface water or groundwater;
(e) sewers, mains, pipes, cables or other similar apparatus;
(f) fencing;

on land used for the final management of waste by landfilling or land raising.

DEVELOPMENT NOT PERMITTED

A.1 Development is not permitted by Class A –

(a) if the principal purpose of the development would be any purpose other than-
  (i) purposes in connection with the waste operations permitted at that site, or
  (ii) in connection with the restoration, aftercare, management or monitoring of that site.
(b) if the external appearance of the site would be materially affected.
(c) if the height of any building, plant or machinery would exceed –
  (i) 15 metres above the lowest point of the original ground levels on the site,
  (ii) 6 metres above the level of any made ground on which it is standing in the case of fences or netting required for the control of litter,
  (iii) 5 metres above the level of any made ground on which it is standing in the case of temporary flare rigs,
  (iv) 3 metres above the level of any made ground on which it is standing in any other case, or
  (v) the height of any of the building, plant or machinery, if any, which is being rearranged, replaced or repaired or otherwise altered, whichever is the greater.
(d) if any building erected (other than a replacement building) would have a floor space exceeding 1,000 square metres; or
(e) if the cubic content of any replaced, extended or altered building would exceed by more than 25% the cubic content of the building replaced, extended or altered or the floor space would exceed by more than 1,000 square metres the floor space of that building.
(f) if the purpose of the development involves the treatment, flaring or utilisation of landfill gas, other than the installation of temporary flare rigs required pending the installation of more permanent gas control measures.
(g) if the purpose of the development involves the treatment, disposal or removal of leachate from the site.

CONDITION

A.2 Development is permitted by Class A subject to the condition that before the end of the period of 24 months from the date when the waste disposal operations have ceased (or, in the case of development for the monitoring or control of landfill gas, other gas, leachate, surface water or ground water, 24 months from the date when it is no longer required), or any longer period which the Waste Planning Authority agree in writing –

(a) all buildings, plant and machinery permitted by Class A shall be removed from the land unless the Waste Planning Authority have otherwise agreed in writing;
(b) any boreholes shall be filled or otherwise capped and made safe; and
(c) the land shall be restored, so far as is practicable, to its condition before the development took place, or restored to such condition as may have been agreed in writing between the Waste Planning Authority and the developer.

Class B

PERMITTED DEVELOPMENT

The carrying out, on land used as a landfill or landraising site, with the prior written approval of the Waste Planning Authority, of operations for the erection, extension, installation, rearrangement, replacement, repair or alteration of any –

(a) plant or machinery;
(b) buildings;
(c) structures or erections; and
(d) engineered bunds required for environmental control.

DEVELOPMENT NOT PERMITTED

B.1 Development is not permitted by Class B if the principal purpose of the development would be any purpose other than –

(i) purposes in connection with the waste operations permitted at that site;
(ii) the treatment or processing of waste prior to disposal within the site;
(iii) the sorting, processing and recycling of waste materials as may be authorised by express planning permission or by Class C below, or
(iv) in connection with the restoration, aftercare, management or monitoring of that site.

CONDITION

B.2 Development is permitted by Class B subject to the conditions that before the end of the period of 24 months from the date when the waste disposal operations have ceased (or, in the case of development for the monitoring or control of gas, leachate, surface water or groundwater, 24 months from the date when it is no longer required), or any longer period which the Waste Planning Authority agree in writing –

(a) all buildings, plant and machinery permitted by Class A shall be removed from the land unless the Waste Planning Authority have otherwise agreed in writing; and
(b) the land shall be restored, so far as is practicable, to its condition before the development took place, or restored to such condition as may have been agreed in writing between the Waste Planning Authority and the developer.

Class C

PERMITTED DEVELOPMENT

The use of land within a site used as a landfill or landraising site, with the prior written approval of the Waste Planning Authority, for any of the following purposes –

(a) the stockpiling of materials required within the site for road making, engineering, covering of waste or restoration;
(b) the storage of materials not authorised for disposal at the site, pending their removal;
(c) the overnight parking of lorries or skips required for the operation of the site, and for their maintenance and repair;
(d) the treatment of waste materials brought to the site principally for their disposal, in order to recover any recyclable element from the waste stream prior to its disposal; and
(e) the storage of recyclable materials recovered from the waste stream prior to their removal from the site.

CONDITIONS

C.1 Development is permitted by Class C subject to the conditions that:

(a) material stockpiles shall not exceed a height to be agreed in writing by the Waste Planning Authority
(b) such operations shall cease on or before the date on which waste disposal operations at the site have ceased, except for such storage or recycling of materials as may be agreed in writing by the Waste Planning Authority to be necessary for the restoration of the site.
(c) before the end of the period of 12 months from the date when the waste disposal operations have ceased, the land used for purposes under Class C shall be restored, so far as is practicable, to its condition before the development took place, or restored to such condition as may have been agreed in writing between the Waste Planning Authority and the developer.

Class D

PERMITTED DEVELOPMENT

D The installation of boreholes outside of but required in connection with the operation of the site, with the prior written approval of the Waste Planning Authority.

DEVELOPMENT NOT PERMITTED

D.1 Development is not permitted by Class D if the principal purpose of the development would be for any purpose other than the monitoring of groundwater, leachate, landfill gas or other gas in connection with the operation of the site.

CONDITION

D.2 Development is permitted by Class D subject to the condition that before the end of the period of 12 months from the date when the use of the borehole is no longer required –

(a) all surface equipment shall be removed from the site.
(b) the borehole shall be filled or otherwise rendered safe.
(c) any land disturbed by vehicle access to the borehole shall be made good.

2. *Development Ancillary to Other Waste Management Options*

Class A

PERMITTED DEVELOPMENT

A The extension or alteration of any building forming part of a Waste Management Facility, other than a landfill or landraising site.

DEVELOPMENT NOT PERMITTED

A.1 Development is not permitted by Class A if –

(a) the building as extended or altered is to be used for purposes other than those of the undertaking concerned;
(b) the building is to be used for a purpose other than the treatment, transfer, sorting, processing, recycling, storage or incineration of waste;
(c) the height of the building as extended or altered would exceed the height of the original building;
(d) the cubic content of the original building would be exceeded by more than –
    (i) 10%, in respect of development on any article 1(5) land, or
    (ii) 25%, in any other case;
(e) the floor space of the original building would be exceeded by more than –
    (i) 500 square metres in respect of development on any article 1(5) land, or
    (ii) 1,000 square metres in any other case;
(f) the external appearance of the premises of the undertaking concerned would be materially affected;
(g) any part of the development would be carried out within 5 metres of any boundary of the curtilage of the premises; or
(h) the development would lead to a reduction in the space available for the parking or turning of vehicles.

CONDITIONS

A.2 Development is permitted by Class A subject to the conditions that any building extended or altered –

(a) shall only be used in connection with waste management operations for the purposes of the undertaking;
(b) shall not be used to provide employee facilities between 7.00p.m. and 6.30a.m. for employees other than those present at the premises of the undertaking for the purposes of their employment; and
(c) shall not be used to provide employee facilities if a notifiable quantity of a hazardous substance is present at the premises of the undertaking.

INTERPRETATION OF CLASS A

A.3 For the purposes of Class A –

(a) the erection of any additional building within the curtilage of another building (whether by virtue of Class A or

otherwise) and used in connection with it is to be treated as the extension of that building, and the additional building is not to be treated as an original building;

(b) where two or more buildings are within the same curtilage and are used for the same undertaking, they are to be treated as a single original building in making any measurement; and

(c) "employee facilities" means social, care or recreational facilities provided for employees of the undertaking, including creche facilities provided for children of such employees.

Class B

PERMITTED DEVELOPMENT

B. Development carried out on land comprising a waste management facility, other than a landfill or landraising site, for the purposes of that undertaking, consisting of –

(a) the installation of additional or replacement plant or machinery,

(b) the provision, rearrangement or replacement of a sewer, main, pipe, cable or other apparatus, or

(c) the provision, rearrangement or replacement of a private way, private railway, siding or conveyor; and

(d) the installation of boreholes for the purpose of monitoring and control of groundwater.

DEVELOPMENT NOT PERMITTED

B.1 Development described in Class B is not permitted if –

(a) it would materially affect the external appearance of the premises of the undertaking concerned, or

(b) any plant or machinery would exceed a height of 15 metres above ground level or the height of anything replaced, whichever is the greater.

CONDITION

B.2 Development is permitted by Class B(d) subject to the condition that before the end of the period of 12 months from the date when the use of the borehole is no longer required –

(a) all surface equipment shall be removed from the site.

(b) the borehole shall be filled or otherwise rendered safe.

Class C

PERMITTED DEVELOPMENT

The provision of a hard surface within the curtilage of the site, to be used for the purposes of the undertaking concerned.

3. *Site Investigations*

Part 22 of GDO to be amended to cover:

"Site investigations for assessing the suitability of sites for the treatment, recycling or disposal of waste."

Restrictions and conditions as for minerals exploration.

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