

**REPORT OF THE PORTFOLIO HOLDER FOR TRANSFORMING
NEIGHBOURHOODS**

**NOTTINGHAMSHIRE AND NOTTINGHAM WASTE LOCAL PLAN –
'SAVED' POLICIES**

1 SUMMARY

The Government requires all local planning authorities to provide a list of all policies contained in old style plans which have been adopted for more than 3 years at 28th September 2007, setting out a recommendation as to whether they should remain 'saved' (i.e. remain in force) or not. The Secretary of State for Communities and Local Government will then issue a direction, confirming which policies can be saved. This report sets out the City Council's approach to policies contained in the Nottinghamshire and Nottingham Waste Local Plan. The Plan contains a policy regarding development at Eastcroft, and it is proposed that the Secretary of State be recommended to not save this policy.

2 RECOMMENDATIONS

IT IS RECOMMENDED that the schedule of policies detailed in Appendix 1 of this report be submitted to the Government Office for the East Midlands (GOEM) as the City Council's recommended approach to saving the policies of the Nottinghamshire and Nottingham Waste Local Plan.

3 BACKGROUND

- 3.1 All local plan policies are automatically saved for three years, either from commencement of the Act (28th September 2004), or from adoption of the local plan, whichever is the later, unless replaced by new policies.
- 3.2 The Secretary of State can direct that policies be saved for longer than three years, and the Government has published a protocol on how to save policies contained in old style local plans. The protocol explains how requests to save policies will be handled, and gives

details on how decisions to save or not save policies will be considered.

- 3.3 To save or not save a policy, the local planning authority must request the Secretary of State's agreement, giving reasons. Local planning authorities must submit a list of policies to GOEM by 1st April 2007, setting out their recommendations as to whether to save them or not. The Secretary of State then has until 28th September 2007 to decide whether or not to issue a direction on each policy.
- 3.4 The Nottinghamshire and Nottingham Waste Local Plan was jointly prepared by the two Councils. It was adopted in January 2002, and is therefore subject to the protocol. The Nottingham Local Plan was adopted in November 2005, and its policies are therefore saved until November 2008.

4 PROPOSALS

- 4.1 All policies in the Nottinghamshire and Nottingham Waste Local Plan have been assessed against the criteria set out in the protocol. Most policies remain relevant, and are therefore proposed for saving. A few have now been superceded by changes in Government policy, and one relates to development at Eastcroft, to which more up-to-date policy in the Nottingham Local Plan applies. It is recommended that these policies are not saved.
- 4.2 Appendix 1 contains a schedule of all the Nottinghamshire and Nottingham Waste Local Plan policies; it is recommended that this appendix be submitted to GOEM as the City Council's recommended approach to saving the policies of the Waste Local Plan.
- 4.3 Policy W6.1 of the Waste Local Plan gives a presumption in favour of further development of the Eastcroft Incinerator. Further development of incineration at Eastcroft was refused planning permission by Development Control Committee in September 2006, because it was regarded as contrary to regeneration policies of the more recently adopted Nottingham Local Plan, and development would therefore impact negatively on regeneration in this part of the City. The applicants have submitted a planning appeal, and the Inquiry will take place after the expiry date of saved policies of 28th September 2007.

4.4 The protocol says that saved policies should comply with various criteria. Criterion (v) is relevant to policy W6.1. It states:-

“There are effective policies for any parts of the Authority’s area where significant change in the use or development of land or conservation of the area is envisaged”

4.5 The designation of the Waterside Regeneration Zone, and the associated policies of the Nottingham Local Plan are more recent than the Waste Local Plan. These policies will result in significant change in the use and development of land in the Waterside Regeneration Zone. It is therefore considered that this criterion is not met, and in line with the decision of Development Control Committee to refuse planning permission for the extension of incineration at Eastcroft, it is proposed that policy W6.1 is not recommended to be saved.

4.6 However, if the policy were to not be saved it raises a number of issues:-

- there will be implications for the rest of the plan, in terms of both the plans strategy with dealing with waste and the supporting text/references elsewhere in the plan. It is the City Council’s view that these issues can be addressed through the preparation of new Joint Waste Development Plan Documents, work on which has already begun.
- the Protocol explicitly states that in deciding whether or not to issue a direction to save policies, the Government will have particular regard to “policies for waste management, including unimplemented site allocations”. PPS 12 also states that moving towards Local Development Frameworks should not leave gaps in coverage of local policies. It will be open to the Secretary of State to direct that policy W6.1 be saved.

5 LIST OF BACKGROUND PAPERS OTHER THAN PUBLISHED WORKS OR THOSE DISCLOSING CONFIDENTIAL OR EXEMPT INFORMATION

None.

6 PUBLISHED DOCUMENTS REFERRED TO IN COMPILING THIS REPORT

- 6.1 Protocol for Handling Proposals to save Adopted Local Plan, Unitary development Plan and Structure Plan Policies Beyond the 3 Year Saved Period, Department of Communities and Local Government, August 2006.
- 6.2 Nottinghamshire and Nottingham Waste Local Plan, January 2002.
- 6.3 Nottingham Local Plan, November 2005.

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APPENDIX 1

Nottingham City Council

Request to save policies in the Nottinghamshire and Nottingham Waste Local Plan 2002

Government guidance on saving policies is set out in PPS12 and the protocol from the Department of Communities and Local Government dated August 2006. The broad principles are that policies to be saved should reflect the principles of local development frameworks, be consistent with current national policy, and that it is not feasible or desirable to replace them by 27 September 2007. In addition, local planning authorities must demonstrate that policies to be saved beyond the three year period comply with the following six criteria:

- 1 where appropriate, there is a clear central strategy;**
- 2 the policies have regard to the Community Strategy for the area;**
- 3 the policies are in general conformity with the regional spatial strategy or spatial development strategy;**
- 4 the policies are in conformity with the core strategy development plan document (where the core strategy has been adopted);**
- 5 there are effective policies for any parts of the authority's area where significant change in the use or development of land or conservation of the area is envisaged; and**
- 6 the policies are necessary and do not merely repeat national or regional policy.**

In addition the government will also have particular regard to the retention of policies for waste management, including unimplemented site allocations. The existing Waste Local Plan has two such policies covering Eastcroft within the City of Nottingham and Bentinck near Kirkby-in-Ashfield in the County Council area. PPS12 also stresses that the move to local development frameworks should not lead to any gap in the coverage of development plan policies.

In terms of the six criteria or ‘tests’ a number of assumptions have been made:

- a) the objectives of the Waste Local Plan are in accordance with the national and regional waste policy, including the national waste strategy as revised in 2005. It is therefore considered that each of the policies within the Plan is linked to a clear central strategy and therefore meet this test.
- b) the priorities in the Community Strategy are focused on protecting and improving the environment; maintaining and improving public health, education, employment and public services; reducing crime and improving public safety. These are broad aims and more readily linked to policies in Local Plans or Unitary Development Plans. Policies within the existing Waste Local Plan do contribute in areas such as environmental protection and enhancement and helping to create a cleaner and healthier environment but this is generally as the result of the sum total of the policies. There is not always a direct link between a specific Waste Local Plan policy and objectives within the Community Strategy but nevertheless the Plan policies are considered to broadly reflect and support these principles. None of the policies conflict with the priorities set out in the Community Strategy.
- c) as the Waste Core Strategy has not yet been adopted, this test is not considered to be applicable.
- d) The criterion on ‘effective policies for change’ is interpreted as meaning policies as might be set out in a District Local Plan, Unitary Development Plan or Development Plan Document, which supersede or impact on policies in the Waste Local Plan. Where such policies impact on Waste Local Plan policies and are more recently adopted, it is considered that the later policies take precedence. It is considered that one policy (W6.1 – Eastcroft) fails this test.
- e) Finally, in some cases it is acknowledged that policies are becoming out of date or do not go far as far as later guidance suggests. However, where they do not conflict with national or regional policy it is considered appropriate to retain these policies for a further period rather than create a policy vacuum at the local level. A comprehensive set of up to date policies are being prepared as part of the emerging Waste Core Strategy and Development Control Policies.

Nottingham City Council – Request to save policies beyond 2007

A - Table of Policies Recommended for Saving

Policy No.	1. Central Strategy	2. Community Strategy	3. RSS	4. Core Strategy	5. Policies for change	6. Nat/ Reg. Policy	Save Y/N?	Comments/reasons
Chapter 3								
W3.1 Information in Support of Waste Planning Applications			-	-				6. Expands on PPS10 (Annex E) and clarifies local requirements
W3.3 Visual Impact of Plant, Building and Stockpiles				-				3. Conform to RSS8 Policy 1/ Draft Regional Plan Policy 1
W3.4 Visual Impact - Screening and Landscaping Measures				-				6. Expand on PPS10 (Annex E) and clarifies local requirements
W3.5 Water Resources – Pollution Issues				-				3. Reduce pollution risk and protects water quality (conforms RSS8 Policy33/Draft Regional Plan Policy 32)
W3.6 Water Resources – Planning Conditions				-				6.Expand on PPS23 (Para 13) and PPS10 (Annex E) and clarifies local requirements.
W3.7 Odour				-				3. Conform to RSS8 Policy 1/ Draft Regional Plan Policy 1 6. Expand on PPS10 (Annex E) and clarify local requirements.
W3.8 Litter				-				
W3.9 Noise				-				
W3.10 Dust				-				
W3.11 Mud				-				
W3.12 Birdstrike			-	-				2. Supports Circular 2/92 6. Expands on PPS10 Annex E
W3.13 Flood Defences				-				3. Conforms to RSS8 Policy 36/ Draft Regional Plan Policy 35 6. Expands on PPS25 and PPS10 (Annex E) by preventing inappropriate development and setting out mitigation steps.
W3.14 Vehicular Movements				-				3. Conforms to RSS8 Policy 42/ Draft Regional Plan Policy 41 6. Supports PPG13 and expands PPS10 (Annex E)
W3.15 Vehicular Routing				-				
W3.16 Bulk Transport of Waste				-				
W3.17 Green Belt				-				3. Conforms to RSS8 Policy 1/ Draft Regional Plan Policy 1 6. Expands PPG2 - sets out local criteria for waste disposal in green belt.
W3.18 Best and Most Versatile Agricultural Land				-				3. Conforms to RSS8 Policies 1 and 27/ Draft Regional Plan Policies 1 and 26 6. Supports PPS7 (paras 28 and 29) and sets local criteria
W3.19 Ancient and Amenity Woodlands				-				3. Conforms to RSS8 Policy 29/ Draft Regional Plan Policy 29 6. Expands PSS9 (para 10) and sets out local mitigation steps.

Policy No.	1. Central Strategy	2. Community Strategy	3. RSS	4. Core Strategy	5. Policies for change	6. Nat/ Reg. Policy	Save Y/N?	Comments/reasons
W3.20 Heathlands				-				3. Conform to RSS8 Policy 28/ Draft Regional Plan Policy 28 6. Expands PPS9 (paras 9, 12 and 16) by setting local measures for mitigation/enhancement.
W3.21 Water Features				-				
W3.22 Biodiversity				-				
W3.23 Nature Conservation and Geological Sites				-		X		3. Conforms RSS8 Policy 27/ Draft Regional Plan Policy 26 6.PPS9 para 9 supports retention of parts b and c of this policy but not part a. Should therefore be saved as cannot save part of a policy
W3.25 Mature Landscape Areas				-				3. RSS8 Policy 30 and Draft Regional Plan Policy 30 state local landscape designations should be based on local landscape character assessments. 6. PPS7 discourages use of local designations unless there are exceptional reasons. Existing MLAs were designated on basis of a countryside appraisal which predates new Landscape Character Assessment. The future use of the designation is under review and it is appropriate to retain this policy in the interim.
W3.26 Public access				-				3. Conforms to RSS8 Policy 1/ Draft Regional Plan Policy 1 6. Supports objectives of accessibility and choice for walking, cycling etc. for travel and leisure set out in PPS7, PPG13, PPG17 and sets out local measures for protection
W3.27 Archaeology				-				3. Conforms to RSS8 Policy 31/ Draft Regional Plan Policy 31 6. Expands advice in PPG16 and sets out local approach.
W3.28 Listed Buildings and Conservation Areas				-				3. Conforms to RSS8 Policy 31/ Draft Regional Plan Policy 31 6. Expands advice in PPG15 as this does not specifically cover waste development.
W3.29 Cumulative Impact				-				3. Conforms to RSS8 Policy 1/ Draft Regional Plan Policy 1 6. Expands on advice in PPS10 (para 21)
Chapter 4								
W4.1 Phasing				-				3. Conform to RSS8 Policy 1/ Draft Regional Plan Policy 1 and Policy RWS 1.9 of the East Midlands Regional Waste Strategy 6. Expand advice in PPS10 to set out local approach
W4.2 Availability and Timescales				-				
W4.3 Single Source of Fill				-				
W4.4 Settlement				-				
W4.5 Soil Conservation & Use of Alternative Materials				-				
W4.6 Landscaping				-				
W4.7 Premature Cessation of Waste Disposal				-				
W4.8 Reclamation of Existing Disposal Sites				-				
W4.9 Aftercare Conditions				-				

Policy No.	1. Central Strategy	2. Community Strategy	3. RSS	4. Core Strategy	5. Policies for change	6. Nat/ Reg. Policy	Save Y/N?	Comments/reasons
W4.10 After-use - Details Required and Objectives				-				3. Conform to RSS8 Policy 1/ Draft Regional Plan Policy 1 and Policy RWS 1.9 of the East Midlands Regional Waste Strategy 6. Expand advice in PPS10 to set out local approach
W4.11 After-use - Management and Other Agreements				-				
W4.12 Agricultural Reclamation - Enhancing Wildlife and Landscape Interest				-				
W4.13 Agricultural Reclamation Impact of Landfill Gas Infrastructure				-				
W4.14 Woodland Reclamation - Protection of Landfill Caps				-				
W4.15 Built Development After-use - Ground Stability Measures				-				
Chapter 5								
W5.1 Household Waste Recycling Centres - Areas of Search				-				3. Conform to Policy RWS 1.7 of the Regional Waste Strategy 6. Support PPS10 in terms of identifying new sites/criteria for new sites
W5.2 Household Waste Recycling Centres in Disposal Sites				-				
W5.3 Mini Recycling Centres				-				
W5.4 Material Recovery Facility - Eastcroft				-				
W5.5 Material Recovery Facilities - Industrial Areas				-				
W5.6 Material Recovery Facilities - Waste Disposal Sites				-				
W5.7 Permanent Aggregate Recycling Centres				-				3. Conform to Policy RWS 1.7 of the Regional Waste Strategy 6. Support MPS1 (Annex 1)
W5.8 Mobile Aggregate Recycling Centres				-				
W5.9 Recycling Soils				-				3. Conform to Policy RWS 1.7 of the Regional Waste Strategy 6. Support PPS10 in terms of identifying new sites/criteria for new sites
W5.10 Scrapyards - Areas of Search				-				
W5.11 Scrapyards - Existing Sites				-				
Chapter 6								
W6.2 Clinical Waste Incinerators			-	-				6. Does not repeat national or regional guidance and sets out local circumstances

Policy No.	1. Central Strategy	2. Community Strategy	3. RSS	4. Core Strategy	5. Policies for change	6. Nat/ Reg. Policy	Save Y/N?	Comments/reasons
W6.3 Other Technologies				-				3. Conform to Policy RWS 1.8 of the Regional Waste Strategy
W6.4 Refuse Derived Fuel				-				
W6.5 Energy Recovery from Incineration – Environmental Impact				-				
W6.6 Energy Recovery from Incineration – Economic Viability				-				
W6.7 Energy Recovery from Waste Disposal - Economic Viability				-				
W6.8 Energy Recovery from Waste Disposal – Environmental Impact				-				3. Conform to Policy RWS 1.8 of the Regional Waste Strategy 6. support national waste strategy approach to energy recovery from waste facilities
Chapter 7								
W7.1 Commercial Composting Sites - Areas of Search				-				3. Conform to Policy RWS 1.7 of the Regional Waste Strategy 6. Support PPS10 in terms of identifying new sites/criteria for new sites
W7.2 Commercial Composting - Waste Disposal Sites				-				
W7.3 Small Scale Composting Schemes in Agricultural Areas				-				
Chapter 8								
W8.1 Future Requirements				-				3. Conforms to RSS8 Policy 33/ Draft Regional Plan Policy 32 and Regional Waste Strategy Policy RWS 1.7 in terms of water quality, sewage treatment provision and new waste facilities in general. 6. Supports PPS10 in terms of identifying new sites/criteria for new sites
Chapter 9								
W9.1 General Waste Transfer Stations - Areas of Search				-	-			3. Conforms to Policy RWS 1.7 of the Regional Waste Strategy 6. Supports PPS10 in terms of identifying new sites/criteria for new sites
Chapter 10								
W10.1 Waste Disposal in Mineral sites, other Voids and incomplete Colliery Spoil Heaps				-	-			3. Conform to Policy RWS 1.7 of the Regional Waste Strategy 6. Supports PPS10 in terms of identifying new sites/criteria for new site
W10.2 Waste Disposal in Derelict or Degraded Land				-	-			
W10.3 Waste Disposal in Greenfield Sites				-	-			
W10.4 Bentinck Void & Colliery Tip - Allocation				-	-			Monitoring and review work confirms a significant local and county-wide shortfall in non-hazardous waste disposal. No alternative sites

Policy No.	1. Central Strategy	2. Community Strategy	3. RSS	4. Core Strategy	5. Policies for change	6. Nat/ Reg. Policy	Save Y/N?	Comments/reasons
								have come forward and it is considered appropriate to retain the allocation. A planning application for this site has been received.

B - Table of Policies Recommended for Not Saving

Policy No.	1. Central Strategy	2. Community Strategy	3. RSS	4. Core Strategy	5. Policies for change	6. Nat/ Reg. Policy	Save Y/N?	Comments/reasons
Chapter 2								
W2.1 Hierarchy of Waste Management Options				-		X	X	3. Conforms to RSS8 Policy 38/ Draft Regional Plan Policy 37 6. Waste hierarchy already set out in national waste strategy/BPEO no longer exists
Chapter 3								
W3.2 Planning Obligations			-	-		X	X	6. Duplicates provisions of Circular 5/05 and S106 of the Act.
W3.24 Protected Species			-	-		X	X	6. Duplicates existing legal provisions and guidance in PPS9.
Chapter 6								
W6.1 Future Provision of Municipal Incinerators				-	X	-	X	5. Contrary to policies MU2, 3, 4, 5, 6, & 7 of the Local Plan 6. Although contradictions with National Policy do not form part of the criteria, it is considered W6.1, if implemented, could conflict with para 27 of PPS1, and para 21 of PPS10. See fuller reasons set out below.

Reasons for recommending not 'saving' of Policy W6.1 in the Joint Waste Local Plan 2002

The reasons for recommending not saving of Policy W6.1 are as follows:-

The proposed development (increase capacity of Eastcroft) would unacceptably constrain the sustainable regeneration of the City by inhibiting the development of mixed communities in the Southside, Eastside and Waterside Regeneration Zones.

It would be contrary to policies MU2, MU3, MU4, MU5, MU6 and MU7 of the Nottingham Local Plan and paragraph 27 of Planning Policy Statement 1.

It would not satisfy key criteria concerning the suitability of the site for development contained in paragraph 21(i) of Planning Policy Statement 10 relating to the physical and environmental constraints on development, including neighbouring land uses, and the cumulative effect of previous waste disposal facilities on the well-being of the local community in terms of social cohesion and inclusion and economic potential.

The reasons relate to the location of the facility, and its impact on regeneration aims and objectives, and it is not related to the principle of incineration as an appropriate method of waste treatment in a more general sense.