

Statement of Common Ground between Waste Planning Authority members of the South East Waste Planning Advisory Group Concerning Strategic Policies for Waste Management

March 2020

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1.0 Introduction and Parties involved

1.1 National policy¹ states that: *“Local planning authorities and county councils (in two-tier areas) are under a duty to cooperate with each other, and with other prescribed bodies, on strategic matters that cross administrative boundaries.”* and *“Strategic policy-making authorities should collaborate to identify the relevant strategic matters which they need to address in their plans.”*

1.2 National policy² expects that Local Plans will include ‘non-strategic’ and ‘strategic’ policies, and explains that strategic policies should.....*“set out an overall strategy for the pattern, scale and quality of development, and make sufficient provision for:.....infrastructure”* and this includes *“for.....waste management”*.

1.3 National policy³ states: *“In order to demonstrate effective and on-going joint working, strategic policy-making authorities should prepare and maintain one or more statements of common ground, documenting the cross-boundary matters being addressed and progress in cooperating to address these.”*

1.4 The management of waste has no regard to administrative boundaries, with waste arising in one authority’s area frequently being managed in another. Furthermore, in order to secure economies of scale, waste management facilities will often have a catchment which extends beyond the boundary of the planning area within which it is situated. This is recognised in the current⁴⁵ National Planning Policy for Waste that expects waste planning authorities to: *“plan for the disposal of waste and the recovery of mixed municipal waste in line with the proximity principle, recognising that new facilities will need to serve catchment areas large enough to secure the economic viability of the plant;”*. For these reasons the management of waste is a cross boundary strategic matter, the planning for which requires co-operation between waste planning authorities.

1.5 This document represents a **Statement of Common Ground between Waste Planning Authorities in the South East (SCG)** concerning the strategic matter of planning for the management of waste. The waste planning authorities in the south east have responsibility for planning for the future management of waste in their areas by including relevant strategic policies in their Local Plans.

1.6 The waste planning authorities in the south east (‘the Parties’) are as follows:

- Bracknell Forest Council
- Brighton & Hove City Council
- Buckinghamshire County Council
- East Sussex County Council
- Hampshire County Council (incorporating Southampton City, Portsmouth City and New Forest National Park Waste Planning Authorities)

¹ Paragraph 24 and 25 of the National Planning Policy Framework February 2019

² Paragraph 20 of the National Planning Policy Framework February 2019

³ Paragraph 27 of the National Planning Policy Framework February 2019

⁴ The version of National Planning Policy for Waste referred to in this document was published on 16 October

⁵ : <https://www.gov.uk/government/publications/national-planning-policy-for-waste>

- Isle of Wight Council
- Kent County Council
- Medway Council
- Milton Keynes Council
- Oxfordshire County Council
- Reading Borough Council
- Royal Borough of Windsor and Maidenhead
- Slough Borough Council
- South Downs National Park Authority
- Surrey County Council
- West Berkshire Council
- West Sussex County Council
- Wokingham Borough Council

1.7 This SCG has the following broad aims:

- To ensure that planned provision for waste management in the South East of England is coordinated, as far as is possible, whilst recognising that provision by waste industry is based on commercial considerations;
- to ensure that the approach to waste planning throughout the South East is consistent between authorities;
- to help ensure that sufficient waste management capacity is planned for within each authority area which in turn will lead to regional net self sufficiency; and,
- to provide evidence of co-operation that has occurred, and is occurring, between the south east Waste Planning Authorities (WPAs) which helps underpin the preparation of their waste planning policies

1.8 The SCG sets out matters of agreement, reflecting the spirit of co-operation between the Parties. It is, however, not intended to be legally binding or to create legal rights.

1.9 This SCG replaces the 'Memorandum of Understanding between the Waste Planning Authorities of the South East of England, April 2017'.

2.0 Strategic Matters and Areas of Agreement

Net self-sufficiency

2.1 **The Parties agree** that they will plan for net self-sufficiency which assumes that within each waste local plan area the planning authority or authorities will plan for the management of an amount of waste which is equivalent to the amount arising in that plan area. For the avoidance of doubt, **the Parties agree** that they will plan on the basis that no provision has to be made in their waste local plans to meet the needs of any other waste local plan area which are basing their waste policies on achieving the principle of net self-sufficiency.

2.2 **The Parties accept** that when using this principle to test policy, it may not be possible to meet this requirement for all waste streams, particularly where a specialist facility is required to manage specialist waste streams such as hazardous waste.

2.3 **The Parties agree** that they will therefore prepare plans which provide for the development of facilities that will manage waste produced within, and beyond, their areas based on net self-sufficiency and in accordance with the waste hierarchy.

2.4 **The Parties recognise that** there may be cases where, despite assessing reasonable options, some waste will not be planned to be managed within a waste plan area because of difficulty in delivering sufficient recovery⁶ or disposal capacity (E.g. Due to certain designations e.g. Green Belt, AoNB, National Park (see sections below)). **The Parties agree** that provision for unmet requirements from other authority areas may be included in a waste local plan but any provision for facilities to accommodate waste from other authorities that cannot or do not intend to achieve net self-sufficiency will be a matter for discussion and agreement between authorities and is outside the terms of this SCG.

2.5 **The Parties note** that, despite assessing reasonable options, there may be some kinds of waste requiring specialist treatment that cannot be managed within their own plan area, either in the short term or within the relevant plan period. These may include hazardous wastes and radioactive wastes. Where provision for the management of these wastes will be planned for in a different waste planning authority area, this will need to be considered between the relevant authorities. **The Parties agree** that provision for some kinds of wastes, including hazardous and radioactive waste, from other authority areas may be included in a waste local plan but that any provision for facilities to accommodate this waste from other authorities that cannot or do not intend to achieve net self-sufficiency will be a matter for discussion and agreement between authorities and is outside the terms of this SCG.

Supporting information:

2.6 *Net self-sufficiency is a principle generally applied to waste planning that means an authority will plan for waste management facilities with sufficient capacity to manage an amount of waste that is equivalent to the amount predicted to arise within its area (irrespective of imports and exports). This helps ensure that sufficient waste management capacity is provided consistent with National Planning Policy for Waste⁷.*

2.7 *The approach of net self-sufficiency in the south east was originally set out in the South East Plan and was subsequently included in the Memorandum of Understanding⁷ between the WPAs in the South East. Therefore, all WPAs in the south east have calculated waste management requirements that need to be planned for in their areas on this basis. Examination of such plans has found that this is a sound basis on which to plan for future waste management requirements.*

Movements of waste between authorities

2.8 **The Parties recognise** that the application of net self-sufficiency in local plans does not mean that an exact equivalent amount of waste, of the same type, will be transported between areas. It is possible that particular conditions exist which mean more waste is transported to one authority than another. However net self-sufficiency means that such a situation would, in principle, be broadly balanced by movements between other authorities.

⁶ 'Recovery' includes recycling.

⁷ Paragraph 3 of NPPW includes: "Waste planning authorities should prepare Local Plans which identify sufficient opportunities to meet **the identified needs of their area** for the management of waste streams." ⁷ Memorandum of Understanding between the Waste Planning Authorities of the South East of England, April 2017

2.9 **The Parties recognise** that for a majority of existing waste management facilities, there are no restrictions on the handling of waste that has arisen outside their authority area. In order to avoid impediments to the normal functioning of the waste management market, **the Parties agree** that they will seek to avoid preparing planning policy that might hinder the movement of waste between areas (e.g. through the use of ‘catchment’ conditions) while recognising the proximity principle expectation that waste will be managed at the nearest appropriate facility.

2.10 Notwithstanding, the agreement in paragraph 2.4, **the Parties agree** that they can rely on ongoing movements of waste to other areas provided there are no conditions related to the planning permission for any particular site which might hinder the receipt of waste from other areas.

2.11 Where movements of waste between areas are taking place which are of such a size and nature that separate provision would need to be planned for if they were to cease, **the Parties agree** that there will be a need for dialogue between areas to establish the existence of any planning matter which might hinder such an arrangement in future. Such waste movements are considered to be ‘strategic’. **The Parties agree** that what constitutes a ‘strategic’ level of waste movements will vary between authorities, however the levels set out below provide a starting point for considering whether dialogue is required:

- Non-hazardous waste – 5,000 tonnes per annum
- Hazardous waste 100t per annum
- Inert waste - 10,000t inert per annum

2.12 **The Parties agree** that agreement on ongoing waste movements between authorities may be achieved by an exchange of letters and that a separate SCG may not be required.

2.13 **The Parties agree** that when any WPA is updating waste planning policy that might affect the ongoing import of waste from another area that is considered to be ‘strategic’ in nature, it will notify the affected authority at related stages of consultation.

2.14 Regardless of the need for specific dialogue between individual authorities on strategic matters, **the Parties agree** that they will notify all other waste planning authorities at those stages of planmaking which involve publication of draft approaches and plans.

2.15 Although the Parties agree to the principle of net self-sufficiency, **the Parties also recognise** that particular constraints within a WPA area may mean that planning to achieve net self-sufficiency would not be consistent with the principles of sustainable development as set out in the NPPF and NPPW. **The Parties agree** that any WPA which seeks the management of waste on the basis of net export would need to provide robust evidence that clearly demonstrated that plans to meet needs within its area would not be consistent with the NPPF and NPPW.

2.16 **The Parties agree** that they will work together in the consideration of how to plan for the implications arising from the management of waste from London and any other authority areas that are not party to this SCG.

Permanent deposit of inert excavation waste

2.17 **The Parties agree** that this is not discouraged. Indeed, the achievement of timely restoration of such development is important and the availability of appropriate material, which may not be produced in sufficient quantities locally, is key to this. **The Parties agree** that available inert waste

voidspace in the south east should continue to be monitored and will be taken into account when preparing related planning policy.

2.18 **The Parties recognise** that individual SCGs may be also be prepared between individual WPAs where particular movements of waste requiring permanent deposit of inert excavation waste in a recovery or disposal operation exist which require specific recognition. This is likely to be the case between London Authorities and authorities in the South East in recognition of the unique waste needs of London⁸.

2.19 **The Parties agree** that while not all inert excavation waste can be recycled, close to 100% can be put to some beneficial use and this should be the starting point when setting targets in plans.

Supporting information

2.20 *The permanent deposit of inert excavation waste on land may be beneficial and so can be classed as 'recovery' rather than 'disposal', for example, the restoration of mineral voids where it meets the criteria for being classed as recovery⁹.*

2.21 *Although inert excavation waste is not included in the London Plan target for net selfsufficiency, there is a target of 95% beneficial use¹⁰ of excavation waste (Policy SI7 4c) which applies to exports. There are severe constraints on the ability of producers of inert excavation waste in London to manage this waste within London and export of such waste for management within the south east will continue for the foreseeable future. However, inert excavation waste arising in London can be used to restore mineral workings in the south east.*

Safeguarding

2.22 **The Parties agree** to safeguard waste management capacity in their own areas through robust policies in their respective development plans on waste management. **The Parties agree** that this means their Plans will include a presumption against granting permission for other forms of development which could result in reductions in physical or operational capacity (either by reductions in numbers and size of sites or by reduction in site throughput or restrictions on operation). **The Parties agree** that, when preparing local plans, where development is proposed that would result in a reduction in capacity, the need for that capacity in meeting the needs of other local plan areas will be taken into account.

2.23 **The Parties agree** that it may be appropriate to allow the development of land that is permitted or allocated for waste management for a non-waste use where ongoing management of waste in that location would not be consistent with the principles of sustainable development as set out in the NPPF and NPPW.

⁸ National Planning Practice Guidance for Waste Paragraph: 043

⁹ See the SEWPAG Joint Position Statement: Permanent Deposit of Inert Waste on Land in the South East of England, which recognises that inert excavation waste is often not easily recycled but lends itself to beneficial uses.

¹⁰ The London Plan also provides a definition of 'beneficial use'.

Green Belt

2.24 Whilst it is recognised that waste management constitutes inappropriate development in the Green Belt, **the Parties agree** that the inability of the waste to be practically managed in other locations outside of the Green Belt, including those outside of the WPA area, may be one factor that would go toward comprising very special circumstances.

Supporting information

2.25 *As waste management is considered inappropriate development within Green Belt, the opportunities for developing waste facilities consistent with national policy in several WPA areas in the south east are reduced (as illustrated on Figure 1). Proposals will only be considered acceptable if 'very special circumstances' are shown to exist, which clearly outweigh the harm caused to the Green Belt by reason of inappropriateness and any other harm, such as the preservation of openness of Green Belt designated land¹¹.*

Areas of Outstanding Natural Beauty

2.26 **The Parties agree** that the presence of AONBs within the areas of the parties to this SCG is a constraint for the management of waste. **The Parties agree** that any proposal (including allocations in Plans) within an AONB would be considered against the existing development plan, national policy and guidance. **The Parties agree that** smaller scale waste development may be suitable in an AONB, in particular where it requires a countryside location or would serve a specific local need.

Supporting information

2.27 *An Area of Outstanding Natural Beauty (AONB) is land protected by the Countryside and Rights of Way Act 2000. As shown on Figure 1 the south east includes several Areas of Outstanding Natural Beauty. The Countryside and Rights of Way Act (2000) sets out that local authorities must ensure that all decisions have regard for the purpose of conserving and enhancing the natural beauty of AONBs. The development of major waste management facilities within AONBs is not encouraged by existing policy. Footnote 55 of the NPPF (2019) states that the question of whether a development proposal is 'major' in an AONB is a matter for the decision maker, taking into account its nature, scale and setting, and whether it could have a significant adverse impact on the purposes for which the area has been designated or defined.*

National Parks

2.28 **The Parties agree that** smaller scale waste development may be suitable in a National Park, in particular where it requires a countryside location or would serve a specific local need. **The Parties agree that** any proposal (including allocations in Plans) would be considered against the existing development plan, national policy and guidance.

Supporting information

2.29 *National Parks are designated through the National Parks and Access to the Countryside Act 1949. The South Downs National Park and New Forest National Park are both situated within the south east as shown in Figure 1. The development of major waste management*

¹¹ See paragraphs 143 and 144 of the NPPF

facilities within National Parks is not encouraged by existing policy¹². Footnote 55 of the NPPF (2019) states that the question of whether a development proposal is 'major' in a national park is a matter for the decision maker, taking into account its nature, scale and setting, and whether it could have a significant adverse impact on the purposes for which the area has been designated or defined.

Non-Hazardous Waste Landfill

2.30 **The Parties agree** that despite the management of waste at higher levels of the waste hierarchy (in accordance with NPPW) there will continue to be a need for some landfill capacity to deal with waste in the South East and that this matter will therefore need to be addressed in their Local Plans.

2.31 When planning for non-hazardous landfill, **the Parties agree** that such facilities are regional in nature and will therefore receive waste from beyond the area within which they are located. **The Parties agree** that they will therefore consider the ability of their own area to accommodate new non-hazardous landfill capacity as well as the ability of other areas to meet their own needs over the period being planned for (in line with the agreement in paragraph 2.4).

2.32 **The Parties agree** that the assessment of need for any new¹³ non-hazardous landfill will also consider impacts associated with vehicle movements of waste across the South East.

Supporting information

2.33 *The SEWPAG Joint Position Statement on Non Hazardous Landfill (and subsequent SEWPAG Annual Monitoring Reports) recognise that there is a declining amount of non-inert landfill capacity in the south east.*

General

2.33 **The Parties agree** that the greatest challenge to be addressed is to implement the waste hierarchy and promote the circular economy by enabling better, more sustainable, ways of dealing with waste and to reduce the current dependence on landfill.

2.34 **The Parties agree** to continue to positively plan to meet any shortfalls in waste management capacity in their areas and to enable the delivery of new facilities. This includes making appropriate provision in their local plans, including, as required, the allocation of sites for new recycling and other recovery facilities.

2.35 **The Parties recognise** that private sector businesses (and, therefore, commercial considerations) will determine whether new merchant waste management facilities will be built and what types of technology will be used.

2.36 **The Parties agree** that they will seek to ensure that the matters in this SCG are reflected in the waste local plans that they prepare (including, in the case of unitary authorities, any local plans that include waste policies); this includes the allocation of sites.

¹² See paragraph 172 of the NPPF

¹³ This includes extensions to existing sites

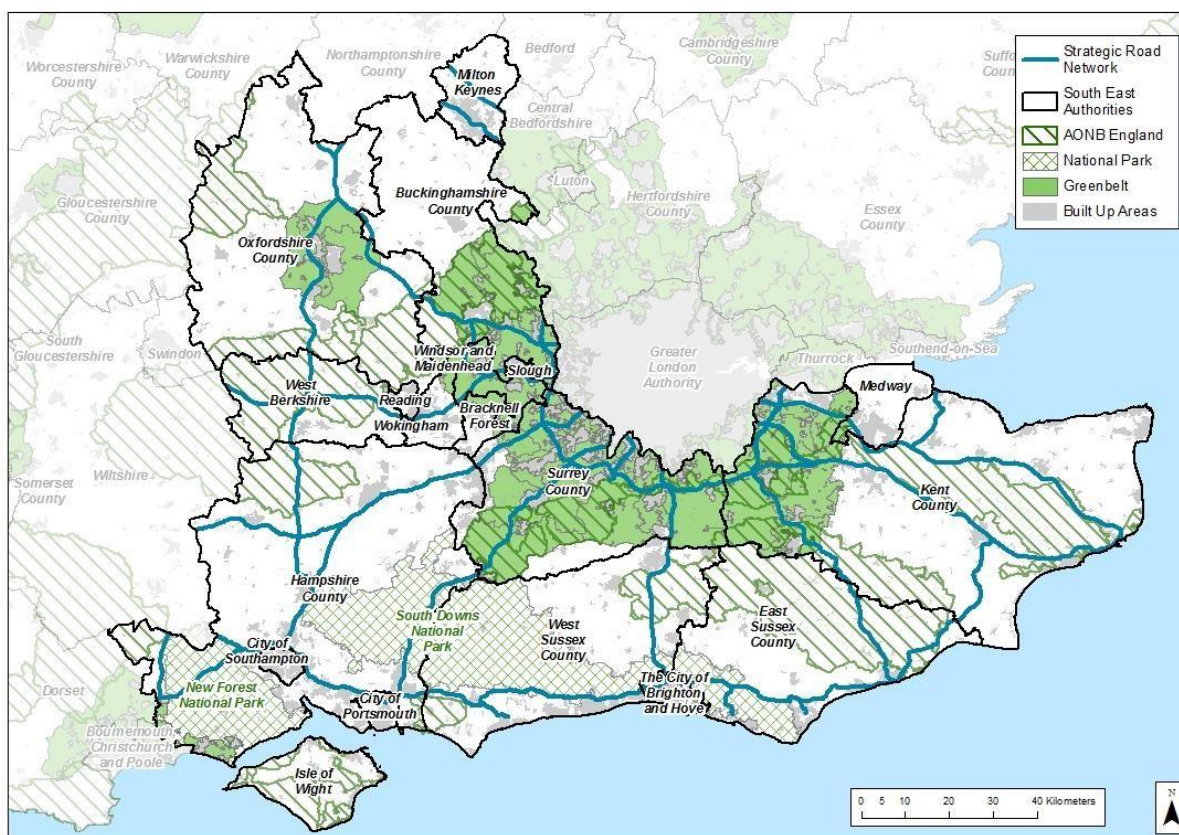
3.0 Signatories

3.1 This statement is agreed by the waste planning authorities listed above. A separate document is maintained on the SEWPAG area of the Local Government Association Knowledgehub website¹⁴ showing details of signatories. The template for this document is included at Appendix 1.

4.0 Strategic Geography

4.1 The location of each of the south east WPAs is shown in Figure 1 below.

Figure 1: Location of south east Waste Planning Authorities



4.2 There are good road and rail connections between the WPAs in the south east, including the M25, M2, M3, M4, M26, M23 and M20, which facilitate the movement of waste between authorities. Other key spatial issues were identified in the revoked South East Plan (2009) which are still relevant as follows:

- The extent of protective designations including Green Belt, Areas of Outstanding Natural Beauty and National Parks;
- unprecedented population growth;
- potential for significant economic growth;
- pressures on social and physical infrastructure;
- the need to stabilise the region's ecological footprint;

¹⁴ <https://khub.net/group/southeastwasteplanningadvisorygroupsewpag>

- declining household size;
- demand for housing;
- increasing development pressure on land; and - the effects of climate change.

5.0 Additional Strategic Matters

5.1 The Parties to this SCG are also party to the following Joint Position Statements:

- Non-hazardous landfill in the South East of England
- Permanent Deposit of Inert Waste to Land in the South East of England

6.0 Cooperation Activities

6.1 Activities undertaken when in the process of addressing the strategic cross-boundary matter of waste management, whilst cooperating, are summarised as follows:

- Input to draft proposals for planning policy concerning waste management in each others' areas as appropriate;
- membership of the South East Waste Planning Advisory Group and signatories to related joint position statements and Annual Monitoring Reports;
- ad-hoc exchange of information (via correspondence and meetings) related to the monitoring of waste movements and management capacity;
- Undertaking a co-ordinated annual survey across the region of waste management capacity; and,
- preparation of bespoke Statements of Common Ground between individual authorities on specific matters affecting those authorities.

6.2 More generally, the Parties will continue to share knowledge and information relevant to strategic cross-boundary issues relating to waste planning.

6.3 The Parties recognise that there will not always be full agreement with respect to all of the issues on which they have a duty to cooperate. For the avoidance of doubt, this SCG shall not fetter the discretion of any of the Parties in relation to any of its statutory powers and duties, and is not intended to be legally binding.

7.0 Governance and Future Arrangements

7.1 The Parties to this Statement have worked together in an ongoing and constructive manner. The Parties will continue to cooperate and work together in a meaningful way and on an ongoing basis to ensure the effective strategic planning of waste management. Appropriate officers of each Party to this Statement will liaise formally through correspondence and meetings (usually four times a year) of SEWPAG.

7.2 The Parties will review this SCG at least every 12 months and establish whether this SCG requires updating. Specific matters likely to prompt updates of this SCG include the following:

- Changes to waste management capacity and patterns of waste arising within the south east
- Evidence which shows significant changes in the level of waste movements between the authorities within and beyond the south east.

Appendix 1 – Template for Details of Signatories

Bracknell Forest Council

Name of Signatory

Position

Signature Date.....

Brighton & Hove City Council

Name of Signatory

Position

Signature Date.....

Buckinghamshire County Council

Name of Signatory

Position

Signature Date.....

East Sussex County Council

Name of Signatory

Position

Signature Date.....

Hampshire County Council (incorporating Southampton City, Portsmouth City
and New Forest National Park Waste Planning Authorities)

Name of Signatory

Position

Signature Date.....

Isle of Wight Council

Name of Signatory

Position

Signature Date.....

Kent County Council

Name of Signatory

Position

Signature Date.....

Medway Council

Name of Signatory

Position

Signature Date.....

Milton Keynes Council

Name of Signatory

Position

Signature Date.....

Oxfordshire County Council

Name of Signatory

Position

Signature Date.....

Reading Borough Council

Name of Signatory

Position

Signature Date.....

Royal Borough of Windsor and Maidenhead

Name of Signatory

Position

Signature Date.....

Slough Borough Council

Name of Signatory

Position

Signature Date.....

South Downs National Park Authority

Name of Signatory

Position

Signature Date.....

Surrey County Council

Name of Signatory

Position

Signature Date.....

West Berkshire Council

Name of Signatory

Position

Signature Date.....

West Sussex County Council

Name of Signatory

Position

Signature Date.....

Wokingham Borough Council

Name of Signatory

Position

Signature Date.....

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