Surrey Waste Local Plan
Examination

Matters Statement: Matter 6 Design and the Environment (Policy 13 and 14)

23 August 2019
Issue: Whether sufficient opportunities are provided to protect and enhance the natural, built and historic environment and minimise any adverse impact of waste development on communities?

Policy 13 – Sustainable Design

124. Is the wording of Policy 13 sufficiently clear and effective? How is relevant best practice defined? Does this refer to the design and operation of the facility? How will this be assessed?

Council’s Response:

Is the wording of Policy 13 sufficiently clear and effective? How is relevant best practice defined?

124.1 The wording of Policy 13 is intentionally worded to say “relevant best practice”. This is because the best practice guidance available on sustainable design will vary depending on the nature of the proposal, and such guidance may potentially change and be updated through the plan period. This is made clear in SWLP Part 1 para. 5.4.1.1. This is to avoid being overly prescriptive.

Does this refer to the design and operation of the facility? How will this be assessed?

124.2 The sustainable design of proposals will be assessed against the relevant best practice guidance and documents. The CPA’s local list for the validation of planning applications (SWPS-11) includes reference to the need for a statement detailing how sustainable forms of design/construction have been incorporated into the new development and any proposed renewable energy technologies. This is required for any major developments defined as over 1000 sq. metres. The ‘local list’ will be updated following adoption of the SWLP,
125. Is the policy consistent with national policy, in its requirement for the maximisation of heat recovery and recovery of energy from the waste activity?

Council’s Response:

125.1 Yes. The requirement for the maximisation of heat recovery and recovery of energy from the waste activity is entirely consistent with paragraph 148 of the NPPF which expects that “The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions... and support renewable and low carbon energy and associated infrastructure” and paragraph 151 which states: “To help increase the use and supply of renewable and low carbon energy and heat, plans should: a) provide a positive strategy for energy from these sources, that maximises the potential for suitable development”.

125.2 This aspect of the policy is also consistent with the Waste Management Plan for England¹ which states: “The Government supports efficient energy recovery from residual waste – of materials which cannot be reused or recycled - to deliver environmental benefits, reduce carbon impact and provide economic opportunities. Our aim is to get the most energy out of waste, not to get the most waste into energy recovery.”

¹ See third paragraph on page 13
Policy 14 – Development Management

126. Does the SWLP clearly explain the relationship with other elements of the development plan within the county, including the need to comply with the policy requirements of other plans, unless material considerations indicate otherwise, as well as those of the SWLP?

Council’s Response:

126.1 Yes. At the beginning of the SWLP in section 1.1, an explanation is provided of how the SWLP fits within the wider development plan for the county. Paragraph 1.1.1.4 explains the other elements of the development plan within the county and paragraph 1.1.1.5 notes: “When determining applications all relevant policies of the development plan, as well as national policy, will be taken into account.”

127. Does the specific wording of Policy 14 clearly indicate how the potential impacts of a waste management proposal would be assessed? Is the extent, type and methodology of assessment that will be required to support development proposals, where relevant, clearly and consistently set out within the SWLP, such as site-specific flood risk assessments, heritage impact assessments, ecological assessments, noise impact assessments, air quality assessments etc.?

Council’s Response:

127.1 Guidance as to the specific assessments that should be undertaken with reference to the likely effects of a proposed development on a particular aspect of the environment or the local community is provided in the CPA’s published local list for the validation of planning applications (SWPS-11). The CPAs local list is subject to review every two years, and therefore able to reflect any changes made during that period to relevant legislation, guidance, methods of assessment, and standards. The matters identified in the SWLP as likely to require assessment in respect of a proposed waste relate development are unlikely to change substantially over the lifetime of the plan (e.g. impacts on air quality), but the methods of assessment that should be used to investigate the potential impacts of a development and the criteria or standards against which the significance of those impacts should be evaluated may be subject to review and amendment. Updating the plan on a two
yearly basis would not be practical, and therefore specific guidance on the types of assessments that would need to be provided in support of any planning applications made is provided in the local list for validation.

127.2 In the interests of clarity it is proposed that further text should be added to paragraph 5.4.2.1 of the SWLP to direct prospective applicants to relevant sources of further guidance on the types of detailed assessment that would need to be submitted in support of an application for planning permission.

5.4.2.1 Policy 14 is concerned with addressing adverse impacts that might arise during the construction, operation, and where relevant, demolition and restoration of a waste management facility to ensure that significant adverse impacts do not occur. **Detailed guidance as to the specific types of assessment that would need to be provided in support of an application for planning permission, and the circumstances in which such assessment would be required, is provided in the WPAs published local list for the validation of planning applications and in the national Planning Practice Guidance.**

128. For effectiveness, should Policy 14 make reference to the high potential for waste management proposals to be EIA development (as specified in the Town and Country Planning (Environmental Impact Assessment) Regulations 2017)? Is the role of screening and scoping under those Regulations made sufficiently clear within paragraph 5.4.2.3 of the SWLP?

**Council’s Response:**

128.1 The EIA regime and the circumstances within which it applies within the context of land use planning is defined by law, and therefore does not need to be referred to within Policy 14, the purpose of which is to offer guidance to applicants on the matters that may need to be addressed with reference to the potential impacts of waste related development on the environment and communities. EIA is merely one mechanism by which an applicant may provide parts of the information that the CPA will require to inform its decision making in respect of proposed waste related
development. Any applications submitted to the CPA in respect of new waste related development would be screened for EIA as a matter of course.

128.2 The roles of screening and scoping within the EIA process are defined by the relevant Regulations, with guidance available through the national Planning Practice Guidance online resource and the CPA’s published local list for the validation of planning applications (SWPS-11). It is proposed that further text be added to paragraph 5.4.2.3 of the SWLP to direct prospective applicants to relevant sources of further guidance on EIA matters.

| 5.4.2.3 | Most waste related development fall within the scope of the Environmental Impact Assessment (EIA) regime, which as a minimum requires that schemes of certain scales or types, or development in specific locations, is subject to screening. Where the WPA decides that EIA is required, the developer will be required to submit an Environmental Statement (ES) as part of the planning application. The ES will identify the likely significant impacts of the development, and the mitigation and compensation measures that would be used to address adverse impacts. The scope of the information to be provided within an ES should be agreed with the WPA through the scoping process provided for by the EIA regulations. Further information on the EIA regime can be found within the national Planning Practice Guidance and within the WPAs published local list for the validation of planning applications. |
129. Is the Policy 14 requirement to avoid significant adverse impacts consistent with the legal duties and national planning policy requirements for Areas of Outstanding Natural Beauty (AONBs), biodiversity and protected European and international sites, the special interest features of nationally designated sites, irreplaceable habitats, and protected species, listed buildings and their settings, Conservation Areas and other nationally and locally important designated and non-designated heritage assets, including Scheduled Monuments and their settings, and areas of archaeological potential?

Council’s Response:

129.1 Yes. Policy 14 requires applicants to demonstrate that waste related development would not result in significant adverse impacts on a range of environmental receptors, which could be achieved by means of avoidance, mitigation or compensation. The term ‘significant adverse impacts’ has been used to focus attention on those impacts that have the greatest potential to give rise to harm, and that would have to be minimised (i.e. avoided, mitigated or compensated for) if the proposed development were to proceed. The question of significance would be addressed from within the context of the particular aspect of the environment that is under consideration (e.g. landscape, noise, etc.), and enables the CPA to take account of the relative sensitivities and particular circumstances that pertain to a given site and development.

130. Policy 14 B(i)(a) includes reference to dust and vibration. For clarity and effectiveness, should these considerations also be included within paragraphs 5.4.2.6 and 5.4.2.7?

Council’s Response:

130.1 Proposed changes to paragraph 5.4.2.6: The CPA proposes the addition of the following text to paragraph 5.4.2.6 of the SWLP.

5.4.2.6 Waste development can result in adverse impacts on amenity by virtue of its scale, appearance, type and intensity. Such impacts need to be managed effectively if waste development is to be considered acceptable. The potential impacts of noise and vibration should be addressed for the construction and operational phases of the proposed development and where relevant for demolition and site restoration activities (including the duration of
working hours), and in terms of the vehicle movements generated by all phases of the development.

130.2 Proposed changes to paragraph 5.4.2.7: The CPA proposes the addition of the following text to paragraph 5.4.2.7 of the SWLP.

5.4.2.7 The release of fumes and other emissions to air, including bioaerosols, from some types of waste development could be, or be perceived to be, a source of impact on human health. Odour arising from some types of waste management activities can give rise to impacts on the amenity and wellbeing of communities. Dust arising from any phase of a waste related development can be a source of nuisance for communities.

131. In relation to the assessment of flood risk, to be consistent with national policy, should the use of the word ‘proposed’ replace ‘necessary’ in paragraph 5.4.2.14? To support the effective delivery of development, should paragraph 5.4.2.16 include a short explanation for the reason why early discussion is advocated?

Council’s Response:

131.1 Proposed changes to paragraph 5.4.2.14: The CPA proposes the addition of the following text to paragraph 5.4.2.14 of the SWLP.

5.4.2.14 Development should be directed away from areas at the highest risk of fluvial or surface water flooding. Where development on land at risk of flooding is proposed, its acceptability will be determined through the application of the sequential test (excluding those sites allocated in the Plan, which were subject to the sequential test as part of the Strategic Flood Risk Assessment process) and, if necessary, the exception test.

131.2 Proposed changes to paragraph 5.4.2.16: The CPA proposes the addition of the following text to paragraph 5.4.2.16 of the SWLP.

5.4.2.16 Development on land identified as being at substantial risk of flooding from surface water or groundwater should be discussed with the LLFA at the earliest possible stage of project development. The purpose of those discussions would be to identify options for the effective management of the likely impact of the proposed development on surface water or groundwater flood risk.
132. In relation to biodiversity, for effectiveness, should paragraph 5.4.2.30 be explicit that any mitigation, or compensation, would need to be considered suitable? In paragraph 5.4.2.33, for consistency with national policy, should the phrase ‘minimise the risk of significant adverse impacts’ be replaced with ‘avoid the risk of adverse impacts’? For effectiveness, should Policy 14 include the requirement, referred to in paragraph 5.4.2.34, for development to provide net gains in biodiversity and the network of Biodiversity Opportunity Areas (BOAs), referred to in paragraph 5.4.2.35?

Council’s Response:

132.1 Mitigation & compensation (paragraph 5.4.2.30): The CPA proposes the addition of the following text to paragraph 5.4.2.30 of the SWLP.

| 5.4.2.30 | Where development would result in the loss of or would adversely affect an important area, site or feature, the harm would need to be addressed by appropriate mitigation or, where mitigation is not feasible, by compensation through the provision of suitable equivalent resource. While compensation may be appropriate in some cases for local sites it is unlikely to be feasible for impacts on European designated sites. For any impacts upon European sites the application of the Imperative Reasons of Overriding Public Interest (IROPI) test would be required before any compensatory habitat provision could be considered. |

132.2 Minimise significant adverse v. avoid adverse (paragraph 5.4.2.33): The use of the phrase ‘minimise the risk of significant adverse impacts’ is, in the Council’s opinion, consistent with the approach set out in paragraph 175(a) (pp.50-51) of the NPPF (see below). The Council is of the opinion that it would be unreasonable to expect developers to ‘avoid the risk of adverse impacts’ on biodiversity, as the use of such wording could be interpreted as removing the options of mitigation and compensation as mechanisms by which adverse impacts could be addressed if avoidance is not feasible for a given development and site.

“175… (a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;”
132.3 **Biodiversity net gain (paragraphs 5.4.2.34 & 5.4.2.35):** The question of biodiversity gain is addressed in Policy 13 (part iii)a.) of the SWLP, which requires that all proposals for waste related development demonstrate the inclusion of measures to deliver biodiversity gain. The CPA proposes to delete the text currently set out in paragraphs 5.4.2.34 and 5.4.2.35 of the SWLP and to amend the text currently set out in paragraph 5.4.1.7 to address

| 5.4.1.7 | All proposals for waste related development should contribute to the creation or maintenance of green infrastructure by including measures to deliver landscape enhancement and biodiversity gain. For significant developments (site area of more than 5 hectares, throughput of more than 50,000 tonnes per year, schemes to restore former mineral workings to nature conservation end use) a Landscape & Ecology Management Plan (LEMP) should be produced.

- Development should provide net gains in biodiversity (e.g. habitat creation, habitat enhancement, etc.) unless evidence demonstrates that such provision would not be feasible. Where the development can deliver biodiversity net gain, the proposal should reflect the objectives of the relevant Biodiversity Opportunity Area (BOA).

- Development should provide landscape (or townscape) enhancement unless evidence demonstrates that such provision would not be feasible. Where development can deliver landscape (or townscape) enhancement, the proposal should reflect the advice and guidelines relevant to the area in question as set out in the Landscape Character Assessment (LCA) for Surrey (2015).
133. To be consistent and effective, should the wording of paragraph 5.4.2.48, on aerodrome safeguarding, be amended to reflect the need identified in Policy 14 to assess the position and heights of buildings and associated structures?

Council’s Response:

133.1 The CPA proposes the addition of the following text to paragraph 5.4.2.48 of the SWLP.

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5.4.2.48 Any applications relating to development situated within the consultation area of civil and military aerodromes and airstrips, where the proposal involves one or more of the activities or features listed below, would need to demonstrate how any hazards to air traffic would be avoided or mitigated.

- **Construction of any building, structure, erection or works of a height that would exceed the relevant limit denoted on the safeguarding map for the aerodrome or airstrip in question.**
- **Construction of any building or structure that could, because of its size, shape, location or construction materials, act as a reflector or diffractor of the radio signals on which navigational aids, radio aids and telecommunication systems of the aerodrome or airstrip in question.**
- Features attractive to hazardous birds (e.g. amenity landscaping and water features, this include the enhancement of existing wet areas or watercourses, or buildings with ledges, gantries and flat roofs).
- Lighting which may impact on airport safety (e.g. dazzling).
- **Venting and flaring of gas.**
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