

## **Matter 1: Duty to Co-operate and Legal Issues**

### **Bournemouth, Dorset and Poole Waste Plan Examination**

#### **STATEMENT BY DORSET COUNTY COUNCIL ON BEHALF OF BOURNEMOUTH BOROUGH COUNCIL AND THE BOROUGH OF POOLE (THE WASTE PLANNING AUTHORITIES)**

**June 2018**



Bournemouth, Dorset and Poole Waste Plan Examination Statement by  
Dorset County Council

**Background Documents**

- WPSD-03 – Waste Plan Sustainability Appraisal Report
- WPSD-04 – Consultation Statement
- WPSD-05 – Duty to Co-operate Statement
- WPDS-07 – Habitats Regulations Assessment
- WPDCC-02 – Draft Waste Plan (2015)
- WPDCC-03 – Draft Waste Plan Update (2016)
- WPDCC-25 – Background Paper 2: Waste Plan Site Selection
- WPDCC-26 – Background Paper 3: Cross boundary movements of waste
- WPDCC-28 - Minerals & Waste Development Scheme
- WPDCC-39-41 – Dorset, Bournemouth & Poole Statements of Community Involvement
- WPDCC-43 to 47 – Reports to the Dorset LEP
- WPDCC-56 – Schedule of Proposed Main Modifications (Updated June 2018)
- WPDCC-58 – HRA Screening Report – July 2015
- WPDCC-59 – HRA Screening Report – Updated June 2016
- WPDCC-60 – HRA Screening Report – Updated February 2017
- WPDCC-61 – Minutes of the Dorset LEP Board Meeting 27 September 2016
- WPDCC-62 – Parley ERF – Assessment of Air Quality Impact on Dorset Heaths (AECOM 2017)
- WPDCC-63 – Letter from Natural England regarding Parley ERF (March 2018)
- WPDCC-64 – Binnegar Quarry Air Quality Constraints (SUEZ 2016)

**Statements of Common Ground**

- SCG01 – Statement of Common Ground between the Waste Planning Authority & Historic England

## **Matter 1 – Duty to Co-operate and Legal Issues**

### **Duty to Co-operate**

#### **1 Please give a brief summary of how the duty to co-operate has been met.**

Details of how the duty to co-operate has been met is contained within the Duty to Co-operate Statement **WPSD05**.

The statement explains how the WPA has developed a good understanding of the broad pattern of waste movements into and out of the Plan area, through Environment Agency data and engagement with adjoining waste planning authorities and authorities further afield (see also **WPDCC26**).

Local authorities within the Plan area have been engaged from an early stage in plan preparation and throughout to varying degrees depending on their level of interest, the identified needs and the consideration of site options. Targeted discussions were also had regarding several issues that had implications for local planning including housing growth and the need for new waste infrastructure, safeguarding and possible opportunities for waste facilities to support other forms of development i.e. the provision of low carbon energy and district heating schemes.

The level of engagement that the WPA has had with other bodies under the Duty to Cooperate has varied depending on the relevance of the Waste Plan to those bodies. Engagement has been most extensive with the Environment Agency, Natural England, Highways England and the Dorset Local Enterprise Partnership.

The WPA is not aware that any objections have been raised to the Waste Plan regarding compliance with the duty to co-operate.

#### **2 How has the duty to co-operate been met with regard to the spatial plans of the constituent Councils?**

The Waste Plan has been prepared by Dorset County Council on behalf of the unitary authorities of Bournemouth and Poole under the terms of a service level agreement. The preparation of the Waste Plan has been overseen by the Bournemouth, Dorset and Poole Joint Advisory Committee, made up of representatives from the three authorities. The terms of reference of this committee allow for it to agree consultation stages during plan preparation up to and including pre-submission (publication) of the Plan.

The WPA has actively engaged with officers of the constituent planning authorities and waste management authorities throughout the process to ensure that the policies and site allocations are consistent with the aims objectives of the relevant local plans and assist in the delivery of waste management strategies.

Dorset County Council is a member of the Strategic Planning Forum (SPF) – a non-executive committee that comprises two elected members from each of the constituent Dorset authorities, as well as representation from the Dorset Local Enterprise Partnership and Dorset Local Nature Partnership. The primary purpose of the SPF is to oversee cross-boundary planning matters of strategic significance to

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which the duty to co-operate applies. This helps to secure meaningful political engagement and is supported by an officer group (Strategic Planning Policy Managers' Forum - SPPMF) which progresses workstreams in support of the SPF's role (examples include a cross-boundary issues paper, and Dorset-wide Gypsy and Traveller Development Plan Document).

Matters related to minerals and waste policy are brought to the attention of both the SPPMF and SPF where appropriate to ensure that there is due consideration of such matters in a wider strategic context.

### **3 To what extent has agreement been reached with adjoining waste planning authorities regarding future cross-boundary movements of waste?**

Background Paper 3 (**WPDCC26**) assesses cross boundary waste movements relevant to the Waste Plan. In terms of waste movements, Bournemouth, Dorset & Poole (BDP) has a strong relationship with the adjoining authorities of Hampshire and Somerset, but there are minimal movements to/from Devon and Wiltshire (see section 3.4 of **WPDCC26** for details). The Waste Plan includes in its forecasts continued movements of non-hazardous waste to Somerset (Dimmer & Walpole) and Hampshire (Blue Haze & Marchwood) until contract end dates. No other capacity at waste management facilities in adjoining or other authorities is taken into account in the Waste Plan's forecasts, however it is expected that some cross-boundary movements of all types of waste will continue due to market forces, as summarised in section 3.4 of **WPDCC26**.

DCC received confirmation in 2017 from Hampshire (including New Forest National Park), Somerset and Devon councils that the continued export of waste from BDP to specified facilities did not present any issues<sup>1</sup>, aside from where permission end dates for certain facilities were identified within the Plan period.

Statements of common ground with Hampshire County Council and Somerset County Council are being prepared.

The BDP Waste Plan aims for net self-sufficiency in the management of non-hazardous and inert waste, in line with national policy, and makes sufficient provision to achieve this. The neighbouring authorities' adopted waste plans<sup>2</sup> also aim for their own net self-sufficiency.

### **4 Please give details of any engagement with Weymouth and Portland Borough Council**

The Waste Planning Authority has engaged closely with district and borough councils during the preparation of the Waste Plan. The local authority has been consulted during formal consultation periods and in between at focused meetings, together with email and telephone correspondence to discuss relevant issues.

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<sup>1</sup> Facilities receiving strategic levels of waste from BDP in 2015 as identified from the Waste Data Interrogator & Environment Agency data. Full details included in WPDCC26.

<sup>2</sup> Hampshire Minerals & Waste Plan (October 2013); Somerset Waste Core Strategy (February 2013); Devon Waste Plan (December 2014); Wiltshire Waste Core Strategy DPD (June 2009) & Wiltshire Waste Site Allocations Local Plan (February 2013).

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Initial contact with Weymouth and Portland BC was made in a letter in February 2013. This letter sought to engage the borough at an early stage and raise several specific issues (see **WPSD05** for details).

Formal responses to the 2015 and 2016 Waste Plan consultation documents were received from Weymouth and Portland BC.

Weymouth and Portland BC and West Dorset District Council planning departments merged during the preparation of the Waste Plan. Therefore, the discussions that took place with West Dorset, listed in the duty to co-operate statement (**WPSD05**), would have covered the issues and concerns of both authorities.

Regular email newsletters were sent to Dorset County Council Members throughout Plan preparation. These emails were sent on to the planning departments of each local authority with a request for the email to be forwarded on to local Members. This included Weymouth and Portland BC.

Concurrently, discussions also took place with the waste management authority to understand the need for new and improved local waste management facilities within Weymouth and Portland. Local transfer and household recycling facilities were understood to be good within Weymouth and Portland and so no local needs were identified for inclusion in the Waste Plan.

### **5 Was there any discussion with the Environment Agency between December 2012 and November 2016?**

Yes. The WPA has maintained a good relationship with the Environment Agency (EA) throughout preparation of the Waste Plan. In June 2014, the WPA contacted the EA by email to ask the EA to review the emerging shortlisted waste site options. Comments were received from the EA, by email, 7/08/14.

During 2014 and 2016 the WPA contacted the EA several times to provide an update on the preparation of the Waste Plan and to seek comments on additional site options that were being considered. Comments were received by email on all sites during 2015, 2016 and 2017, with various follow up questions by email and telephone conversation. The WPA also sought informal views and advice from the EA on the Level 1 SFRA during this time.

In addition, formal responses were received from the EA at each consultation stage.

The WPA arranged a site visit to an Energy from Waste Facility in Portsmouth in November 2016. Two representatives from the EA came along to this visit.

### **6 Has there been any discussion with Historic England?**

Yes. Historic England has been consulted on the preparation of the Waste Plan at all key stages and has responded to each consultation, since the Draft Waste Plan (2015). Historic England's views have been taken into account in the preparation of the Plan.

The Waste Planning Authority met with Historic England<sup>3</sup> on 20 April 2018 to discuss its representations on the Pre-Submission Draft Waste Plan, particularly in relation to

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<sup>3</sup> Rohan Torkildsen, South West Historic Places Principal and Historic Environment Planning Adviser South West/West Midlands, & Keith Miller, Inspector of Ancient Monuments.

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Inset 5 – Loudsmill and Policy 19. The WPA discussed additional assessment work undertaken by the council's senior archaeologist on Inset 5 and potential modifications to the Inset 5 development considerations and Policy 19 have been discussed. The WPA is continuing discussions with Historic England in relation to these matters. A modification is proposed to Policy 19, see MM12.17, **WPDCC56** and Statement of Common Ground 01 (**SCG01**).

### **7 Has there been any discussion with the Civil Aviation Authority?**

In January 2013 the CAA wrote to the County Council regarding consultation on planning matters. This letter aimed to reduce the time devoted to unnecessary consultations. It stated that where consultation is required, under Section 110 of the Localism Act, the CAA will only respond to specific questions. The letter set out that where the preparation of Waste Plans might affect an airport, the airport operator is the appropriate consultee. The situations where it is necessary to consult the CAA were also set out, this did not include the preparation of a Waste Plan.

For compliance with the Localism Act and the proximity of Bournemouth Airport to waste site options the WPA continued to consult the CAA at key stages. No formal response was received.

The relevant airport authorities for Bournemouth Airport including Manchester Airport Group (MAG) and most recently Regional City Airports have been actively engaged in the preparation of the Waste Plan, representing the views of the CAA. This includes regular telephone and email correspondence and a meeting in June 2016 to discuss issues and concerns. A representative of MAG also attended a site visit, arranged by the WPA, to the Portsmouth Energy from Waste facility in November 2016.

The WPA is also aware that engagement between the site promoter (Inset 7) and airport authorities has been ongoing to discuss issues and the preparation of an aviation safeguarding report. This was confirmed at a meeting on 23 May 2018.

The WPA is continuing discussions with Regional and City Airports in relation to these matters.

### **8 Details of engagement with the Local Enterprise Partnership (LEP) are missing from Appendix B table 3. Some details are provided in the Consultation Statement. Do the Councils wish to put forward any other information regarding engagement with the LEP?**

The Dorset Local Enterprise Partnership (LEP) has been engaged throughout the process. Reports presented to the LEB Boarded are available (WPDCC43 to 47).

A meeting took place on 7 September 2016 between the WPA and the Dorset LEP Director and deputy Chair to discuss the concerns of the LEP. The outcome of this meeting was the preparation of a detailed report to the LEP board regarding the issues of concern. The minutes of this meeting dated 27 September 2017 confirmed support for the paper and confirmed 'nothing further needed to happen' (**WPDCC 61**).

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The WPA have continued to update the LEP with a report to their board meeting in November 2017. Further updates will be provided following hearings/consultation on modifications.

As mentioned in response to Q2, the LEP attend the Strategic Planning Forum and are able to engage in discussions around local plan matters, including the Waste Plan.

### **Planning and Compulsory Purchase Act 2004, Section 19 and the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended)**

#### **9 How does the BDPWP secure development that contributes to the mitigation of, and adaptation to, climate change?**

The vision for the Waste Plan is for waste management facilities to minimise impacts on climate change. This will be achieved through Objective 1 which seeks the management of waste at the highest feasible level of the waste hierarchy. Objective 2 seeks to optimise self-sufficiency by ensuring facilities in appropriate locations which will contribute to the reduction in total mileage travelled by waste. Objective 5 brings these two together to specifically assist in adaptation/mitigation and reliance to climate change. These objectives will specifically be implemented through the following policies:

Policy 1 requires proposals to conform with the guiding principles of the Plan – the waste hierarchy, self-sufficiency and proximity. The application of the spatial strategy should allow for new facilities in appropriate locations thereby minimising vehicle movements.

Policy 7 'Final disposal of non-hazardous waste' ensures that landfilling of non-hazardous waste is considered only as a last resort whereas Policy 6 'Energy recovery' looks more favourably on waste treatment allowing for new facilities subject to certain criteria. These policies will ensure the waste hierarchy is applied and waste is managed as sustainably as practicable.

In addition, Policy 15 'Sustainable construction and operation of facilities ensures that proposals demonstrate that the '...site design, layout and operation takes account of climate change mitigation and resilience...'

Policy 17 'Flood Risk' deals with the issue of flooding ensuring proposals are not at significant risk. A Strategic Flood Risk Assessment (SFRA) has also been prepared to accompany the Waste Plan incorporating the impacts of climate change. This process has ensured that site allocations are not at risk of flooding. In some cases, site boundaries have been pulled back to ensure they avoid areas at risk of flooding.

Policy 18 'Biodiversity and geological interest' also makes specific reference to impacts of climate change on biodiversity/geodiversity.

#### **10 Is the BDPWP prepared in accordance with the Local Development Scheme?**

Yes, the Waste Plan has been prepared in accordance with the relevant version of the Local Development Scheme.

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The current Development Scheme (**WPDCC-28**) requires the Waste Plan to be published in December 2017, submission in March 2018 and for the examination to be held in June 2018. These milestones will be achieved.

### **11 How has the preparation of the BDPWP complied with the Statements of Community Involvement, specifically in terms of those consulted and the methods used for consultation?**

The preparation of the Waste Plan has complied with the Statement of Community Involvement (**WPDCC39**). Further details are provided in the Consultation Statement (**WPSD04**).

Bournemouth and Poole have their own SCIs (**WPDCC40 and WPDCC41**). The County Council has liaised with Bournemouth and Poole to ensure that consultation on Plans covered by their SCI are up-to-date with the two authorities own SCI commitments, where appropriate.

In many cases, the WPA has gone beyond the minimum requirements set out in the SCI. For example, neighbour notification letters were sent and site notices were displayed at key consultation stages on site options.

### **Conservation of Habitats and Species Regulations 2017 Part 6**

### **12 Have alternatives to Inset sites 1, 7 and 10 been considered with respect to ecology?**

Background Paper 2 – Waste Plan Site Selection (**WPDCC-25**) and Chapter 4 of the SA Report (**WPSD03**) sets out all the alternative sites that were considered to address the waste management needs identified.

The Conservation Regulations Assessment Screening Reports also included screening of all site options (**WPDCC58, 59 and 60**) to determine whether any of the options being considered are likely to have a significant effect on any SAC, SPA or Ramsar site.

Alternatives to Inset 1 - A number of sites in East Dorset were considered to address the need for a transfer station and sites within the wider south-east Dorset area were considered for the management of bulky waste. A lot of the allocated employment sites and other industrial areas within East Dorset were unavailable or built out. Other sites were discounted specifically due to environmental designations within them. Land at Woolsbridge Industrial Estate (Inset 1) is allocated employment land and although the site is in close proximity to ecological designations, the uses proposed are considered appropriate and should have no greater impacts than development of B1, B2, B3 uses for which the site is currently allocated.

The Draft Waste Plans 2015 and 2016 (**WPDCC-02/WPDCC-03**) contained land at Blunts Farm, Ferndown and the wider Ferndown Industrial Estate. This was the most appropriate alternative location to Inset 1. The site is well located, allocated employment land some distance from European designated sites. However, the landowner of this site and the district council have objected to its use for waste management and therefore is considered undeliverable, during the Plan period.

Alternatives sites for the management of residual waste at Inset 7 - Very few viable, deliverable sites were identified. Again, land at Blunts Farm, Ferndown was



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considered a suitable alternative location. However, with an objection from the landowner, the district council and no waste company actively promoting the site, the WPA was unable to shortlist the site for allocation. Land at Woolsbridge was considered, however its remote location was considered to be a constraint given the number of vehicle movements associated with a strategic residual waste treatment facility. The site is also situated in close proximity to European sites. Canford Magna and Mannings Heath in Poole were also considered as alternatives and have been included in the Pre-Submission Draft Waste Plan for allocation (Insets 8 and 9).

Alternatives to Inset 10 - Land at Binnegar Environmental Park (Inset 10) was outside the original area of search for residual waste treatment facilities, covering south east Dorset. However, the site, combined with additional capacity in South East Dorset, would represent a good spatial spread of facilities within the county reducing miles travelled by waste. It is also an existing, permitted waste site.

Very few alternative sites are available of sufficient size to accommodate a residual waste treatment facility outside of South East Dorset. This is illustrated by the difficulty the WPA has had in identifying a facility for a waste management centre to serve Dorchester – in this case separate, smaller sites have been allocated to accommodate transfer and HRC facilities. Likewise, an extensive search was undertaken to find a transfer/depot facility in the Wareham area.

Despite an extensive call for sites exercise, suitable alternatives have not been forthcoming. One option of note, Dorset Green Technology Park, Winfrith, was investigated, however was discounted as a suitable site with a willing landowner was not available at the time. A representation was received to the Pre-Submission Draft Waste Plan to explain that the situation has now changed with regards to landownership and land may be made available. This came about too late in the Plan preparation and the WPA has no details with which to assess the suitability of the site for residual waste treatment. As far as the WPA is aware, there is no waste management company engaged and therefore there is real uncertainty as to whether the site would be deliverable. Additionally, this site is in very close proximity to European sites and in this sense, is unlikely to provide a better alternative.

The provision of a range of sites within the Waste Plan to meet the need for residual waste management is considered to offer a flexible approach. The Plan is not technology specific, allowing the industry to bring forward applications for appropriate facilities. It may be that a site cannot be brought forward for energy from waste due to the ecological constraints. The flexibility of the Waste Plan will allow applications for smaller scale operations or facilities for advanced treatment technologies, or the preparation of Refuse Derived Fuel/Solid Recovered Fuel, which enable waste to be moved up the waste hierarchy without significant effects on ecology.

### **13 Has any information from operators of potential energy from waste plants on Inset sites 7 and 10 regarding emissions and mitigation requirements been provided following the Habitats Regulations Assessment?**

Inset 7 – An Assessment of Air Quality Impact on Dorset Heaths for Parley ERF (WPDCC-62) has been prepared to support the allocation of this site. This assessment was submitted to Natural England's (NE) Discretionary Advice Service. The WPA did not have sight of the assessment before publication of the Pre-Submission Draft Waste Plan. The WPA received a copy of NE's response on 16 May 2018 (WPDCC-63).

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Inset 10 – An Air Quality Constraints Report was prepared to support the allocation of this site (**WPDCC-64**). In February 2017, the WPA responded to explain that the report gave rise to concerns regarding the impact of the proposed treatment of residual waste on nearby European heathland. The WPA set out the need for an additional criterion to be included within Waste Plan policy to clarify that: 'Sites will only be considered where it has been demonstrated that possible effects (related to displacement of recreation, proximity and species) that might arise from the development would not adversely affect the integrity of European sites either alone or in combination with other plans or projects'.

The conclusions within the Air Quality Constraints Report refer to additional abatement of NO<sub>x</sub> emissions and/or more stringent control of ammonia emissions. As a result, the WPA requested further detail. To date, this information has not been provided. SUEZ responded to confirm that they were... 'confident that we could get NO<sub>x</sub> down to a level where it wouldn't need an appropriate assessment. However, that will require a lot of up front air dispersion modelling as well as a decision on which technology supplier we would use at that site, as well as type of waste/ pre-treatment/ capacity / scrubbing / stack height etc'. At this point SUEZ considered it premature to undertake this level of detailed work.

The decision was made to include the site. It was felt that the very strict criteria contained within the Waste Plan policies, as recommended in the Habitats Regulations Assessment (**WPSD-07**) would ensure that there were no Likely Significant Effects from future proposals.