

EAST AYRSHIRE COUNCIL

DEVELOPMENT SERVICES COMMITTEE: 28 AUGUST 2001

THE NATIONAL WASTE STRATEGY, AREA WASTE PLANS AND DEVELOPMENT PLANNING

Report by Directors of Development Services and Community Services

1. PURPOSE OF REPORT

- 1.1 The purpose of this report is to
- (1) outline the Statutory requirements for Waste Planning and the arrangements currently in place to meet these requirements;
 - (2) report progress;
 - (3) outline the relationship between waste management requirements and the statutory development planning system; and
 - (4) clarify the steps that East Ayrshire Council as planning authority will require to take in the waste planning process.

2. STATUTORY FRAMEWORK

- 2.1 The European Commission has issued various directives relating to waste planning, management and disposal. These include
- the Waste Framework Directive
 - the Hazardous Waste Directive
 - the Packaging and Packaging Waste Directive
 - the Integrated Pollution Prevention and Control Directive
 - the Landfill Directive
- 2.2 These directives have been incorporated into UK law through a number of Acts and associated regulations. The Environment Act 1995 gives SEPA the duty to prepare a National Waste Strategy.
- 2.3 Article 7 of the Waste Framework Directive requires that Waste Management Plans are prepared to ensure that the objectives of the Directive are met. To do so the Waste Management Licensing Regulations 1994 designated Planning Authorities as the competent authorities for implementing the plan making requirements of Article 7 and for delivering the objectives set out in the Directive in respect of development planning and control.

3. NATIONAL WASTE STRATEGY

- 3.1 The National Waste Strategy (NWS) was published by SEPA in December 1999 with the full endorsement of the Scottish Executive. It was prepared in response to the European Directives outlined above and provides a general framework within which Scotland can (a) reduce the amount of waste produced and (b) deal with the waste which has been produced in more sustainable ways.
- 3.2 The NWS incorporates the concept of the Waste Hierarchy. The Waste Hierarchy provides a framework for identifying suitable waste management options. The Hierarchy options are
- Waste minimisation/reduction - a reduction in the amount of waste produced
 - Re-use - using items again for the same or different purposes
 - Recovery - through recycling, composting or energy production through a wide range of processes
 - Disposal - landfill.
- 3.3 The choice of which waste management option is the most suitable will depend on an assessment of various factors including the type of waste stream involved, the amount of waste collected, technical and legal constraints and the environmental impacts. The concept of Best Practicable Environmental Option (BPEO) is also incorporated into the NWS as a tool to enable consistent appraisal of the available options. Key principles that are part of the BPEO include
- the proximity principle - waste should be treated or disposed of as near as possible to the point where it arises
 - the precautionary principle - taking precautions now to avoid possible environmental damage or harm to human health in the future, even though the scientific basis for taking the precautions may be inconclusive
 - the polluter pays principle - the polluter should bear the full cost of their actions
 - the waste hierarchy

4. AREA WASTE PLANS

- 4.1 During the development of the NWS SEPA concluded that a mechanism was needed to ensure that local needs throughout Scotland were taken into account and local solutions developed within the framework of the NWS. The NWS therefore divides Scotland into eleven Waste Strategy Areas. Each Waste Strategy Area is required to develop an Area Waste Plan (AWP). East Ayrshire Council is part of the Ayrshire and Dumfries and Galloway Waste Strategy Area.

- 4.2 Area Waste Plans (AWP) must complement the NWS, respect the key principles outlined above and take into account environmental issues through BPEO evaluation. The intention is for AWP's to be jointly produced on a consensus basis by SEPA, local authorities and Local Enterprise Companies.
- 4.3 The guidance produced by SEPA highlights 4 key stages in the production of AWP as follows:
- (1) Baseline Assessment - data gathering on all waste streams, current collection systems and disposal facilities; population and household projections; and targets based on the Landfill Directive.
 - (2) Option Profiling - identification of waste management options to reflect local circumstances.
 - (3) Option Testing –
 - evaluation of each option to examine environmental impact, followed by an assessment using BPEO techniques.
 - Public Consultation based on the results.
 - (4) Area Waste Plan Preparation - preparation of the draft Area Waste Plan.
 - Public Consultation
 - Preparation of finalised Area Waste Plan
- 4.4 Stage 1 has just been completed. The option profiling stage has commenced and a draft document utilising the figures contained in the Baseline Assessment for Ayrshire and Dumfries & Galloway is expected to be completed for consideration in the autumn of this year.
- 4.5 Clearly the options available will require to take cognisance of the types of waste produced in the Ayrshire and Dumfries and Galloway area, the range of facilities currently available and contractual commitments, any targets set by the Scottish Executive to meet European Directives, the economics underpinning and requirements of more sustainable waste management techniques, and site requirements and physical planning considerations. New technology and changes in markets for recycled waste also have a bearing on the options available and on their merits.
- 4.6 Provision is made for public consultation once the Issues and Options document (Stage 3) has been prepared. SEPA have undertaken preliminary work to set up a series of local forums to support the consultation process in Ayrshire & Dumfries and Galloway and to provide specialist feedback on the options. However it has been agreed by SEPA that consultation will not commence until the Issues and Options document has been approved by all Councils.

5. THE AREA WASTE PLAN AND DEVELOPMENT PLANNING

- 5.1 The Scottish Executive's current planning policy guidance on waste management predates the NWS and is set out in NPPG 10 - Planning and Waste management. The requirements of NPPG 10 have been reflected in the Approved Ayrshire Structure Plan and the Finalised East Ayrshire Local Plan (as modified) on the basis of the Council's current operational practices and waste disposal plan. However the policies within the Structure Plan and Local Plan will be required to be reviewed to meet the Council's statutory obligations following approval of the AWP. This is because neither the NWS nor the AWP are land use planning documents. The AWP may identify the facilities needed for the proper management of waste within the Ayrshire and Dumfries and Galloway area to meet the objectives of the European Directives but will not provide land use policies to enable planning applications to be appropriately determined nor identify criteria or sites for possible new waste treatment facilities.
- 5.2 There may only be limited land-use implications, requiring no changes in current policies, in which case it may be sufficient to draw up supplementary planning policy guidance. But any significant land-use implications would require a formal Alteration to the local plan and the structure plan. A formal Alteration will involve statutory public consultation with a right for objectors to be heard at a public inquiry.
- 5.3 The public consultation which will be carried out in drawing up the AWP will help to ensure that there is a wide understanding of the objectives of a Waste Plan, its environmental benefits, and the implications of the options which are considered. This will help to ensure that the process of incorporation of the AWP into the statutory planning process is as smooth as possible. It will not, however, replace the statutory consultation procedures required for a formal alteration to the development plan.
- 5.4 The first stage at which potential land use planning implications will become apparent is stage 2, option profiling. As reported at paragraph 4.6 above SEPA has agreed that consultation will only take place on the options once the basis of that consultation has been approved by all the Councils within the area. This will give the Councils an opportunity to set out implications for land use planning which should be the subject of consultation at stage 3 alongside the technical evaluation of options using the BPEO methodology. It will similarly be important for the local planning authority to be involved in preparing the draft plan which will be the subject of consultation at stage.

6 APPLICATION FOR WASTE RELATED DEVELOPMENTS – INTERIM GUIDANCE

6.1 As noted above at paragraph 5.1 current policies in the development plans are based on current operational practices for dealing with waste.

6.2 It is accordingly recommended that applicants for planning permission for new waste management facilities should be requested to sist their applications until the AWP has been approved, on the basis of prematurity and the absence of up to date and relevant (in the context of the NWS) planning policy guidance. It is considered however that an exception to this would be for new facilities that

- (1) involve only waste separation and transfer for re-use or recovery;
- (2) meet the requirements of paragraph 3.3 above;
- (3) meet strict environmental, amenity, operational and transport requirements;
- (4) do not involve any thermal, biological or physio-chemical treatment or associated landfill.
- (5) Involve only household or commercial waste and exclude hazardous or other special wastes

7. LEGAL IMPLICATIONS

7.1 The legal requirements for incorporating an Area Waste Plan into the development plan are set out at Section 5 above. The planning authority may determine to refuse an application on the basis of prematurity if the grounds are clearly set out. On this basis it would be reasonable to request developers of new waste facilities to sist applications as set out in Section 6 above, and Recommendation G.

8. POLICY IMPLICATIONS

8.1 No changes in Council policies on waste as set out in the finalised local plan and structure plan are proposed in advance of the preparation of an Area Waste Plan.

9. RECOMMENDATIONS

9.1 It is recommended that the Committee

- (a) note that public consultation will be carried out as part of the Area Waste Plan procedures and that the Council will have the opportunity to approve documents that will be subject to public consultation.
- (b) agree to request that applicants for planning permission for new waste management facilities other than for new recycling facilities which meet strict criteria (as outlined in paragraph 6.2 above) to sist their application until the Area Waste Plan has been approved by the Council; and

- (c) to notify SEPA that the Council's position in line with NPPG 10 is that the Area Waste Strategy is not a land use document and that these matters should properly be left to the Council.

Stephen Chorley
Director of Development Services

23 August 2001 (SC/KD/IMB/SA)

LIST OF BACKGROUND PAPERS

1. Report by Director of Development Services to Development Services Committee, 26 January 1999, Scottish Environment Protection Agency: The National Waste Strategy: Planning and Development Sub Strategy
2. Report by Director of Development Services to Development Services Committee, 3 August 1999, Draft National Waste Strategy, Scotland
3. Report by Director of Community Services to Community Services Committee, 1 September 1999, National Waste Strategy for Scotland: Draft for Consultation
4. Joint Report by Directors of Development Services and Community Services to Community Services Committee, 7 February 2001, National Waste Strategy Progress Report
5. National Waste Strategy: Scotland, Ayrshire, Dumfries and Galloway Strategy Area, Strategic Waste Management Baseline Assessment, June 2001

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AGENDA