

## **EAST AYRSHIRE COUNCIL**

### **DEVELOPMENT SERVICES COMMITTEE – 15 JANUARY 2003**

#### **DEVELOPMENT PLAN WASTE POLICIES**

##### **Report by Director of Development Services**

## **1 PURPOSE OF REPORT**

- 1.1** To seek approval of (1) a re-worded policy on the geographical origin of waste, (2) the programme for the proposed alteration of the Local Plan to reflect the approved Area Waste strategy, (3) the interim policy framework against which planning applications will be considered and (4) to approach the Ayrshire Joint Structure Plan and Transportation Committee to invite the other Ayrshire Councils and Dumfries & Galloway Council to work in partnership with the Council in order to address any alterations to their Development Plans necessary to allow implementation of the Area Waste Strategy.

## **2 BACKGROUND**

- 2.1** Policies relating to waste management facilities are contained in both the East Ayrshire Local Plan (Finalised Version) as modified by the Committee on 22 October 2002 and the approved Ayrshire Structure Plan. There is also a requirement under NPPG10 for the Council to consider Alterations to the Local Plan to facilitate the implementation of the Area Waste Strategy. Following the Public Inquiry on the East Ayrshire Local Plan the Reporter recommended the Council should proceed to an Alteration of the Local Plan for this purpose.
- 2.2** At its meeting of 7 May 2002 the Committee considered a preliminary report on the implications of the emerging Area Waste Plan for site identification and new policies to be incorporated into the Local Plan. It was also agreed that the Council should adopt a policy principle that "waste processing facilities be restricted to 90% of waste arising from within Ayrshire". It has since become apparent that the wording of this policy is ambiguous, and Section 3 below suggests a clarification for consideration by the Committee.
- 2.3** At the Policy & Resources Committee meeting of 28 November 2001 it was agreed to approve the Area Waste Plan which has now been finalised by SEPA and the three Councils. This sets out a requirement for new facilities in East Ayrshire as follows:
- |        |   |
|--------|---|
| 1      | Composting facility                             |
| 1      | Materials recovery facility                     |
| 1 or 2 | Waste treatment facilities                      |
| 2 to 3 | Civic amenity sites and/or recycling facilities |
| 2 to 3 | Waste transfer stations                         |

It should be noted that some of the facilities in this list may be combined and that this list is indicative only, as contractual arrangements between local authorities and waste management industry, funding and resourcing issues, etc., waste growth issues and the like may introduce a slight variation on the scale of facilities to achieve the diversion targets.

### **3 POLICY ON ORIGIN OF WASTE**

**3.1** The policy as approved by the Committee on 7 May 2002 could be construed as limiting the amount of Ayrshire generated waste which is to be processed within Ayrshire.

**3.2** It was clear, however, from the debate at the committee that the intention of the Committee was to place a limit on the amount of waste from outside Ayrshire being processed within Ayrshire, ie that all processing facilities should be restricted in a way that required at least 90% of the waste processed at the facility to have its origin from within Ayrshire. It is recommended that the Committee approve a re-worded policy to remove any doubt regarding its interpretation to:

At least 90% of waste disposed of or treated within new waste facilities located in East Ayrshire should originate from within Ayrshire, and that:

- ◆ The policy should be applied to any new facility proposed on an individual basis
- ◆ The origins of waste will be determined by reference to where it was produced – waste imported to a transfer station or other facility in East Ayrshire but which was produced outside Ayrshire will be considered to have its origins from outside Ayrshire
- ◆ The policy will be applied to disposal sites including landfill, recycling facilities or waste processing plants at which any form of treatment or recovery is undertaken

Definition of terms will be in accordance with definitions under the Environmental Protection Act and related Regulations and Codes.

**3.3** In applying the policy to the assessment of planning applications or proposed sites for new facilities exceptions may be considered for activities involving the use of recycled materials for production, construction or other end user applications (eg use as compost material).

**3.4** In justification of the policy set out above it is noted that:

- ◆ The National and Area Waste Strategies set out a "proximity principle" that waste should be disposed of or treated as close as possible to its point of origin

- ◆ Whilst the National and Area Waste Strategies encourage waste disposal authorities to form partnerships the primary framework for these partnerships is the waste strategy areas
- ◆ It is clear from the objections received to the proposed development of the waste treatment facility at the waste treatment facility at the former Killoch colliery site that there is widespread public concern about the prospect of waste being imported for treatment from outside the area

Given the terms of the Area Waste Strategy it is unlikely that the Scottish Executive or a Reporter considering an appeal against a refusal of planning permission or proposed Alterations to the Local Plan would support the Council in applying a policy which limited the geographical origins of waste processed to East Ayrshire alone. The Council is under an obligation to give weight to the National and Area Waste Strategies in consideration of planning applications and in its Local Plan policies and these strategies clearly require the authorities within the waste areas to implement the strategies in partnership with each other.

#### **4 PROGRAMME FOR ALTERATION OF THE LOCAL PLAN**

- 4.1** If as expected and as previously reported to the Committee the Council is in a position to adopt the Local Plan within the next few months a formal Alteration will be required. In order to alter the Local Plan formally the Council requires to draw up proposals which are subject to advertisement providing an opportunity for representations to be made to the Council. Any objectors who are not satisfied with the Council's proposals have a right to request a Public Inquiry before the Alteration is adopted. The Council may if it wishes undertake an initial consultation stage. In view of the widespread public interest in the location of future waste facilities it is recommended that consideration of the proposed Alteration is preceded by a consultation stage.
- 4.2** In more detail it is proposed to develop an Alteration to the Local Plan through the following stages:
- ◆ An initial consultation stage: Details will be determined in due course but this might involve a mailshot and meetings with Community Councils and other interested groups aimed at explaining why new waste processing facilities are required, and ascertaining views on criteria which should be adopted in selecting possible sites
  - ◆ Consideration will be given to employing an independent Environmental Consultant to undertake an Environmental Impact Analysis of alternative sites taking into account the selection priorities emerging from the consultation stage
  - ◆ Consideration by committee of preferred sites and associated policies as an Alteration to the Local Plan

- ◆ Formal advertisement of the Alterations inviting representations (the full report should include information on other sites considered but rejected)
- ◆ Consideration of modifications following receipt of representations
- ◆ Public Inquiry
- ◆ Adoption of the Alteration to the Local Plan or consideration of further modifications in light of the report from the Public Inquiry Reporter

It is likely that this process will take 2-3 years. A target of the end of this year will be adopted for the completion of the initial consultation and site assessment stages leading to a proposed Alteration for formal consultation.

**4.3** It is expected that early in February 2003 Community Services will be in a position to identify a preferred waste disposal contractor through the procurement process initiated last year. Once the procurement process is concluded and a contractor is appointed they will be invited to submit their operational requirements for new facilities, any sites which they may wish to suggest for consideration, and any locational requirements which they may wish to suggest for consideration, and any locational requirements which are critical to their operations. The Council's decision on proposed locations will, however, take into account public views ascertained through the consultation stage and the proposed Environmental Impact Assessment as well as the waste disposal contractors' views (and, where required, project specific Environmental Impact Assessments).

**4.4** It is also anticipated that the Council will extend its current separated waste collection schemes and other recycling initiatives, in conjunction with its new contractor, operating from established sites. This will permit early progress towards achieving the statutory objectives for waste recycling and diversion from landfill and will help to build up public confidence in the Council's strategy for future waste management and disposal during the first year of operation of the new contract.

## **5 CONSIDERATION OF PLANNING APPLICATIONS IN ADVANCE OF ALTERATION OF THE DEVELOPMENT PLAN**

**5.1** It is proposed that developers should be advised that the Council will not generally be prepared to consider applications for substantial developments in advance of adopting a formal Alteration to the Local Plan. Applicants will be required to demonstrate that there are special circumstances justifying an early determination of their application. Any such application will require to be considered on its merits in the context of the current Development Plan Policies and any other material considerations. Material considerations will include:

- ◆ Ayrshire Structure Plan
- ◆ The Finalised East Ayrshire Local Plan
- ◆ The National Waste Strategy

- ◆ The Area Waste Strategy
- ◆ NPPG 10 on Waste Management
- ◆ The 90% policy on geographical origin of waste (see para 3.2 above)

**5.2** Since National Planning Guidance recommends that sites should be identified through Alterations to Development Plans it is also considered that any proposals for substantial waste facilities submitted before an Alteration has been formally agreed will require a justification which is as rigorous as the process proposed for drawing up an Alteration. This should :

- ◆ comply with a "Best Practical Environmental Option" (BPEO) analysis approved by SEPA
- ◆ comply with the regional self sufficiency, proximity, precautionary and polluter pays principles set out in the National Waste Strategy
- ◆ be accompanied by an Environmental Impact Assessment, including a traffic impact assessment and an assessment of alternative sites
- ◆ demonstrate Integration with arrangements agreed by the Council for implementation of the Area Waste Strategy (as advised by the Director of Community Services)
- ◆ demonstrate that the waste facility is a justified addition to facilities which exist at the time of the application

## **6 JOINT FACILITIES – PARTNERSHIP WITH OTHER AUTHORITIES**

**6.1** As indicated at para 3.4 above the National and Area Waste Strategies contain clear requirements for local authorities to operate in partnership with each other in implementing the Strategies within a waste strategy area or in the context of collaboration between the authorities of more than one area. This is essentially for two reasons:

- ◆ Some facilities may only be cost effective if they take waste from more than one authority area
- ◆ There may be mutual agreement between two authorities that the best sites are located in one of the areas

**6.2** For this reason there may be a justification for the Council to consider proposals for joint facilities serving more than one waste authority area. But as a Planning Authority the Council should expect any such proposal to:

- ◆ comply with the regional self sufficiency, proximity, precautionary and polluter pays principles set out in the National Waste strategy
- ◆ be presented in the context of a formal joint agreement to a joint facility by the authorities contributing waste to the proposed facility

- ◆ be accompanied by an assessment of alternative sites in all the local authority areas from which waste will be drawn
- ◆ be submitted with an Environmental Impact Assessment and BPEO analysis completed in relation to all the local authority areas covered
- ◆ be supported by a clear economic case for a joint facility (this should demonstrate real economic benefits – improved financial returns to the operator would not be considered a material planning consideration)

**6.3** It is proposed that the Ayrshire Joint Structure Plan Committee and Dumfries & Galloway Council should be invited to consider undertaking the initial stages of the programme including the proposed public consultation and the independent Environmental Impact Assessment of site options on a collaborative basis. This would make it possible to consider the best sites for required operations on a wider geographical basis which might result in locations for new facilities which were better in environmental and economic terms than sites identified within a narrower geographical framework. It would also enable the Council to demonstrate a commitment to working in partnership with the other Councils, adding weight to the eventual selection of sites and adoption of associated policies.

## **7 FINANCIAL IMPLICATIONS**

**7.1** The proposed public consultation and independent environmental analysis of alternative sites could be funded from existing budgets.

## **8 LEGAL IMPLICATIONS**

**8.1** The proposed procedure for drawing up an Alteration to the Local Plan complies with the relevant statutory regulations. The interim policy basis will be used to assess applications requiring to be determined in advance of adopting an Alteration to the Local Plan. The weight to be given to these interim policies will, however, have to be considered in relation to individual applications.

## **9 RECOMMENDATIONS**

**9.1** It is recommended that the Committee:

- (a) approve the re-worded policy on the geographical origin of waste disposed of or treated within new waste facilities in East Ayrshire as set out in para 3.2 above;
- (b) approve the programme for drawing up a Formal Alteration to the Local Plan to reflect the approved Area Waste strategy as set out in para 4.2 above;

- (c) approve the interim policy framework against which planning applications for waste disposal and treatment facilities will be considered as set out in paras 5.1 and 5.2 above;
- (d) approve the policy framework for consideration of joint facilities designed to serve more than one waste authority as set out in para 6.2 above; and
- (e) ask the Ayrshire Joint Structure Plan and Transportation Committee to invite the other Ayrshire Councils and Dumfries & Galloway Council to work in partnership with East Ayrshire Council in drawing up Alterations to their Development Plans required for the implementation of the Area Waste Strategy.

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SC/JR  
8 January 2003

#### **BACKGROUND PAPERS**

**Nil**

For further information on the content of this report contact Stephen Chorley, Director of Development Services on 01563 576011

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