

**Draft**

**IMPLEMENTATION OF HERTFORDSHIRE  
WASTE LOCAL PLAN POLICIES**

**A GUIDE FOR DISTRICT COUNCILS**



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**This report was prepared with assistance from Bابتie Group**



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## 1 INTRODUCTION

- 1.1 In 1997 some 1.4 million tonnes of sand and gravel was extracted in Hertfordshire. In addition, figures for 1996 show that some 1.24 million tonnes of waste was disposed of to landfill in the county of which 0.7 million tonnes (58%) was construction and demolition waste. Increasingly Government policy is promoting a shift towards a greater use of recycled and secondary materials in place of primary aggregates, together with more sustainable waste management practices which encourage waste minimisation, re-use and recovery/recycling, with disposal to landfill being the last resort.
- 1.2 These moves towards a more sustainable use of resources have been incorporated in the policies of the Hertfordshire Waste Local Plan adopted by the County Council in January 1999. The following report identifies opportunities for implementing waste management Policies 3, 7, 8 and 11 of Hertfordshire County Council's Waste Local Plan, through the administration of development control by the ten district councils in Hertfordshire for built development. Specifically, the report has been commissioned by Hertfordshire County Council to provide draft conditions which could be applied by district councils to support the waste management objectives of Policies 3, 7 and 8. This is a suite of policies that seeks to ensure that the waste management implications of all forms of development are taken into consideration at the planning application stage.
- 1.3 The Inspector's report into the Deposit Plan recommended amendments to policy 7 and 8. It was recommended that supporting text be added to the effect that the Council will publish Non-Statutory Planning Guidance relating to policies 7, 8 and 9, and that it is expected that the objectives of these policies will be met by the imposition of planning conditions. In addition the Inspector recommended that in order to keep duplication between District and County Council planning powers to a minimum, Policies 7 and 8 should apply only to 'county matter' proposals. The Inspector went on to recommend that the policy could be supported by text stating that the County Council will encourage District Councils to have regard to it and to include a similar policy in District Local Plans.
- 1.4 In the light of these amendments, this report provides a first step by exploring initiatives which have been developed so far in the UK and providing draft policies and conditions in the context of the development process as a whole,

in order to take forward the changes recommended by the Inspector and subsequently adopted.

- 1.5 The intention is that the types and quantities of waste generated by development - during construction, occupation and decommissioning - and the way in which this waste is managed, become 'material considerations' in the determination of all planning applications. The policies should therefore be central to the consideration of planning applications by the district councils as well as the County Council.

## 2 CONTEXT

- 2.1 Section 54A of the Town and Country Planning Act 1990 states that 'where, in making any determination under the Planning Acts, regard is to be had to the Development Plan, the determination shall be made in accordance with the Plan unless material considerations indicate otherwise'. Under the provisions of S54A, both district and county planning authorities are required to have regard to the County Structure Plan and to relevant local plans, including the Minerals and Waste Local Plans. These constitute the 'Development Plan'.
- 2.2 Hertfordshire's Waste Local Plan will therefore be a primary consideration in the determination of planning applications for waste management facilities. More generally, the main objective of the plan is the achievement of sustainable waste management in the county, including waste minimisation, re-use and recycling, and a reduction in the amount of waste disposed to landfill. The Plan adopts the 'Waste Hierarchy', based on the elements of minimisation, re-use, recovery and disposal. In support of this hierarchy the Plan sets out various targets.
- 2.3 The achievement of these targets will depend first and foremost on the waste management practices of householders, commerce, industry and the construction sector. A combination of measures including education, legislation and the sustainable management of domestic waste (for which the districts and County Council both have responsibilities) is being pursued to this end.
- 2.4 However, there are also significant waste issues that will need to be considered in relation to new development, arising from its construction, its

subsequent occupation, and its decommissioning at the end of its useful life. In many instances, however, the consideration of waste issues by district councils, in developing policies and granting planning permission for new development, has been limited, and even where an up to date Waste Local Plan exists, this issue has not been taken into account.

2.5 It is becoming increasingly evident that more needs to be done. This report has been prepared as a first step to assist district planning authorities in the interpretation of relevant Waste Local Plan policy in the development planning process in relation to Waste Policies 3, 7, 8 and 11 of the Hertfordshire Waste Local Plan, by:

- Setting out the waste management issues which should be taken into account in planning for new development.
- Suggesting draft policies and conditions that could be applied by the districts to planning permissions for new development, in order to ensure that the principles of sustainable waste management are fully incorporated in the development planning process.

### **3 WASTE POLICIES 3, 7 AND 8**

3.1 The policies under consideration establish the following principles:

- Minimise, reduce and recycle waste
- Minimise the pollution potential of unavoidable waste
- Dispose of unavoidable waste.
- Re-use clean, excavated material
- Increase the use of recycled materials

3.2 These policies are set out in full in Appendix 1:

3.3 The supporting text states that the County Council will also encourage the district council to have regard to the matters stated in Waste Policies 7 and 8 when considering planning applications for which they are the local planning authority, and will seek the inclusion of policies to that effect in local plans.

## 4 SUPPORT FOR WASTE LOCAL PLAN POLICIES

- 4.1 The initiative being adopted by Hertfordshire, in seeking to disseminate the information in the Waste Local Plan to the development control process is supported by wider policy initiatives both nationally and regionally. SERPLAN's *Revised Waste Planning Advice* (SERP 160) states that authorities should take 'planning action', which includes the need for all planning authorities (including district councils) to take account of the Advice in considering the waste management implications of all forms of development.
- 4.2 In addition the Advice considers that 'in formulating Development Plans (including District Local Plan policy), considering planning applications and negotiating planning obligations, local planning authorities will be required to play an important role in influencing all forms of development to accord with the Advice, including the development of best practice guides for consideration in development proposals'.
- 4.3 The Report of the DETR Property Advisory Group *Sustainable Development and Buildings* (August 1998) recognises that guidance to developers on best practice in the design and construction of buildings often comes too late to influence decisions. The report recommends that further consideration should be given to the principle of assessing environmental performance when examining proposals for commercial development.

## 5 POLICY DEVELOPMENT

- 5.1 The county and district planning authorities will have a central role to play in sustainable development in three key areas with respect to waste. The first is through their *internal practices*, which includes the way they carry out development for which they are responsible, such as altering specifications to allow for secondary aggregates, and giving contractors flexibility to tender for their inclusion. The second is through *education*, raising awareness and disseminating information needed to stimulate the use of secondary materials. The final area is through *planning control*, whereby waste management is given a higher profile in the planning process, forcing developers to give it more consideration and apply mitigating measures. It is this area of responsibility that is the subject of this guidance.

- 5.2 The primacy of the Development Plan under S54A means that policy for waste will be based first and foremost on the County Structure Plan and the countywide Waste Local Plan. The significance of the Hertfordshire Waste Local Plan to built development, based on policies 3, 7 and 8 has already been highlighted. It will be important to ensure that these policies are a consideration in all development decisions, and that proposals for new development embrace the principles and practice of waste minimisation, recycling and safe disposal.
- 5.3 The District Local Plan could include policies which 'aim to facilitate the use of secondary and waste materials where this is environmentally and economically sound' (Minerals Planning Guidance Note 6, 1994). For a wider approach, however, the District Local Plan may provide an overall sustainable development policy which addresses waste management aspects of new development as part of a wider range of sustainability measures including energy management and water resources.
- 5.5 The following section considers different ways in which sustainable waste management policies might be developed within district local plans as part of a policy approach seeking to ensure that individual development proposals are more sustainable. *[At this stage these are suggestions only as a basis for dialogue.]*

## **6 CRITERIA-BASED POLICIES**

### **Sustainable Checklist**

- 6.1 This would provide both a mechanism for the designer and developer to take into account and for the planning authority to assess an application, so as to ensure that sustainable development issues have been addressed and to check which sustainable features have been incorporated into the design.
- 6.2 Such checklists will be of greatest influence if they are incorporated into development plan policies. District local plans could include policies that require developers to submit detailed information to demonstrate the sustainability performance of the proposed development including waste management. Alternatively, district councils may consider the inclusion of supplementary planning guidance as an annex to the Plan, as a means of

setting out the information required. The latter is the approach the County Council is considering adopting initially for its own development. With policy status, the checklist would be an important tool in ensuring that an applicant 'does the work' to ensure that the relevant issues, including a sustainable approach to the generation and management of waste, have been considered and incorporated where appropriate.

### **Supplementary Planning Guidance**

- 6.3 Supplementary Guidance would put the checklist on a more formal policy basis and will provide an opportunity to provide more detailed advice on specific issues. This could include specific guidance on waste alongside other sustainable development criteria. The preparation of Supplementary Planning Guidance, and in particular its integration into the statutory planning process is complex. It will require a considerable understanding of what is intended to be achieved, and whether it represents a practical approach which can be effectively taken into account in the planning process.

### **Performance-based policies**

- 6.4 The checklist approach, however, has a number of limitations as a mechanism for making an accurate assessment of a particular proposal in detail. While it may provide a means of indicating factors that had been considered, it would not provide a measurable basis for overall assessment. The overall extent to which new development is sustainable will depend on a wide range of factors, and to this end a system of measuring all sustainability factors would be beneficial. The County Council is currently considering how this could be applied to planning applications for its own development proposals.
- 6.5 The Building Research Establishment (BRE) system provides such an approach (BREEAM). The system is well respected in the UK as a means of measuring sustainability performance and results in the award of a rating to new development proposals. A similar system for new homes - the Environmental Standard Award - is also being developed. The production of a BREEAM Certificate could be a reserved matter in the case of outline permission or could be a requirement under a planning condition of a detailed permission.

- 6.6 In the future, Life-Cycle Assessment (LCA) may be used as a means of rigorously addressing the impact of development in fulfilment of the above objectives. LCA requires consideration of the environmental impact of a new development including its construction, its operational life and its eventual decommissioning (for waste this would include the re-use, recycling and polluting properties of materials used in the development's construction). Furthermore, LCA provides information on the optimum level to which a particular sustainability option should be pursued before its benefits outweigh its costs. For example recycling may have dis-benefits; for example the long-distance haulage of recycled aggregates will have adverse amenity and energy impacts from transport.
- 6.7 Approaches to LCA are currently still being developed, and it may be some time before a practical methodology applicable to individual planning applications for development is available. The use of LCA for construction and demolition waste re-use is the subject of a study by the Centre for Social and Economic Research and the Global Environment (CSERGE) at the University of East Anglia, in collaboration with the Environment Agency, Norfolk County Council and the Babbie Group. This study has been completed and findings will be published in 1999. This work should prove to be valuable in taking forward the application of LCA in planning.
- 6.8 By using these approaches in the implementation of sustainable waste management policies, it is not intended to discriminate against processes that unavoidably produce waste. Rather, it is intended to ensure that waste issues are addressed at the planning application stage and a positive approach is taken by both the developer and the planning authority towards realising waste management policies in order to minimise pollution.

**The views of the District Councils on the above would be welcome in order to determine the most practical means of securing greater awareness of waste and wider sustainability issues in the design process and assessment of applications.**

## **7 POSSIBLE DRAFT POLICIES FOR DISTRICT LOCAL PLANS INCORPORATING WASTE MANAGEMENT CONDITIONS**

- 7.1 The supporting text in the Waste Local Plan policies states that the County Council will encourage the district council to have regard to the matters stated

in Waste Policies 7 and 8 when considering planning applications for which they are the local planning authority, and will seek the inclusion of policies to that effect in local plans. The following policy draws together the principles of these policies in a single policy in relation to construction waste.

*“When considering development proposals the Borough/District Council will encourage the appropriate reuse of clean excavated material from construction projects, including from the proposed development itself, as preparation for development, land restoration or site landscaping and where possible the use of reclaimed and recycled aggregates and building products within buildings and other structures in place of natural aggregates or previously unused materials.”<sup>1</sup>*

7.2 The following policy could apply to both major and smaller development proposals in order to encourage developers to demonstrate suitable mechanisms for the minimisation, re-use and recycling of waste materials generated by development and have regard for the provision of waste facilities within design schemes.

*“In considering all applications for development, conversions and refurbishment, the planning authority will require applications for approval of reserved matters and fully detailed applications to demonstrate that regard has been given to the matters in Policy 1 together with the inclusion of appropriate measures designed to:*

- minimise, re-use, reclaim and recycle waste generated by the development;*
- optimise the use of recycled construction materials;*
- minimise the pollution potential of waste and dispose of unavoidable waste in a way that minimises any adverse environmental effects within the context of sustainable development;*
- ensure that adequate space is available to facilitate waste recycling through separation, storage, handling, bulking and collection of waste generated within the development and the property.”*

7.3 While there are evidently limits to the achievement of these objectives, for example new housing development will invariably produce waste and consume resources, this policy is designed to ensure that all development proposals give due consideration to sustainable waste management issues and incorporate measures appropriate to the nature and scale of the development

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<sup>1</sup> This policy has been included in the Hertsmere Local Plan Pre- Inquiry changes.

to render it more sustainable. Applications for development should, therefore, include a statement that addresses how the policy objectives have been met.

## **8 DEVELOPMENT CONTROL**

8.1 Development control is the key mechanism by which policies 3, 7, 8 and 11 of the Hertfordshire Waste Local Plan can be implemented. The policies introduce a further issue which every applicant, development control officer and relevant council planning committee will need to take into account at different stages in the development process.

8.2 This will require in the first instance a campaign of education for development control officers, professionals within the development industry and councillors. Some examples of how the policies have been applied in practice to individual proposals are available on request. Local authority development provides a good 'test bed' for applying these as there is greater scope for co-operation in exploring issues and problems and creating standardised procedures (such as identifying the appropriate point in the planning process for requesting information etc.). This will also show the local authorities 'leading by example'. Hertfordshire County Council is currently pursuing such an approach.

### **Pre-application discussions**

8.3 Implementation of waste management good practice in new development will only be effective if it is taken into consideration early on in the process, before a planning application has been submitted. The scope for setting out requirements in development plans has already been discussed and planning authorities will need to draw attention to relevant guidance as early as possible during pre-application discussions.

### **Development briefs**

8.4 For small sites the Development Plan and associated documents will provide the framework for considering sustainability issues. For some large sites, a development brief or masterplan may be required, and the preparation of such a plan will allow opportunities for the incorporation of sustainability measures such as the siting of public recycling facilities for large housing

developments, the use of secondary materials or energy conservation. A development brief would normally be required in the following cases:

- for sites where the local plan identifies that a development brief should be prepared;
- for sites larger than 1.0 ha which have not been identified in the plan;
- sites where there are conflicting policy objectives, or where the scheme departs from adopted standards.

8.5 Other more detailed considerations such as the recycling of in-situ materials would in general be taken forward at the planning application stage.

### **Environmental Assessment**

8.6 In some cases an Environmental Assessment will be required under existing regulations as part of the planning application and this should include a detailed evaluation of the environmental impact of the proposals in terms of, *inter alia*, waste generation. The new EC Directive on Environmental Assessment, which became EU law in spring 1999, provides an opportunity for the waste implications of development a factor to be addressed. Under the new Directive, the Environmental Impact Assessment is required to include:

- a description of the measures envisaged in order to avoid, reduce and, where possible, remedy significant adverse effects;
- an outline of the main alternatives studied by the developer and an indication of the main reason for his choice, taking into account the environmental effects.

8.7 Environmental Assessment will only be required for a certain number of projects on account of their potentially polluting nature or scale. However, many developers are prepared to submit a statement even where not strictly required, and the formal framework may form a useful basis for the submission of environmental information on a wider range of projects.

### **Planning Applications**

- 8.8 A planning application may either be submitted in full or in outline, leaving various matters for the subsequent approval of the local planning authority, including its design. Such design issues could include the materials to be used in reconstruction including the incorporation of recycled products generated on the development site where redevelopment or 'cut and fill' are involved and the use of products made from recycled materials.
- 8.9 A local authority may, when granting either full or outline planning permission, impose a condition requiring that details of a specified aspect of the development which was not fully described in the application be submitted for approval before the development is begun. Even where an application is submitted in outline it is recommended that this include a statement of intent regarding the management of waste. This can then form the basis of a condition, imposed on the outline permission, requiring further details pursuant to that statement. Examples of statements accompanying an outline application are available on request.
- 8.10 A full application should include the fullest possible statement on how waste will be managed including measures to minimise waste, the types and quantities of waste which will be generated and the design and other measures proposed to provide for sustainable waste management, consistent with the overall objectives of the Waste Local Plan.

### **Conditions**

- 8.11 It may in some circumstances be more appropriate for some or all of the information to be held back at the planning application stage and submitted pursuant to such a condition. However, experiences suggest that if such a key issue has not been considered by the applicant by the time a fully detailed scheme is submitted it is more difficult to secure changes to the design of the scheme later on (e.g. to get recycling facilities incorporated or to secure a higher content of recycled construction materials). A condition may be more applicable to secure details of the management of waste during construction. The fully detailed arrangements and accurate quantities of waste material may not in practice be determined until the application is approved and the quantity surveyor becomes involved.
- 8.12 This is particularly so where tendering procedures are adopted. Commonly, the contractor responsible for the detailed design, and for calculating the bill of quantities necessary for development, will only be brought into the project

as a tenderer once full planning permission has been granted. However, opportunities for more extensive detail to be provided at an early stage may be afforded under 'Design, Build, Finance and Operate' (DBFO) arrangements whereby the contractor will be involved from the beginning of a project and will generally be required to apply for planning permission. Under such arrangements, opportunities are presented to require more detailed waste management considerations from the design stage.

- 8.13 Where the use of significant quantities of waste is involved in local projects, for example the construction of a golf-course using inert fill, this should be taken into account as early as possible, as this will have a significant impact on the local market for inert fill for construction projects, and on the completion of landfill restoration projects requiring inert waste.
- 8.14 One approach will be the submission of information on waste issues in a two-stage process. The developer could firstly submit an issues report with the planning application, in order to establish the specific circumstances which will apply to the proposal, tested against the authority's checklist. This could, for example, identify potential opportunities for the use of recycled material for further investigation, and raise any cost implications.
- 8.15 Secondly, upon the granting of planning permission, this initial report could be developed to provide a scheme outlining details of what will be done. The agreement of such details at a later stage would allow greater certainty in reflection of current market conditions and the availability of appropriate materials etc.
- 8.16 In the following section the relevant waste management issues arising throughout the construction and subsequent occupation of a development will be addressed. Unless otherwise specified the draft conditions suggested will be assumed to be applicable to all sizes of development proposal. However, some arrangements will only be applicable to larger schemes, defined as:
- developments of more than 10 houses;
  - commercial and industrial development of more than 500 sq.m.;
  - car parks with more than 200 spaces; and
  - other developments which attract a large number of visitors.

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## 9 WASTE MANAGEMENT ISSUES DURING CONSTRUCTION

### Waste arisings

- 9.1 *Greenfield site preparation* - requirements for the proper handling of clean excavated material (including topsoil, subsoil) should be attached in order to ensure that the condition of excavated material might be maintained in a manner that allows their re-use. The following conditions are suggested:

**No topsoil or subsoil shall be removed from the site unless it can be demonstrated that the material cannot be re-used for site preparation and landscaping. Material taken off-site should be re-used, recycled or disposed to landfill as a last resort with the agreement of the local planning authority.**

*Reason:* To reduce the impact of vehicle movements and provide an in-situ source of materials, in preference to their disposal to landfill.

**The stripping, stockpiling and reinstatement of soils should only be carried out when the material is in a dry and friable condition.**

*Reason:* In order to protect soils and to ensure that soil is maintained in a suitable condition for re-use.

- 9.2 *Construction* - there is considerable waste generated on construction sites from breakages, 'off-cuts', etc. This can be reduced through good site management by, for example, adopting a 'just-in-time' delivery of materials, and proper planning of materials storage etc. Construction waste such as glass, wood, concrete etc. will provide opportunities for re-use and recycling. Materials such as surplus bricks, tiles, architectural features, windows, roof timbers etc. can be recovered for re-use or recycling. Potential savings can be made if the waste management contractor can provide separate containers for separation at source. The following potential condition could be imposed on larger schemes, in support of Policy 3:

**Waste generated during the carrying out of development should be separated for re-use or recycling and stored on site in a manner that will not cause pollution.**

*Reason: To facilitate waste recycling in accordance with the principles of sustainable waste management.*

- 9.3 As drafted, the condition may be subject to challenge on whether it is reasonable and necessary. If separate container systems could be supplied by only one or a small number of waste disposal contractors, the developer could be subjected to unfavourable prices. An alternative, less onerous approach may be to require the developer to demonstrate how recycling is to be optimised (See 'Submission of a Scheme').
- 9.4 In applying a policy or conditions that seek to re-use material on site, consideration must be given to whether the use of the material on site is in fact beneficial. In some instances large quantities of inert waste have been used on site to create landscape 'features' which serve no practical or proper landscaping purpose but which save the costs of waste disposal for the developer. This needs to be balanced against the effects of traffic removing the material from the site, including energy saving. In general, the focus of construction waste re-use should be on the substitution of primary aggregates in development.
- 9.5 **Brownfield/redevelopment** - these sites provide opportunities for the re-use and recycling of demolition waste, including in-situ re-use. Developers tend to dislike using recycled aggregates because of the lack of security of quantity and quality of supply. The problem of quantity could be addressed by a requirement for stockpiling. The problem of quality can be addressed by a system of Quality Assurance testing. The Building Research Establishment is currently piloting a QA system for recycled aggregates with a number of partners. A draft quality scheme has been prepared and is being considered by the project steering group, following which it is proposed to establish a number of demonstration projects. Details of the suitability of recycled aggregates in road and other construction and approaches to its use are available on request. Subject to noise impact on local properties, opportunities for the siting of processing plant on larger redevelopment schemes should be considered, in order to produce a higher quality aggregate product. The following condition could be applied in support of Policy 3:

**Inert waste generated by the demolition of existing buildings and infrastructure should be maintained in stockpiles in a location and to a height to be agreed in writing by the LPA. Final disposal of demolition waste should only be carried out if it can be demonstrated to the satisfaction of the local planning authority that no suitable after-use exists.**

*Reason: In order to provide a supply of recycled material for the construction industry and overcome the problem of poor supply of recycled aggregates.*

9.6 Again, the condition may go beyond that normally required, and may be subject to challenge on whether it is necessary. An alternative approach would be to require submission of details to demonstrate how the recycling of demolition waste had been addressed, including opportunities for on-site screening subject to market conditions for recycled aggregates (See 'Submission of a scheme').

9.7 **Contaminated land** - PPG 23 states that when determining a planning application the LPA will be required to ensure that a proposal on a brownfield site takes into account contamination (and its safe remediation). This may provide opportunities for on-site remediation. In accordance with the 'proximity principle' - dealing with waste close to its point of origin - contaminated soils should, where practicable, be treated *in situ* to reduce pollution potential and avoid moving the problem elsewhere e.g. to a landfill site, with associated transport impacts. In certain circumstances, particularly where special and difficult wastes are produced, the limitations on in-situ treatment and the specialist nature of facilities means that the proximity principle is difficult to apply. In this case safe disposal to landfill will need to be demonstrated. Policy 3, which requires measures to minimise the pollution potential of unavoidable waste, could be supported by the following draft condition:

**Before the development hereby permitted is commenced details shall be submitted to and approved in writing by the local planning authority of a scheme that provides for the safe treatment or disposal of contaminated waste arising at the site.**

*Reason: To provide for the safe treatment and disposal of contaminated waste.*

## Disposal

- 9.8 Policy 3 requires measures to dispose of unavoidable waste. The Environment Agency is the authority responsible for ensuring that waste is disposed of to an appropriate licensed facility. A key planning issue is that waste should be disposed of as close as possible to where it arises, and the developer should demonstrate that the chosen disposal facility accords with the proximity principle. To specify a particular facility as a condition of the permission may place the developer in a commercially unfavourable situation. Instead it is suggested that this matter could be dealt with as one of a list of matters (See 'Submission of a Scheme').

## Data

- 9.9 One important aspect of the implementation of sustainable waste management is the availability of reliable data against which to judge the success of local and national policy. The local planning authority could impose a condition requiring the operator to provide information on the quantity of materials recycled such as:

**The developer shall submit to the local planning authority weekly records of the quantity of material re-used and recycled either on-site or transported off-site for re-use or recycling.**

*Reason:* To allow the waste planning authority to monitor the level of recycling being achieved.

## Green construction materials

- 9.10 Use of recycled aggregates and construction materials manufactured from recycled material will be an important waste management issue. Policy 8 requires regard be had to the extent to which the development provides for the use of recycled materials where appropriate. Green products are listed in the Recycled Products Guide published by the voluntary organisation Waste Watch. A significant problem in the use of recycled materials is that many large projects specify British Standard primary aggregates, and do not allow recycled materials because of concerns over quality. Research for the DETR has for some time been underway to investigate further opportunities for the substitution of primary aggregates with recycled material and further

information on this is available on request. An appropriate condition could be:

**Before the development hereby permitted is commenced details shall be submitted to and approved by the local planning authority in writing to demonstrate that, where possible, products listed in the Recycled Products Guide or an equivalent accredited green products guide, or building products which have been recovered for re-use or other products with a recycled content will be used.**

*Reason: To ensure that the development is carried out accordance with the principles of sustainable waste management.*

### **Local authority procurement and local authority development**

9.11 The local authority will have a key role as a purchaser, and could specify supplies of stationary, equipment etc. with recycled content and non-hazardous disposal characteristics. In the case of the authority commissioning new development, as part of its function as housing, leisure, education, highways authority, social services etc., could require that the specifications include a requirement to recycle wastes during construction, and use of 'green' construction materials. Methods of implementing this approach include preparation of two parallel tenders, in order for the authority to compare a lowest cost construction scheme to one which optimises sustainable waste management. Some authorities have produced their own environmental policies to guide their own procurement and development and examples of possible approaches are available on request.

## **10 OCCUPATION OF THE DEVELOPMENT**

10.1 Policy 3 requires regard to be had to the volumes and types of waste generated during both construction and *subsequent occupation*. Circular 11/95 makes clear that detailed conditions relating to the use of a building (such as a condition dictating the waste management practices to be followed by the occupants following completion of the development) are *ultra vires*. However, there are a number of relevant opportunities.

### **Design for recycling**

- 10.2 Individual buildings should contain sufficient space to allow waste recycling, whether waste collection arrangements cater for kerbside collections or “bring” systems. Outline permissions will require the submission of reserved matters which could include incorporation of recycling space into the design. The optimum recycling arrangements for a property will vary depending on the property type; for example larger houses will provide more flexibility than flats. Generally space would be in the form of weatherproof storage space at the front (outside) of the house, or a walk-in cupboard off the kitchen. A suitable condition would be:

**The design layout to be submitted as reserved matters shall demonstrate that adequate space is available to facilitate waste recycling through separation, storage, handling, bulking and collection of waste generated within the property.**

*Reason: To ensure that the development is carried out accordance with the principles of sustainable waste management.*

### Large schemes

- 10.3 Large schemes, or schemes which attract a large number of visitors, should incorporate centralised recycling facilities, including public facilities where appropriate. Supermarkets and other retail schemes should include both public recycling facilities and sufficient space for the sorting of waste in accordance with the Producer Responsibility Initiative (which requires producers of waste to recycle or recover specified proportions of their packaging waste). In this case an appropriate reserved matter on an outline permission could be a requirement to include centralised recycling facilities (the ‘bring’ system), although the developer should be encouraged to incorporate these facilities into the design, through pre-application discussions. In the case of developments that will attract a large number of people (including residential developments) a public facility would be most appropriate. On an industrial estate or business park a recycling facility for use by nearby businesses would be required.
- 10.4 Policy 11 of the Hertfordshire Waste Local Plan states that the County Council will have regard to the provision of both existing facilities and those proposed as part of the development, when considering proposals for major development or those likely to attract a significant number of people. Appendix 1 sets out this policy in full.

**The development shall include designated space for a waste recycling facility in an accessible location for visitors/ local residents.**

*Reason: To ensure that the development is carried out accordance with the principles of sustainable waste management.*

## **Waste Profiles**

10.5 For most forms of development waste will be generated during its use. Housing, commercial and industrial development, retailing etc. will all result in waste and different building types and activities all generate different amounts and quantities of waste. The developer could be required to carry out a *waste profile*

**Before the development hereby permitted is commenced details shall be submitted to and approved in writing by the local planning authority of the types and quantities of waste which will be generated during the life of the building, addressing the following:**

- **the types of waste arising from the development**
- **what volumes of waste will be generated**
- **whether the waste would be generated by visitors or occupiers**
- **proposals for recycling indicating which wastes could be recycled**
- **how and where waste could be segregated.**

*Reason: To accord with the waste planning policies of the area.*

## **11 SUBMISSION OF A SCHEME**

11.1 An alternative approach, and one which affords greater flexibility, is for the issuing of an over-arching condition requiring submission of a scheme by the developer for approval by the local planning authority. Such a scheme would require the developer to demonstrate that the proposed development accorded with a checklist of sustainable waste management criteria. The use of Life Cycle Analysis may be considered, subject to its limitations at the

present time, which have already been discussed in this report ('performance-based policies'). The following example may be considered:

**Before the development hereby permitted is commenced, details shall be submitted to and approved in writing by the local planning authority of the measures to be taken in the design, construction, operation and decommissioning of the development to: minimise the amount of waste generated; to re-use or recycle suitable waste materials generated; to minimise the pollution potential of unavoidable waste, including appropriate remediation measures for any contaminated land; to treat and dispose of the remaining waste in an environmentally acceptable manner; and to utilise secondary aggregates and construction and other materials with a recycled content. The measures shall be implemented in accordance with the approved details.**

*Reason: To accord with the waste planning policies of the area.*

11.2 In respect of the waste implications of the construction and subsequent use of new development, the key issues that will need to be considered by developers will include:

- does the proposal relate to a site with a history of contamination and do the proposals adequately address the water and pollution implications of dealing with this contamination?
- does the design, layout, planning and construction of the development reduce waste to a minimum?
- what sort of waste will be generated (during the site preparation works, construction, operation and decommissioning)?
- are there any alternative arrangements/methods/practices which will avoid the generation of waste which cannot be treated or reclaimed, or secure its re-use *in-situ*?
- in relation to unavoidable wastes, are appropriate measures being taken to avoid mixing wastes, and is the waste being produced as non-polluting as possible? Will further treatment/ separation reduce its polluting potential and minimise demand on disposal sites for polluting waste?
- can it be used in its existing state for another purpose?

- can the waste be recovered/ recycled/ treated? Does this require pre-sorting and are facilities included for this?
- 11.3 For unavoidable waste, is the method of disposal environmentally friendly in terms of seeking to recover and re-use waste and minimise landfill?

### **Demolition, Planning and Building Control**

- 11.4 Except in the case of Listed Buildings and buildings within Conservation Areas, there is no direct planning control over the demolition of buildings except where this forms part of a planning application for redevelopment of a site. Control resides with the District Council as the Building Control Authority and Environmental Health Authority. As Environmental Health Authority the District Council has control over dust and noise issues under the Control of Pollution Act 1974, and over the authorisation of mobile crushers under the Environmental Protection Act 1990. However, such control is limited in scope, and does not extend to any means by which the promotion of recycling of aggregates may be achieved. As Building Control Authority, the District Council is responsible for the administration of Building Regulations. These are concerned with the safe and proper construction of a building and do not extend to address environmental aspects of development. Interest is, however, growing in extending the scope of building regulations in order to do this, and Newark and Sherwood District Council in Nottinghamshire have prepared a draft set of 'Super Building Regulations' as an example.
- 11.5 Consequently, the demolition process, and the extent to which demolition materials can be salvaged for re-use or recycling is outside the direct control of the local planning authority. Nevertheless, the LPA should encourage the relevant departments to use their officers to encourage sustainable practice on demolition sites.

## **12 EDUCATION AND PILOTING**

- 12.1 The Waste Local Plan policies represent a new requirement on applicants for planning permission or local planning authorities in their development control function and on construction companies and waste operators. However, the requirements placed on development are being continuously raised and enhanced, and the Waste Local Plan policies are a part of this process. Securing their implementation is more difficult because developers and district council development control officers may not be immediately aware

that policies in the Waste Local Plan apply to them. An education campaign for practitioners is therefore considered to be an important aspect of policy implementation and the County Council will be addressing this.

12.2 The County Council can also 'lead by example' by piloting the policies in its own development. This would involve identifying a suitable scheme from the development programme such as a school or road scheme and forming a project team comprising the development control officer and the applicant and their project team including architect and quantity surveyor. The team would look at the waste implications of the development as part of the development process and prepare a 'model' planning statement submission with the application. The approach would encompass the following stages:

- budget agreed by relevant committee;
- brief prepared by client department;
- client department commissions a designer;
- designer produces draft design for scheme;
- draft design is discussed;
- budget is increased or decreased to reflect more detailed assessment;
- design agreed and finalised;
- detailed specification prepared.

12.3 As resources allow a series of roadshow-type workshops/seminars will be arranged with district council development control officers to explain the policies and provide guidance on their implementation including 'worked examples' and best practice case studies.

12.4 In addition, a guidance note to applicants will be prepared covering waste issues. This could be sent out with planning application forms alerting potential applicants to waste management issues. Northamptonshire County Council, for example, used an approach through the structure plan to promote design consistency with regard to the use of recycled materials, energy conservation etc. and suggested a design forum for District Councils.

## 13 CONCLUSIONS

- 13.1 The brief initially undertaken by Babbie for Hertfordshire County Council was for the preparation of a set of draft conditions to accompany planning permissions issued by the District Councils within the County. These conditions were intended to implement Policies 3, 7 and 8 in the Waste Local Plan relating to waste minimisation, re-use and recycling.
- 13.2 It quickly became apparent that to consider the imposition of planning conditions in isolation would provide an inadequate basis for Waste Local Plan policy implementation for two key reasons:
- the scope of conditions is limited, as defined in Circular 11/95, and the imposition of wider obligations relating to sustainable waste management fail some of the tests set out in the Circular, especially where these require the developer to undertake costly and commercially unfeasible measures;
  - addressing waste management considerations at the stage of planning conditions will severely restrict the extent to which the design of a development can take on board sustainable waste principles. It will be important to ensure that consideration is given to waste early in the planning process.
- 13.3 The study has recognised that conditions do play a key role, but they will be most effective as part of a process in which sustainable waste management issues have already been taken into account in the design of the development.
- 13.4 The district's statutory powers are somewhat limited in respect of waste management, especially in respect of demolition. In this respect much of the influence of the authority, particularly in the early stages of the process, will be of an advisory nature, and will be outside the statutory planning framework. The use of recognised approaches to development including the BREEAM system, developed by the Building Research Establishment, and the Checklist approach to development, is recommended. Much of the work, in particular approaches such as Life Cycle Assessment, is at an early stage, but important studies are underway and understanding of the process is improving.