



**Development of Waste Treatment Facility,
comprising Reception and Recycling Hall;
Mechanical Biological Treatment (MBT) Facility;
Advanced Conversion Technology (ACT) Facility;
Power Generation and Export Facility; Education
and Office Accommodation; Landscaping and,
Access.**

Sinfin Lane, Derby

Resource Recovery Solutions (Derbyshire) Ltd

Environmental Statement

Chapter 3:

Planning History and Planning Policy Context

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3 Planning History and Planning Policy Context

3.1 Introduction

- 3.1.1 This chapter sets out the planning context in relation to the proposed development, describing the current policy framework.
- 3.1.2 Rather than assessing the development proposals against the policy framework, the intention of this chapter is to simply set out the relevant policies in order to provide the planning policy context within which the proposal should be considered.
- 3.1.3 Individual chapters throughout the Environmental Statement assess the proposals within the context of the relevant policies. A detailed assessment against the relevant policies is contained within the Planning Application Supporting Statement.

3.2 Planning History

- 3.2.1 The Sinfin Lane proposal site has been subject to the following planning permissions none of which are extant:

LPA Ref	Year	Description	Decision
DER/684/722	1985	Tip clean non-toxic waste into settling pond	Approved
DER/785/752	1985	Erection of Light Industrial Units	Refused
DER/1285/1332	1986	Erection of buildings for General Industrial and Warehousing, and formation of new vehicular access	Approved
DER/901/1224	2002	Construction and operation of a solid waste and energy recycling facility, new access, landscaping works and sports pitch	Approved

3.3 Policy Framework

Introduction

- 3.3.1 Chapter 1 of this Environmental Statement sets out the statutory requirements for the content of an Environmental Statement (ES). From this, it can be seen that Schedule 4 to the Town and Country Planning (Environmental Impact Assessment) (England and Wales) 1999 (EIA

Regulations) does not make any specific reference to the inclusion of an assessment of planning policy. However, Chapter 6 of the then Department of Transport, Local Government and the Regions "Good Practice Guide on the Preparation of Environmental Statements includes a sections on 'Policies and Plans'. At paragraph 6.1 it states:

"An ES should include a section on policies and plans which are relevant to the environmental assessment of the development in question. The rationale for this is stated as "The objective is to demonstrate how these policy guidelines have been taken into account in developing the project and compiling the ES, and to provide a picture of the decision making context in which environmental impact will be evaluated."

- 3.3.2 The Government is committed to a plan led system, with the development plan forming the basis of all planning decisions. Accordingly, policy and plans play an important role in determining any planning application. It is normal practice therefore to include an assessment of policy considerations within the supporting documentation for the planning application. This section provides an overview of the policies that have been considered in undertaking the Environmental Impact Assessment.
- 3.3.3 This section sets out the broad planning policy framework within which the planning assessment will be undertaken. Planning policies are developed at national, regional and local levels, and for each, the policies considered to be most relevant are detailed below. National policies, set out in a series of planning policy guidance notes and planning policy statements, provide a framework within which local planning authorities are required to draw up their development plans and take decisions on individual applications. Development plans are examined by the Secretary of State to ensure consistency with national and regional guidance. Planning Policy Statement 1: Creating Sustainable Communities and Section 38 of the Planning Compulsory Purchase Act 2004 reaffirms the Government's commitment to the plan led system.
- 3.3.4 Under this approach applications for planning permission are determined in accordance with the approved development plan, unless material considerations indicate otherwise. Further, account is to be taken of whether the proposed development would cause demonstrable harm to other interests of acknowledged importance.
- 3.3.5 It is not intended to address every aspect of the guidance that could have some bearing on the proposal within this chapter, but rather to identify those matters that are particularly relevant in assessing the compatibility of the proposals with key elements of the policy or guidance.

3.4 European Directives/ National Guidance

Introduction

- 3.4.1 National Policy relating to waste management, like many other matters including Environmental Impact Assessment, is derived from a number of European Directives. These include the Waste Framework Directive (75/442/EEC as amended by 91/156/EEC, 2006/12/EC); the Hazardous Waste Directive (94/31/EEC); the Packing and Packaging Waste Directive (94/62/EEC) and most recently the Landfill Directive (99/31/EC).
- 3.4.2 Historically, waste strategy has focused on controlling waste disposal to prevent unacceptable harm to human health and the environment. The introduction of the Environmental Protection Act 1990 changed the focus to the management of waste to “cradle to grave”, introducing concepts such as Best Available Techniques Not Entailing Excessive Cost (BATNEEC) and “Duty of Care”. Most recently, the strategic approach to waste management has been updated through the Landfill Directive (implemented in the Landfill Regulations). This introduced the concept of sustainability into waste management planning. A key aim of the Landfill Directive is to reduce the volumes of biodegradable municipal waste sent to landfill. This European legislation has been translated into National Policy through Waste Strategy 2007.

Waste Framework Directive (75/442/EEC, amended by Directives 91/156, 91/692 and 96/350)

- 3.4.3 This EU Directive establishes the principle that the essential objective of all provisions relating to waste disposal must be the protection of human health and the environment against harmful effects. It states that the recovery of waste and the re-use of recovered materials should be encouraged in order to conserve natural resources. It also introduces measures designed to implement these principles.

Waste Framework Directive (2006/12/EC)

- 3.4.4 Waste Framework Directive (2006/12/EC) of the European Parliament and of the Council of 5 April 2006 on waste establishes the legislative framework for the handling of waste in the Community. It defines key concepts such as waste recovery and disposal and puts in place the essential requirements for the management of waste such as moving waste up the waste hierarchy. It also establishes major principles such as an obligation to handle waste in a way that does not have a negative impact on the environment and human health, an encouragement to apply the waste hierarchy and, in accordance with the polluter-pays principle, a requirement that the costs of disposing of waste must be borne by the holder of waste, by previous holders or by the producers of the product from which the waste came.

3.4.5 The Common Position adopted by the Council of the European Union (20 December 2007) with a view to the adoption of a Directive of the European Parliament and of the Council on waste and repealing certain Directives relates to the preference of recovery operation over the disposal of waste.

3.4.6 Paragraph 14 of Article 3 defines recovery as:

'any operation the principal result of which is waste serving a useful purpose by replacing other materials which would otherwise have been used to fulfil a particular function, or waste being prepared to fulfil that function, in the plant or in the wider economy.'

3.4.7 Paragraph 18 (Article 3) defines disposal as:

'any operation which is not recovery even where the operation has as a secondary consequence the reclamation of substances or energy.'

3.4.8 Article 11 defines the waste hierarchy as follows and states that it should be applied as a guiding principle in waste prevention and management legislation and policy:

- a) prevention;
- b) preparing for re-use;
- c) recycling;
- d) other recovery, e.g. energy recovery; and
- e) disposal.

3.4.9 When applying the waste hierarchy, measures should be taken to encourage the options that deliver the best overall environmental outcome. This may require specific waste streams departing from the hierarchy where this is justified by life-cycle thinking on the overall impacts of the generation and management of such waste.

3.4.10 Recently, the European Parliament's Environment Committee has voted on amendments to the Waste Framework Directive to allow efficient waste-to-energy plants to be classified as 'recovery' operations rather than disposal. A crucial aim for MEP's (Members of European Parliament) is to reduce the amount of landfill and incineration. MEP's backed the omission and Council position to classify WTE as recovery – provided plants meet an energy efficiency standard. The Confederation of European Waste-to- Energy Plants have welcomed this recognition of WTE's place in the waste hierarchy as a better option than landfilling. WTE is essentially the same as Energy from Waste (EfW).

The 1999 Landfill Directive (1999/31/EC)

3.4.11 The 1999 Landfill Directive was introduced in order to prevent, or reduce as far as possible, the negative effects of landfilling waste. It requires Member states to draw up strategies for a reduction in the quantity of 'bio-degradable municipal solid waste' disposed of to landfill.

3.4.12 This is to be achieved in three successive stages, as follows:

- By 2010 to reduce the BMW landfilled to 75% of that produced in 1995;
- By 2013 to reduce the BMW landfilled to 50% of that produced in 1995; and
- By 2020 to reduce the BMW landfilled to 35% of that produced in 1995.

3.4.13 Directly linked to the Landfill Directive is the Landfill Allowance Trading (England) Regulations 19 as described in the following section.

3.4.14 The Regulations also introduce the concept of pre-treatment of waste. This requires that with immediate effect, any landfill that has been granted its license since July 2001 must only take waste that is pre-treated. From July 2004, all hazardous sites must only take waste that is pre-treated.

Landfill Allowance Trading Scheme (LATS)

3.4.15 The Landfill Allowance Trading Scheme (LATS) implemented under the Waste and Emissions Trading Act (2003) began on April 1st 2005. It requires a progressive reduction in the amount of Biodegradable Municipal Waste (BMW) landfilled by the UK from 2005/06.

3.4.16 Allowances to deposit BMW to landfill have been allocated by DEFRA to Waste Disposal Authorities for each year until 2020. LATS introduces a degree of flexibility into the system by allowing trading of permits between Waste Disposal Authorities. WDAs also have the opportunity to "bank" and "borrow" permits for future years. However, if, following trading, an authority exceeds their quota, a financial penalty of £150 is enforced for every tonne of biodegradable waste taken to landfill in excess of the permitted allowance.

Directive on Integrated Pollution Prevention and Control (IPPC) (96/61/EC)

3.4.16 This Directive establishes the IPPC process as a means of achieving a high level of protection of the environment, taken as a whole by, in particular, preventing or (where that is not practicable) minimising and controlling emissions into air, water and land. It requires

regulators to set permit conditions to achieve a high level of protection for the environment as a whole.

Directive on Waste Incineration (2000/76/EC)

3.4.17 This EU Directive introduced stringent operating conditions and sets minimum technical requirements for waste incineration and co-incineration. The requirements of the Directive have been developed to reflect the ability of these facilities to more cost effectively achieve high standards of emission control in comparison to the 1980s. It covers virtually all waste incineration and co-incineration plants.

3.4.18 The main aim of the Directive is to prevent and limit adverse environmental effects by emissions to air, soil, surface and ground-water, and the resulting risks to human health, from the incineration and co-incineration of waste. It is not of itself concerned with the place of incineration in waste management strategies, but with ensuring that these facilities continue to be appropriately regulated.

Strategic Planning for Sustainable Waste Management: Guidance on Option Development and Appraisal (October 2002).

3.4.19 This guidance was published by the Office of the Deputy Prime Minister (ODPM) in October 2002 and is aimed primarily at the waste Regional Technical Advisory Bodies (RTABs) to assist them in advising on the preparation of Regional Waste Strategies. However, it emphasises the need for significant investment in new and upgraded waste management facilities to achieve the Government's targets for waste recycling/composting and the fact that "waste management is central to the sustainable development agenda". It also endorses an integrated approach and a long-term approach, referred to as a "planning horizon of at least 20 years".

3.4.20 The above legislation is implemented through the Environmental Permitting Regulations 2007, the Waste Strategy for England 2007, and PPS10.

Waste Strategy for England 2007, May 2007

3.4.21 The National Waste Strategy is part of the implementation for England of the requirements within the Framework Directive on Waste, and associated Directives to produce waste management plans. The European Landfill Directive (Council Directive 1999/31/EC) sets targets for the reduction of biodegradable municipal waste sent to landfill. These targets were incorporated into the National Waste Strategy (Waste Strategy 2000).

3.4.22 Since that time the National Waste Strategy has been taken forwards to the Waste Strategy for England 2007 issued in June 2007 as a white paper (WS 2007). This new strategy builds on Waste Strategy 2000 (WS2000) and the progress since then but aims for greater ambition by addressing the key challenges for the future through additional steps.

3.4.23 The Government's key objectives as set out in the strategy are to:

- decouple waste growth (in all sectors) from economic growth and put more emphasis on waste prevention and re-use;
- meet and exceed the Landfill Directive diversion targets for biodegradable municipal waste in 2010, 2013 and 2020;
- increase diversion from landfill of non-municipal waste and secure better integration of treatment for municipal and non-municipal waste;
- secure the investment in infrastructure needed to divert waste from landfill and for the management of hazardous waste; and
- get the most environmental benefit from that investment, through increased recycling of resources and recovery of energy from residual waste using a mix of technologies.

3.4.24 The Strategy reinforces the importance of the waste hierarchy whereby landfill is treated as the option of last resort, with an emphasis upon reduction in waste generation followed by reuse and recycling and recovery of value.

3.4.25 It places a greater focus on waste prevention through a new target to reduce the amount of household waste not re-used, recycled or composted from over 22.2 million tonnes in 2000 by 29% to 15.8 million tonnes in 2010 with an aspiration to reduce it to 12.2 million tonnes in 2020 – a reduction of 45%. This is equivalent to a fall of 50% per person (from 450 kg per person in 2000 to 225 kg in 2020).

3.4.26 Higher national targets than in 2000 have been set for:

- recycling and composting of household waste – at least 40% by 2010, 45% by 2015 and 50% by 2020; and
- recovering value from municipal waste – 53% by 2010, 67% by 2015 and 75% by 2020.

3.4.27 With respect to stimulating investment in waste collection and treatment infrastructure, key new policies within WS2007 (Chapter 5) include: *“Ensuring that Regional Spatial Strategies and local development plans conform to national planning guidance on waste so that the waste infrastructure projects needed to deliver this strategy receive planning approval, while promoting best practice in the way local authorities consult stakeholders on their waste*

strategies and “Developing collection arrangements and the energy market for wood waste which cannot be re-used or recycled”

- 3.4.28 With regards to recovering energy from waste, the strategy states, at paragraph 17 of Chapter 5 that: *Recovering energy from waste which cannot sensibly be reused or recycled is an essential component of a well-balanced energy policy*. Paragraph 23 states that: *“Evidence from neighbouring countries, where very high rates of recycling and energy from waste are able to coexist, demonstrates that a vigorous energy from waste policy is compatible with high recycling rates”*.
- 3.4.29 Guidance on the application of the strategy within the White paper states: *“There is a particular requirement in the Waste Framework Directive for the waste management plan to identify suitable disposal sites or installations. PPS10 sets out relevant national policies for waste management facilities, including location criteria to inform local planning policy and planning decisions. Local planning authorities in England are reminded of their obligation under the Waste Management Licensing Regulations 1994 to produce detailed policies in respect of suitable disposal sites or installations for waste management purposes when producing local development documents, and also their obligation to have regard to national policies and to this strategy. PPS10 provides that local planning authorities should, among other things, identify in development plan documents sites and areas suitable for new or enhanced waste management facilities for the waste management needs of their areas, and, in particular, allocate sites to support the pattern of waste management facilities set out in the RSS (in accordance with the broad locations identified in the RSS)”*
- 3.4.30 WS 2007 highlights that there is a particular requirement in the Waste Framework Directive for the waste management plan to identify suitable waste disposal sites or installations. PPS10 sets out relevant national policies for waste management facilities, including location criteria to inform local planning policy and planning decisions. Local planning authorities in England are reminded of their obligation under the Waste Management Licensing Regulations 1994 to produce detailed policies in respect of suitable disposal sites or installations for waste management purposes when producing local development documents, and also there obligation to have regard to national policies in this strategy. PPS10 provides that local planning authorities should, among other things, identify in development plan documents sites and areas suitable for new or enhanced waste management facilities for the waste management needs of their areas, and, in particular, allocated sites to support the pattern of waste management facilities set out in the RSS (in accordance with the broad locations identified in the RSS).

3.5 National Policy

Planning Policy Statement 1 (PPS1): Delivering Sustainable Development (2005)

3.5.1 Whereas much of the guidance offered by PPS1 is of general or background relevance to the current proposals, the following specific points are noteworthy:

- Paragraph 3 of PPS1 identifies sustainable development as ‘the core principle underpinning planning’.
- Paragraph 12 highlights pre-application discussions between developers and local planning authorities as being ‘critically important’. Paragraph 8 reinforces the importance of the development plan in making decisions about development proposals.
- Paragraphs 40-44 outline the importance of effective community involvement.
- Supplementary to PPS1, is guidance relating to climate change. This addresses, amongst other things, design for environmental performance, including energy consumption, renewable or low carbon energy supply.

Planning Policy Statement: Planning and Climate Change Supplement to Planning policy Statement 1

3.5.2 PPS1 sets out the overarching planning policies on the delivery of sustainable development through the planning system. This PPS on climate change supplements PPS1 by setting out how planning should contribute to reducing emissions and stabilising climate change, whilst taking into account the unavoidable consequences. The policies in this PPS take precedence over any policies relating to climate change in other PPS’s. Tackling climate change is a key Government priority for the planning system. It sets out how applicants for planning permission should consider how well their proposals for development contribute to the Government’s ambition of a low-carbon economy and how well adapted they are for the expected effects of climate change.

Planning Policy Statement 9 (PPS9): Biodiversity and Geological Conservation

3.5.3 Planning Policy Statement 9 (PPS9) sets out planning policies on protection of biodiversity and geological conservation through the planning system. Published August 2005. It is accompanied by Government Circular 06/05: Biodiversity and Geological Conservation which covers relevant legislative provisions at the international and national level that can impact on planning decisions affecting biodiversity and geological conservation issues and Good Practice Guidance.

- 3.5.4 The PPS sets out the Government's broad policy objectives in relation to the protection of biodiversity and geological conservation in England through the planning system and its planning policies that will help deliver these objectives. These policies reflect statutory obligations for nature conservation and are firmly based on the principles set out in 'Working with the grain of nature – a biodiversity strategy for England' (DEFRA 2002).

Planning Policy Statement 10 (PPS10): Planning for Sustainable Waste Management PPS10, July 2005

- 3.5.5 Planning Policy Statement 10: Planning for Sustainable Waste Management (PPS10) was published in July 2005. PPS 10 sets out guidance for all those involved in making decisions about the management of waste and sets out the principles of sustainable waste management driven by the waste hierarchy.

- 3.5.6 Para. 1 of PPS10 states in this respect:-

“Through more sustainable waste management, moving the management of waste up the ‘waste hierarchy’ of reduction, reuse, recycling and composting, using waste as a source of energy, and only disposing as a last resort the Government aims to break the link between economic growth and the environmental impact of waste.”

- 3.5.7 It goes on to explain that the planning system is pivotal to the adequate and timely provision of the new facilities that will be needed.

- 3.5.8 Paragraph 3 of the document sets out the key planning objectives that regional planning authorities should prepare and deliver through their strategies. These are:

- Help deliver sustainable waste management through driving waste management up the waste hierarchy, addressing waste as a resource and looking to disposal as the last option, but one which must be adequately catered for;
- Provide a framework in which communities take more responsibility for their own waste, and enable sufficient and timely provision of waste management facilities to meet the needs of their communities;
- Help implement the national waste strategy, and supporting targets, are consistent with obligations required under European legislation and support and complement other guidance and legal controls such as those set out in the Waste Management Licensing Regulations 1994;
- Help secure the recovery or disposal of waste without endangering human health and without harming the environment, and ensure waste is disposed of in one of the nearest appropriate installations;

- Reflect the concerns and interests of local communities, the needs of waste collection authorities, waste disposal authorities and businesses, and encourage competitiveness.

3.5.9 Paragraph 20 sets out that in for suitable sites for waste management facilities planning authorities should consider for opportunities for on site management where waste arises and a broad range of locations including industrial sites, looking for opportunities to co-locate facilities together and with complimentary activities.

3.5.10 Annex E of PPS10 sets out locational criteria to test the suitability of sites for waste management activities. These are listed below:-

- Protection of water resources;
- Land instability;
- Visual intrusion;
- Nature conservation;
- Historic environment and built heritage;
- Traffic and access;
- Air emissions, including dust;
- Odours;
- Vermin and birds;
- Noise and vibration;
- Litter; and
- Potential land use conflict.

3.5.11 The evolution of the current scheme in accordance with social, economic and employment considerations has taken place at a time where the planning system is in a period of transition. Section 19 of the Planning and Compulsory Purchase Act 2004 requires local planning authorities to carry out Sustainability Appraisals of proposals within each of their local development documents. PPS 12 states that:

“sustainability appraisal is a systematic and iterative appraisal process, incorporating the requirements of the Strategic Environmental Assessment Directive”, where “The purpose of sustainability appraisal is to appraise the social, environmental, and economic effects of the strategies and policies in a local development document from the outset of the preparation process”.

PPS10 advises that Regional planning bodies and all planning authorities should, to the extent appropriate to their responsibilities, adhere to the principles in preparing planning strategies including sustainability appraisal (incorporating strategic environmental assessment)”.

- 3.5.12 Sustainability appraisal should be applied so as to shape planning strategies that support the Government's planning objectives. PPS10 further states that *"in considering planning applications for waste management facilities before development plans can be reviewed to reflect this PPS, [waste planning authorities should] have regard to the policies in this PPS as material considerations which may supersede the policies in their development plan. Any refusal of planning permission on grounds of being premature will not be justified unless it accords with the policy in "The Planning System: General Principles"*.
- 3.5.13 The Planning and Compulsory Purchase Act 2004 requires that the Minerals and Waste Development documents be prepared with a view to contributing to sustainable development. Local Development Frameworks as set out above are to be subject to a process of Sustainability Appraisals and Strategic Environmental Assessment. The first stage in the sustainability appraisal process is the preparation of a Generic Scoping Report, which sets out how the appraisal of documents is to be carried out. The original Scoping Report was published for comment in August 2005. This has now been updated to be in line with Government guidance, new information and the consultation responses.
- 3.5.14 Paragraph 26 of PPS10 sets out that planning authorities should not concern themselves with the control of processes which are a matter for the pollution control authorities. Paragraph 27 sets out that pollution control is concerned with preventing pollution through the use of measures to prohibit or limit the release of substances to the environment to the lowest practicable. Additionally, it seeks to ensure that air and water quality meets standards that prevent human and environmental impact. Further, planning authorities should work on the assumption that the pollution control regime will be properly applied and enforced.

Planning For Sustainable Waste Management: Companion Guide To Planning Policy Statement 10, June 2006

- 3.5.15 This guide, published in June 2006, supports the implementation of Planning Policy Statement 10 (PPS10) Planning for Sustainable Waste Management 1 within the wider context of reforms of the land use planning system flowing from the 2001 Planning Green Paper 2 and the Planning and Compulsory Purchase Act 2004 (PCPA).
- 3.5.16 The Guide provides advice, ideas, examples of current practice and signposts to further information in support of the implementation of Planning Policy Statement 10: Planning for Sustainable Waste Management (PPS10).

Planning Policy Guidance 13 (PPG13): Transport, 2001

3.5.17 PPG13 has the objectives of integrating planning and transport at the national, regional, strategic and local level to promote more sustainable transport choices for both people and for moving freight, promoting accessibility and reducing the need to travel, especially by car.

Planning Policy Guidance 15 (PPG15): Planning and the Historic Environment

3.5.18 PPG 15 provides guidance on the role of the planning system in the protection of the historic environment. Early consultation with the local planning authority and English Heritage is identified as important where development proposals may affect historic sites and structures such as listed buildings and conservation

Planning Policy Guidance 16 (PPG16): Archaeology and Planning

3.5.19 This guidance advises on how to preserve and record archaeological remains in the urban and rural environment. The statutory frameworks for protecting remains are outlined and the development control procedure is clearly identified.

Planning Policy Statement 23 - Planning and Pollution Control (PPS23)

3.5.20 PPS23 offers guidance to local authorities on the relationship between controls over development under planning law, and under pollution control legislation. PPS 23 advises that:

- any consideration of the quality of land, air or water and potential impacts arising from development, possibly leading to impacts on health, is capable of being a material planning consideration, in so far as it arises or may arise from or may affect any land use;
- the planning system plays a key role in determining the location of development which may give rise to pollution, either directly or indirectly, and in ensuring that other uses and developments are not, as far as possible, affected by major existing or potential sources of pollution;
- the controls under the planning and pollution control regimes should complement rather than duplicate each other.

3.5.21 PPS23 also takes into account the Air Quality Strategy, the system of local air quality management under Part IV of the Environment Act 1995 and climate change.

Planning Policy Guidance Note 24 (PPG24): Planning and Noise, 1994

3.5.22 PPG24 provides guidance to planning authorities on the use of their planning powers to minimise the adverse impacts on noise. PPG24 recognises however that the impact of noise must be balanced against other impacts of development, and states in para. 10:

“Much of the development which is necessary for the creation of jobs and the construction and improvement of essential infrastructure will generate noise. The planning system should not place unjustifiable obstacles in the way of such development.”

3.5.23 Paragraph 13 sets out that mitigation measures can be introduced to control the source of, or limit exposure to noise. These include:

*“(i) **engineering:** reduction of noise at point of generation (eg by using quiet machines and/or quiet methods of working); containment of noise generated (eg by insulating buildings which house machinery and/or providing purpose-built barriers around the site); and protection of surrounding noise-sensitive buildings (eg by improving sound insulation in these buildings and/or screening them by purpose built barriers);*

*(ii) **lay-out:** adequate distance between source and noise-sensitive building or area; screening by natural barriers, other buildings, or non-critical rooms in a building;*

*(iii) **administrative:** limiting operating time of source; restricting activities allowed on the site; specifying an acceptable noise limit.”*

Planning Policy Statement Note 25 (PPS25): Development and Flood Risk

3.5.24 PPS 25 which was published in December 2006 explains how positive planning has an important role in helping to deliver sustainable development and applying the Government's policy on flood risk management. Positive planning avoids and reduces and manages flood risk by taking full account in decisions on plans and applications of present and future flood risk and the wider implications for flood risk of development located outside flood risk areas. The statement sets out the aims of planning policy on development and flood risk are to ensure that flood risk is taken into account at all stages in the planning process to avoid inappropriate development in areas at risk of flooding, and to direct development away from the areas at highest risk.

3.5.25 With respect to Risk Based approach and the Sequential Test, paragraph 16 of PPS25 states:

“Local Planning Authorities allocating land in Local development Documents for development should apply the Sequential Test to demonstrate that there are no reasonably available sites in areas with a lower probability of flooding that would be appropriate to the type of development or land use proposed. A sequential approach should be used in areas known to be at a risk from other forms of flooding.”

- 3.5.26 Paragraph 17 states ‘In areas at risk of river or sea flooding, preference should be given to locating new development in Flood Zone 1. If there is no reasonably available site in Flood Zone 1, the flood vulnerability of the proposed development can be taken into account in locating development in Flood Zone 2 and then Flood Zone 3. Within each Flood Zone new development should be directed to sites at the lowest probability of flooding from all sources as indicated by the Strategic Flood Risk Assessment.

3.6 The Statutory Development Plan

- 3.6.1 Of particular importance in the policy framework is the development plan, which is produced in accordance with statutory procedures to guide the development and use of land and provide a framework for the determination of individual planning applications.

- 3.6.2 According to PPS12: Local Development Frameworks (2008):

“3.1 The development plan is made up of the Regional Spatial Strategy (RSS), and Development Plan Documents (DPD) produced by local planning authorities within the local development framework.

- i) The Local Development Framework is the collection of local development documents produced by the local planning authority which collectively delivers the spatial planning strategy for its area . The Core Strategy is the key plan within the Local Development Framework.”*

- 3.6.3 Derby City Council is a Unitary Authority responsible for the production of all planning policy including waste planning policy and determination of planning applications for waste related planning development. However, the City Council elected to produce joint waste development plan policy with Derbyshire County Council. In this context, the statutory development plan thus comprises:

- East Midlands Regional Plan (March 2009)
- Derby & Derbyshire Waste Local Plan (March 2005)
- City of Derby Local Plan (January 2006)

East Midlands Regional Plan

3.6.4 The East Midlands Regional Plan (RSS8) was adopted in March 2009 and covers the period until 2026. In accordance with the Planning and Compulsory Purchase Act 2004 it replaces the RPG8 and the Derby & Derbyshire Structure Plan as part of the statutory development plan. The document provides both a Core Strategy as well as a topic based priorities and more detailed policies for each of the four Sub-Regional Centres identified. The site being located within Derby is located within the Three Cities Sub-Regional Centre comprising the three largest cities of the Region and is made up of the Principal Urban Areas of Derby, Leicester and Nottingham.

3.6.5 Section 1 of the RSS comprises the Core Strategy consisting of a Regional Vision, Regional Core Objectives in Policy 1, and Promoting Better Design in Policy 2.

3.6.6 The Regional Vision is set out as follows:

“The East Midlands will be recognised as a Region with a high quality of life and strong healthy sustainable communities that thrives because of its vibrant economy, rich cultural and environmental diversity and the way it creatively addresses social inequalities, manages its resources and contributes to a safer, more inclusive society.

In the next two decades development should be concentrated on the region’s major urban areas, in ways that allow cities and towns to work together for mutual benefit while retaining their distinctive identity.

This will be achieved for the benefit of present and future generations through the integration of:

- *A vibrant and competitive economy with increased productivity characterised by high quality employment learning and skills, enterprising individuals, innovative businesses and improvements in the physical infrastructure;*
- *Cohesive and diverse communities that empower and engage people, are safe and healthy, combat discrimination and disadvantage and provide hope and opportunities for all;*
- *A rich, diverse and attractive natural and built environment and cultural heritage; and*
- *Sustainable patterns of development that make efficient use of land, resources and infrastructure, reduce the need to travel, incorporate sustainable design and construction, and enhance local distinctiveness.”*

3.6.7 The relevant Regional Core Objectives in Policy 1, are as follows:

To secure the delivery of sustainable development within the East Midlands, all strategies, plans and programmes having a spatial impact should meet the following core objectives:

c) To protect and enhance the environmental quality of urban and rural settlements to

- make them safe, attractive, clean and crime free places to live, work and invest in, through promoting:*
- 'green infrastructure';*
- enhancement of the 'urban fringe'; and*
- high quality design which reflects local distinctiveness.*

d) To improve the health and mental, physical and spiritual well being of the Region's residents through improvements in:

- air quality;.*

e) To improve economic prosperity, employment opportunities and regional competitiveness through:

- the improvement of access to labour and markets; and*
- ensuring that sufficient good quality land and premises are available to support economic activity in sectors targeted for growth by the Regional Economic Strategy.*

f) To improve accessibility to jobs, homes and services through the:

- promotion and integration of opportunities for walking and cycling;*
- promotion of the use of high quality public transport; and*
- encouragement of patterns of new development that reduce the need to travel especially by car.*

g) To protect and enhance the environment through the:

- protection, enhancement, sensitive use and management of the Region's natural cultural and historic assets, giving particular attention to designated sites of international importance;*
- avoidance of significant harm and securing adequate mitigation or compensation for any unavoidable damage;*
- reducing the amount of waste produced and increasing the amount recycled or otherwise beneficially managed; and*

- *recognition of the limits to the capacity of the environment to accept further development without irreversible damage.*

h) To achieve a 'step change' increase in the level of the Region's biodiversity through:

- *the management and extension of habitats, both to secure net gains in biodiversity and to facilitate species migration to allow the biosphere to adapt to climate change; and*
- *ensuring that no net loss of priority habitats or species is allowed to occur.*

i) To reduce the causes of climate change by minimising emissions of CO2 in order to meet the national target through:

- *maximising 'resource efficiency' and the level of renewable energy generation;*
- *making best use of existing infrastructure;*
- *promoting sustainable design and construction; and*
- *ensuring that new development, particularly major traffic generating uses, is located so as to reduce the need to travel, especially by private car.*

j) To reduce the impacts of climate change, in particular the risk of damage to life and property from flooding and sea level change and the decline in water quality and resources. This will be achieved through the location, design and construction of new development in ways that include:

- *reducing the build up of heat island effects in urban areas;*
- *providing carbon sinks; and*
- *providing sustainable drainage and managing flood water.*

k) To minimise adverse environmental impacts of new development and promote optimum social and economic benefits through the promotion of sustainable design and construction techniques.

3.6.8 Policy 2 relating to Promoting Better Design, states:

The layout, design and construction of new development should be continuously improved, including in terms of reducing CO2 emissions and providing resilience to future climate change, by:

- *design led approaches which take account of local natural and historic character;*
- *minimising energy use, reducing the heat impact of urban areas, using sensitive lighting, improving water efficiency, providing for sustainable drainage (SUDS) and management of flood water, reducing waste and pollution, securing energy from decentralised and*

renewable or low carbon energy technologies, incorporating sustainably sourced and recycled materials wherever possible, and considering building orientation at the start of the design process;

- *ensuring that all urban extensions that require an Environmental Impact Assessment achieve the highest viable levels of building sustainability;*
- *making the most efficient use of land;*
- *locating and designing access from new development to local facilities on foot, by cycle or by public transport;*
- *highway and parking design that improves both safety and the quality of public space;*
- *design which helps to reduce crime and the fear of crime, supports community safety, promotes vitality, maintains amenity and privacy, and benefits the quality of life of local people; and,*
- *taking account of the need to develop carbon sinks and 'green infrastructure' networks and provide for access to open space and the enhancement of biodiversity and landscape quality.*

3.6.9 Section 2 of the RSS sets out the Spatial Strategy with Policy 3 relating to Concentrating Development in Urban Areas, and Policy 12 relating to Development in the Three Cities Sub-area.

3.6.10 Policy 3 states that:

Development and economic activity should be distributed on the following basis:

- a) *new development will be concentrated primarily in and adjoining the Region's five Principal Urban Areas (PUAs), the built up areas centred on Derby, Leicester, Lincoln, Northampton and Nottingham;*

In assessing the suitability of sites for development priority should be given to making best use of previously developed land and vacant or under-used buildings in urban or other sustainable locations, contributing to the achievement of a regional target of 60% of additional dwellings on previously developed land or through conversions.

3.6.11 In applying this policy the influence of major urban areas outside the Region should also be taken into consideration, particularly those fulfilling the role of PUAs for parts of the East Midlands, i.e. Peterborough, South Yorkshire and Greater Manchester, where policies in regional strategies for neighbouring regions will be relevant.

3.6.12 Policy 12 states that:

Development should support the continued growth and regeneration of Derby, Leicester and Nottingham, and maintain and strengthen the economic, commercial and cultural roles of all three cities in accordance with the policies and proposals in Section 4.2 below. This will be achieved by ensuring that the agreed Growth Point Programme of Delivery for the 3 Cities and 3 Counties is achieved both in overall numbers of dwellings and in the agreed phasing of development and that provision is made for:

- employment land to meet the needs of indigenous manufacturing and distribution uses and to encourage new investment;*
- enhancement of transport links and public transport accessibility both within and between the cities, to reduce car use, especially commuting;*
- retailing, office, residential, entertainment and service uses within central areas, to provide for a mix of uses to support the vitality and viability of the city centres; and*
- the protection, development and enhancement of green infrastructure to address past environmental degradation and contribute to the development of sustainable communities.*

3.6.13 Section 3 of the Regional Plan sets out a series of Topic Based priorities with the topics of Economy and Regeneration, Natural and Cultural Resources, Regional Transport Strategy being most relevant to the proposed development.

3.6.14 Policy 18 sets out the Regional Priorities for the economy, as follows:

Local authorities in all parts of the region should work together with EMDA and other organisations with relevant responsibilities to encourage and foster the regional economy through implementing the Regional Economic Strategy. It will be especially important to raise skill levels, develop the service sector and high value manufacturing and create innovative businesses, so that the region is better placed to maintain economic competitiveness.

3.6.15 Policy 19 sets out the Regional Priorities for Regeneration, as follows:

Regeneration activity should be focussed on areas of greatest identified need. These include:

- the Region's Principal Urban Areas and Sub-Regional Centres that exhibit very high and concentrated levels of deprivation;*
- the Northern Sub-area, with its concentration of economic, social and environmental problems linked to the decline of the coal industry;*
- 'economically lagging' rural areas identified by the Government's Rural Strategy, including the districts of East Lindsey, West Lindsey, South Holland, Bolsover, High Peak and the more rural parts of Derbyshire Dales, Bassetlaw and Newark and Sherwood;*
- the towns of Gainsborough, Mablethorpe and Skegness; and*

- *other settlements which display high levels of deprivation including Corby which is also designated as a Growth Town in Policy 3.*

For regeneration to be successful concerted action is needed across the whole spectrum of local governance and local development documents should translate this into the action required locally.

In addition regeneration of all priority areas must conform with the strategy of urban concentration set out in Policy 3.

3.6.16 Policy 20 sets out the Regional Priorities for Employment Land, as follows:

Local authorities, EMDA and sub-regional strategic partnerships should work together in housing market area groupings to undertake and keep up to date employment land reviews to inform the allocation of a range of sites at sustainable locations.

These allocations will:

- *be responsive to market needs and the requirements of potential investors, including the needs of small businesses;*
- *encourage the development of priority sectors as identified in the Regional Economic Strategy, namely transport equipment, food and drink, healthcare and construction as well as specific sectors which have local economic significance;*
- *serve to improve the regeneration of urban areas;*
- *ensure that the needs of high technology and knowledge based industries are provided for;*
- *promote diversification of the rural economy;*
- *assist the development of sites in the Priority Areas for Regeneration; and*
- *be of a scale consistent with the essential policy of urban concentration as set out in Policy 3.*

3.6.17 Policy 26 relates to Protecting and Enhancing the Regions Natural and Cultural Heritage. It states:

Sustainable development should ensure the protection, appropriate management and enhancement of the Region's natural and cultural heritage. As a result the following principles should be applied:

- *the Region's internationally and nationally designated natural and historic assets should receive the highest level of protection;*
- *neither direct nor indirect damage to EU designated Natura 2000 sites will be permitted;*

- *damage to natural and historic assets or their settings should be avoided wherever and as far as possible, recognising that such assets are usually irreplaceable;*
- *unavoidable damage must be minimised and clearly justified by a need for development in that location which outweighs the damage that would result;*
- *unavoidable damage which cannot be mitigated should be compensated for, preferably in a relevant local context, and where possible in ways which also contribute to social and economic objectives;*
- *there should be a net increase in the quality and active management of natural and historic assets across the Region in ways that promote adaptation to climate change, and an increase in the quantity of environmental assets generally; and*
- *the Region's best and most versatile agricultural land should be protected from permanent loss or damage.*

3.6.18 Policy 27 sets out the Regional Priorities for the Historic Environment. It states:

The historic environment should be understood, conserved and enhanced, in recognition of its own intrinsic value, and its contribution to the Region's quality of life.

Across the Region and particularly in areas where growth or regeneration is a priority, development should promote sensitive change of the historic environment. To achieve this, Local Planning Authorities should:

- *identify and assess the significance of specific historic assets and their settings;*
- *use characterisation to understand their contribution to the landscape or townscape in areas of change;*
- *encourage the refurbishment and re-use of disused or under-used buildings of some historic or architectural merit and incorporating them sensitively into regeneration schemes;*
- *promote the use of local building materials; and*
- *recognise the opportunities for enhancing existing tourism attractions and for developing*
- *the potential of other areas and sites of historic interest as part of Green Infrastructure, having regard to potential impacts on biodiversity.*

3.6.19 Policy 29 sets out the Priorities for Enhancing the Region's Biodiversity, as follows:

Local Authorities, statutory environmental bodies and developers should work with the voluntary sector, landowners and local communities to implement the Regional Biodiversity Strategy, and to deliver a major step change increase in the level of biodiversity across the East Midlands.

Measures should include the:

- *achievement of the East Midlands regional contribution towards the UK Biodiversity Action Plan targets as set out in Appendix 3;*
- *establishment of large scale habitat creation projects in the biodiversity conservation and enhancement areas illustrated in Diagram 6;*
- *establishment of a regional project to promote the re-creation of key wildlife habitats in each Natural Area in the East Midlands;*
- *creating, protecting and enhancing networks of semi-natural green spaces in urban areas;*
- *creating, protecting and enhancing features of the landscape which act as corridors and 'stepping stones', essential for the migration and dispersal of wildlife;*
- *development and implementation of mechanisms to ensure that development results in no net loss of BAP habitats and species, particularly for restricted habitats with special environmental requirements, and that net gain is achieved; and*
- *development and maintenance of appropriate data to monitor and report on regional targets, BAPs and BCAs/BEAs.*

3.6.20 Policy 31 sets out the Priorities for the Management and Enhancement of the Region's Landscape. It states:

The Region's natural and heritage landscapes should be protected and enhanced by:

- *the promotion of the highest level of protection for the nationally designated landscapes*
- *of the Peak District National Park and the Lincolnshire Wolds Area of Outstanding Natural Beauty;*
- *the promotion of initiatives to protect and enhance the particular character of the Sherwood, Charnwood and Rockingham Forests;*
- *the establishment of criteria-based policies in Local Development Frameworks to ensure that development proposals respect intrinsic landscape character in rural and urban fringe areas, including, where appropriate, recognition of the value of tranquillity and dark skies; and*
- *the identification in Local Development Frameworks of landscape and biodiversity protection and enhancement objectives through the integration of Landscape Character Assessments with historic and ecological assessments.*

3.6.21 Policy 32 sets out A Regional Approach to Water Resources and Water Quality. It states:

Local Authorities, developers, water companies, the Environment Agency and other relevant public bodies should work together to:

- *take water related issues into account at an early stage in the process of identifying land for development and in the phasing and implementation of development, e.g by undertaking water-cycle studies;*

- *ensure timely provision of appropriate additional infrastructure for water supply and wastewater treatment to cater for the levels of development provided for in this plan, whilst meeting surface and groundwater quality standards and avoiding adverse impacts on designated sites of nature conservation of international importance;*
- *assess the scope for reducing leakage of public water supply from current levels;*
- *promote improvements in water efficiency in new development and in regeneration to achieve a regional target of 25% (equivalent to an average saving of about 35 litres per person per day);*
- *reduce unsustainable abstraction from watercourses and aquifers to sustainable levels;*
- *protect and improve water quality and reduce the risk of pollution especially to vulnerable groundwater;*
- *make provision for the development of new water resources where this represents the most sustainable solution to meeting identified water resource requirements, taking account of predictions of future climate change;*
- *use sustainable drainage techniques wherever practical to help mitigate diffuse pollution and support groundwater recharge. These will be required where development is upstream of a designated nature conservation site of international importance or to improve water quality, where the need is demonstrated through water cycle studies;*
- *support water conservation measures such as winter storage reservoirs on agricultural land; and*
- *ensure that sewage treatment capacity is sufficient to meet the needs of development and that, where necessary improvements are in place so that development does not compromise the quality of discharged effluent.*

3.6.22 Policy 35 sets out A Regional Approach to Managing Flood Risk, as follows:

Development should not be permitted if, alone or in conjunction with other new development, it would:

- *be at unacceptable risk from flooding or create such an unacceptable risk elsewhere;*
- *inhibit the capacity of the floodplain to store water;*
- *impede the flow of floodwater in a way which would create an unacceptable risk elsewhere;*
- *have a detrimental impact upon infiltration of rainfall to ground water storage;*
- *otherwise unacceptably increase flood risk; and*

However, such development may be acceptable on the basis of conditions or agreements for adequate measures to mitigate the effects on the overall flooding regime, including provision for the maintenance and enhancement of biodiversity. Any such measures must accord with the flood management regime for that location.

3.6.23 Policy 36 sets out Regional Priorities for Air Quality. It states:

Local Development Frameworks and the strategies of relevant public bodies should:

- *contribute to reducing air pollution in the region;*
- *consider the potential effects of new developments and increased traffic levels on air quality; and*
- *consider the potential impacts of new developments and increased traffic levels on internationally designated nature conservation sites, and adopt mitigation measures to address these impacts.*

3.6.24 Policy 38 sets out Regional Priorities for Waste Management , as follows:

All relevant public and private sector organisations, including manufacturing, importing and packaging firms, should work together to implement the Regional Waste Strategy and promote policies and proposals that will result in zero growth in all forms of controlled waste by 2016 and waste being treated higher up in the 'waste hierarchy' set out in the National Waste Strategy (Waste Strategy for England 2007).

All Waste Collection Authorities and Waste Disposal Authorities should achieve a minimum target for the recycling and composting of Municipal Solid Waste of 30% by 2010 and 50% by 2015.

Waste Planning Authorities, with the exception of the Peak District National Park Authority, should make provision in their Waste Development Frameworks for waste management capacity equal to the amount of waste generated and requiring management in their areas, using the apportionment data set out in Appendix 4, subject to further research and analysis as part of the annual monitoring process and recognition of the particular operational and locational requirements of individual waste process technologies.

In the Northern Sub-area, the broad pattern of facilities should combine a centralised strategy of larger facilities on previously used land (including former colliery land) with the expansion of existing facilities.

In the Three Cities Sub-area a centralised pattern of large facilities should be developed. All other Development Frameworks should provide for the minimisation of waste in the construction of and operation of new development, and encourage on-site waste management facilities.

Waste development plan documents should secure high standards of restoration and, where appropriate, the aftercare of waste management facilities to contribute to the objectives of the regional spatial strategy, particularly those relating to biodiversity, recreation and amenity.

Waste facilities should also be sited to avoid the pollution or disturbance of designated nature conservation sites of international importance. Increased traffic levels on roads near to sensitive sites should also be avoided.

3.6.25 Policy 40 sets out the Regional Priorities for Low Carbon Energy Generation. It states:

Local Authorities, energy generators and other relevant public bodies should promote:

- *The development of Combined Heat and Power (CHP) and district heating infrastructure*
- *necessary to achieve the regional target of 511 MWe by 2010 and 1120 MWe by 2020; and*
- *the development of a distributed energy network using local low carbon and renewable resources.*

In order to help meet national targets low carbon energy proposals in locations where environmental, economic and social impacts can be addressed satisfactorily should be supported. As a result, Local Planning Authorities should:

- *identify suitable sites for CHP plants well related to existing or proposed development and encourage their provision in large scale schemes;*
- *support the development of distributed local energy generation networks; and*
- *develop policies and proposals to achieve the indicative regional targets for renewable energy set out in Appendix 5.*

In establishing criteria for new facilities required for other forms of renewable energy, Local Planning Authorities should give particular consideration to:

- *the proximity to the renewable energy resource;*
- *the relationship with the existing natural and built environment;*
- *the availability of existing surplus industrial land in close proximity to the transport network; and*
- *the benefits of grid and non grid connected 'micro-generation'.*

3.6.26 Policy 43 sets out the Regional Transport Objectives, as follows:

The development of transport infrastructure and services across the Region should be consistent with the following Objectives:

1. *To support sustainable development in the Region's Principal Urban Areas, Growth Towns and Sub-Regional Centres described in Policy 3;*
2. *To promote accessibility and overcome peripherality in the Region's rural areas;.*
3. *To support the Region's regeneration priorities outlined in Policy 19;.*
4. *To promote improvements to inter-regional and international linkages that will support sustainable development within the Region;*
5. *To improve safety across the Region and reduce congestion, particularly within the Region's Principal Urban Areas and on major inter-urban corridors;*
6. *To reduce traffic growth across the Region; and*
7. *To improve air quality and reduce carbon emissions from transport by reducing the need to travel and promoting modal shift away from the private car, (particularly towards walking, cycling and public transport and away from other road based transport) and encouraging and supporting innovative transport technologies.*

3.6.27 Policy 44 (v) sets out the Sub-area Transport Objectives for the Three Cities Sub-area , as follows:

The development of transport infrastructure and services in each Sub-area should also be consistent with the following Objectives:

v) Three Cities Sub-area

T1 To reduce the use of the car in and around Nottingham, Derby and Leicester and promote a step change increase in the quality and quantity of local public transport provision, and facilities to encourage walking and cycling.

T3 To develop the sustainable transport infrastructure and services needed to improve access to jobs and services from deprived inner urban areas and outer estates, and also to identified Regeneration Zones.

T6 To reduce congestion and improve safety along the M1 corridor and the highway network generally

3.6.28 Policy 45 sets out a Regional Approach to Traffic Growth Reduction. It states:

Local authorities, public and local bodies, and service providers should work together to achieve a progressive reduction over time in the rate of traffic growth in the East Midlands and

support delivery of the national PSA congestion target. This should be achieved by promoting measures to:

- encourage behavioural change as set out in Policies 46 and 47;
- reduce the need to travel;
- restrict unnecessary car usage;
- manage the demand for travel;
- significantly improve the quality and quantity of public transport; and encourage cycling and walking for short journeys.

3.6.29 Policy 46 sets the Regional Approach to Behavioural Change. It states:

The Regional Planning Body, with Government, public and local bodies, and service providers, should work together to implement measures for behavioural change to encourage a reduction in the need to travel and to change public attitudes toward car usage and public transport, walking and cycling. Such measures should be co-ordinated with the implementation of other policies in the RTS and in Local Transport Plans and Local Development Frameworks, and should include:

- developing and enforcing Travel Plans for both new and existing developments to reduce traffic movements and safeguard transport infrastructure;
- travel awareness programmes;
- educational programmes;
- pilot projects promoting innovations in tele working and personalised travel plans;
- reducing speed limits where appropriate to increase safety for all road users; and
- the provision of safe routes for pedestrians and cyclists, convenient access to buildings and sufficient secure cycle parking in new developments.

3.6.30 Policy 48 sets out the Regional Car Parking Standards. It states:

Local Planning Authorities should apply the maximum amounts of vehicle parking for new development as set out in PPG13. In the Region's Principal Urban Areas, Growth Towns and environmentally sensitive rural areas, opportunities should be taken to develop more challenging standards based on emerging public transport accessibility work.

Car parking facilities in excess of the maximum standards in PPG13 should only be provided in exceptional circumstances.

In the Region's Principal Urban Areas and Growth Towns, net increases in public car parking not associated with development should only be permitted where it is demonstrated that:

- *adequate public transport, cycling or walking provision cannot be provided for where a shortage of short stay parking is the principal factor detracting from the vitality and viability of an area; or*
- *excessive on-street parking is having an adverse effect on highway safety or residential amenity which cannot be reasonably resolved by other means; or*
- *the nature of new car parking can shift from long stay spaces to high quality short stay provision; or*
- *it is linked to public transport provision, for example as part of a park and ride scheme.*

3.6.31 Section 4 addresses the Sub-Regional Strategy which identifies a Sub-Regional Core Strategy, and Objectives, and a series of Sub- Regional priorities.

3.6.32 The Sub-Regional Core Strategy for the Three Cities in the Vision set out at paragraph 4.2.9. The Vision is:

The Three Cities Sub-area will be an area where the principles of sustainability are implemented through new development and regeneration. This will involve the significant strengthening of the complementary roles of the 3 Principal Urban Areas by providing new jobs, homes, services, community facilities and green and environmental infrastructure in and around them. The role of Sub-Regional Centres will be maintained through appropriate development, and the needs of other settlements requiring regeneration will be met in a sustainable way. Natural and cultural assets will be protected and enhanced.

3.6.33 Paragraph 4.2.10 sets out the Sub-Regional Objectives, as follows:

- *To maximise the contribution of previously developed land and buildings, whilst ensuring adequate open space;*
- *To recognise the inter-connectivity between the 3 PUAs in reducing the need to travel and the reliance on car-based transport by integrating land use and transport planning taking account of the committed transport investment;*
- *To maximise the opportunities afforded by growth to facilitate the regeneration of communities to reduce social exclusion;*
- *To minimise the impact of development on the coalescence of settlements and on the more sensitive parts of the fringes of the Principal Urban Areas;*
- *To provide high quality employment land and premises which meets the needs of growth sectors particularly those which are high value and knowledge-based;*
- *To ensure that the 3 PUAs and Loughborough capture the economic benefits of East Midlands Airport;*

- *To provide green infrastructure for existing and expanding communities, including access to green space that increases biodiversity, promotes healthy lifestyles and can be used for formal and informal recreation and educational purposes;*
- *To provide the social (e.g. primary, secondary, further and higher education, health and social care) and environmental (e.g. water supply and treatment) infrastructure in accordance with current deficits and additional demands;*
- *To maximise the opportunities provided by the structure of the Sub-area to manage and reduce demand for resources;*
- *To take advantage of the scale of growth to provide opportunities for renewable energy in the Sub-area.*

3.6.34 Policy Three Cities SRS 4 sets out policy relating to Employment Land. It states:

In reviewing employment land allocations in the Sub-area, Local Planning Authorities should have regard to Policy 20 and to the following factors:

- *the need to provide for the regeneration of deprived communities;*
- *the need to promote local employment opportunities that will reduce out commuting; and*
- *opportunities to address the green infrastructure deficit in the Sub-area.*

Derby & Derbyshire Waste Local Plan

3.6.35 The Derby & Derbyshire Waste Local Plan (DDWLP) was adopted in March 2005. It is now due for replacement in the form of new-style Waste Development Framework. In December 2008, prior to the preparation of draft submission documents the Councils abandoned the preparation of its Waste Development Document following a review by the Planning Officers Society Enterprises and legal advice, primarily, that in the absence of a suitably adopted Waste Core Strategy. Accordingly, in January 2009 preparation of a Waste Core Strategy DPD was commenced.

3.6.36 The DDWLP provides land-use policies for managing waste development in Derby and Derbyshire.

3.6.37 In September 2007, the Secretary of State issued a Direction to 'save' certain policies of the Derby & Derbyshire Waste Local Plan 2005. The Direction did not 'save' policy W1a as it is superseded by the policy of the PPS10. The DDWLP policies that were 'saved' and are considered relevant to the proposed development are set out in the following paragraphs:

3.6.38 Policy W1b relates to the Need for Development. It states:

“Waste development will be permitted if the development would help to cater for the needs of the local area, in terms of quantity, variety and quality, as part of an integrated approach to waste management.

Waste development catering primarily for the needs of other areas will be permitted only if:

- *the development would satisfy a need which could not realistically be met closer to the source of the waste; and*
- *the development would contribute to an integrated system of waste management”.*

3.6.39 Policy W2 relates to Transport Facilities. It states:

“Waste development which would be likely to result in an overall significant increase in the number or distance of waste-related journeys for people, materials or waste or would not provide or utilise a choice of transport modes for people, materials or waste will not be permitted if there is a practicable, environmentally better alternative.”

3.6.40 Policy W4 relates to the Precautionary Principle. It states:

“Where there is reasonable cause for concern that a proposed waste development presents a threat of serious or irreversible damage to the environment or to the use or enjoyment of land, the development will be not be permitted unless:

- *conditions can be imposed or legal agreements made to ensure that precautionary measures are taken to minimise and seek to prevent such damage; and*
- *the risk of such damage is outweighed by the potential benefits of the development.”*

3.6.41 Policy W5 relates to Identified Interests of Environmental Importance. It states:

“Proposals for waste development which might affect identified interests of environmental importance will be assessed in the light of:

- *the level of protection merited by the character and status of the interests; and*
- *the likely impact of the development on the interests.*

Waste development will be permitted only if, in the context of the assessment, the development would not materially harm the identified interests.”

3.6.42 Policy W6 relates to Pollution and Related Nuisances. It states:

“Waste development will be permitted only if the development would not result in material harm caused by contamination, pollution or other adverse environmental or health effects to:

- people or communities;*
- the site of the development;*
- nearby land uses; or*
- the wider environment.”*

3.6.43 Policy W7 relates to Landscape and Other Visual Impacts. It states:

“Waste development will be permitted only if:

- the appearance of the development would not materially harm the local landscape or townscape and would respect the character and local distinctiveness of the area; and*
- the development would be located and designed to be no larger than necessary and to minimise its visual impact on or to improve the appearance of the townscape or landscape.”*

3.6.44 Policy W8 relates to the Impact of the Transport of Waste. It states:

“Waste development will be permitted only if:

- the methods and routes of waste transport will not cause significant disturbance to the environment, people or communities;*
- the transport network is adequate to accommodate the traffic which would be generated; and*
- the proposed access arrangements and the impact of the traffic generated will not be detrimental to road safety.”*

3.6.45 Policy W9 relates to the Protection of Other Interests. It states:

“Waste development will be permitted only if the development would not affect other land uses to the extent that it would materially impede or endanger the social or economic activities or interests of the community.”

3.6.46 Policy W10 relates to Cumulative Impacts. It states:

“Proposals for waste development will be assessed in the light of the cumulative impact which they and other developments would impose on local communities, concurrently or successively.

Waste development will be permitted only if the development would not result in significant and detrimental cumulative impact on the environment of those communities.”

City of Derby Local Plan

3.6.47 The application site for the proposed development falls within the CDLP area. The CDLP was adopted in January 2006, and in January 2009 the Secretary of State issued a Direction ‘saving’ most of its policies. The CDLP ‘saved’ policies relevant to the proposed development are set out in the following paragraphs.

3.6.48 Policy GD2 requires development to protect and enhance the environment. It states:

“Development should protect, and where possible enhance, the City’s environment, its natural resources and its built heritage. Full regard will be paid to the need to protect and enhance landscape character, local distinctiveness and community identity. Existing landscape features such as woodland areas, trees, hedgerows, ponds and buildings of interest should be retained where possible and incorporated into the overall design.”

3.6.49 Policy GD3 requires consideration of flood risk. It states:

“Except where satisfactory compensatory measures are provided to off-set any potential adverse effects of development on the water environment and associated lands, planning permission will not be granted for development which:

- a. lies within undefended areas at risk of flooding;*
- b. would create or exacerbate flooding elsewhere;*
- c. results in the loss of natural floodplain;*
- d. would impede access to a watercourse for maintenance or flood defence purposes;*
- e. does not provide for the adequate management of surface run-off using sustainable drainage principles, unless it can be demonstrated that their use is inappropriate.”*

3.6.50 Policy GD4 requires a positive contribution through urban design and sets out considerations. It states:

“The City Council will only permit development which makes a positive contribution to good urban design. Proposals should meet the following objectives:

- a. Preserve or enhance local distinctiveness and take account of any topographical or other features;*
- b. The proposal should respect the urban grain of the surrounding area in terms of its scale, layout, density, height, massing, architectural style and building types, materials and landscaping;*
- c. Provide a road network designed to reduce the speed of traffic, traffic congestion and encourage safe pedestrian and cycle movements both within the site and into and out of it;*
- d. Facilitate journeys made by foot, cycle and public transport rather than by private car;*
- e. Create an attractive environment, including open spaces which in larger schemes link together to create an area with a clear identity and structure.*

Development proposals for significant or sensitive sites should be accompanied by a design statement.”

3.6.51 Policy GD5 requires a satisfactory level of amenity to be demonstrated and sets out criteria: it States:

“Planning permission will only be granted for development where it provides a satisfactory level of amenity within the site or building itself and provided it would not cause unacceptable harm to the amenity of nearby areas. In considering harm, the Council will consider the following:

- a. Loss of privacy;*
- b. Overbearing (massing) effect;*
- c. Loss of sunlight and daylight;*
- d. Noise, vibration, smells, fumes, smoke, soot, ash, dust or grit;*
- e. Air, water, noise and light pollution;*
- f. Hazardous substances and industrial processes;*
- g. Traffic generation, access and car parking.”*

3.6.52 Policy GD6 requires development not to prejudice the development of other sites and sets out considerations. It states:

“Planning permission will only be granted for development provided it does not prejudice the development potential of any land with planning permission or land allocated for development in this Local Plan or a Local Plan of an adjacent local planning authority. In particular, the Council will ensure that:

- a. The nature and scale of development is fully compatible with other development planned in the vicinity;*
- b. Access opportunities are protected;*
- c. The infrastructure provided as part of a new development is capable of linkage to infrastructure required for the development of adjoining land.”*

3.6.53 Policy GD7 requires the comprehensive development of sites. It states:

“Planning permission will only be granted where a comprehensive and co-ordinated approach to development can be demonstrated.

In particular the City Council will seek to ensure that the density, layout and design of roads, buildings and open space is comprehensively phased and implemented within identified development sites.

The Council will also seek to ensure that timescales for providing necessary infrastructure are closely related to needs generated by the development and its occupants.”

3.6.54 Policy GD8 requires proposals to provide necessary infrastructure, and sets out considerations. It states:

“New development will make provision for necessary and appropriate infrastructure directly related to the development proposed, including pedestrian, cycle and public transport facilities and services, traffic management measures, road improvements, water, sewerage and surface water drainage, recycling facilities; and other utilities and social infrastructure such as primary and secondary schools, health and community facilities, including public space, sport and recreation. This will include both on-site requirements related to the proposed use and to off-site requirements needed to avoid placing additional burdens on the existing community.

Where appropriate, developer contributions will be pooled to allow infrastructure to be funded in a fair and equitable way.”

3.6.55 Policy EP9 allocates the site for uses falling within Use Classes B1, B2, and B8, and for Community Uses. It States:

“The City Council has identified the following sites for business and industrial development. These offer opportunities for a range of investment, from small and medium enterprises to larger single users.

On all sites major office development will be subject to Policy EP10.

In order to encourage the establishment of small industrial firms, the City Council will welcome the provision of small scale development, including starter units and workshop accommodation.

Planning permission will be granted for the uses specified below. Sites suitable for business use (B1):

a. *0.6 hectares at Harvey Road.*

Sites suitable for business, industrial, storage and distribution uses (B1, B2 and B8):

b. *5.3 hectares at Osmaston Park Road;*

c. *3.3 hectares at Station Road, Spondon;*

d. *3.0 hectares at Nottingham Road, Spondon;*

e. *2.6 hectares at Wilmore Road, Sinfin – subject to Policy E14;*

f. *2.1 hectares at Station Road, Spondon;*

g. *2.0 hectares at Nottingham Road, Spondon;*

h. *0.6 hectares at Mansfield Road;*

i. *0.6 hectares at Alfreton Road.*

Site suitable for a combination of business, industrial, storage and distribution uses (B1, B2 and B8) and community uses:

j. *4.2 hectares at the Sinfin Tannery site, subject to satisfactory remediation of any contamination, to the satisfactory treatment of the boundary of existing residential properties and provided that the need for community uses is established.*

3.6.56 Policy EP12 sets out the criteria for determining applications for alternative uses on employment allocations. It states that:

Planning permission will be granted for alternative uses provided that;

- a. *The proposal would not lead to a qualitative or quantitative deficiency in the supply of employment land;*
- b. *The proposal would not be incompatible with established employment activity;*
- c. *The proposal would not decrease the development potential of nearby land identified for business and industrial use.*

In assessing such proposals, regard will be had to the employment generating potential of the alternative use.

3.6.57 Policy EP14 sets out a range of criteria for determining employment proposals with potential off-site effects. It states:

Planning permission will be granted for the following:

- a. *Development which involves the storage, handling or distribution of explosive, highly flammable, toxic or corrosive materials;*
- b. *Development which involves dangerous and / or noxious processes;*
- c. *The bulk storage of materials (such as foodstuffs, domestic waste and timber) which might give rise to environmental amenity or health problems; and*
- d. *Development which would give rise to high levels of noise or other disturbance.*

Provided it can be demonstrated that:

1. *There would be no significant risk or detriment to the health, environment or amenity of nearby residents, employees or others in the area;*
2. *There would be no significant risk of escape of dangerous, pollutant or malodorous material;*
3. *Existing and future business activity in the area would not be unduly inhibited; and*
4. *The proposal is sited well away from residential or other environmentally sensitive areas and within one of the existing or proposed industrial and business areas as defined on the Proposals Map.*

3.6.58 Policy E4 sets out that development should not adversely affect sites of national and local nature conservation importance and requires analysis of likely effects and details of mitigation. Its states that:

“Development will not be permitted if it is likely to destroy or adversely affect, either directly or indirectly, sites of national importance for nature conservation, including the Boulton Moor SSSI.

Development will not be permitted which does not take proper account of the need to protect from adverse impact Wildlife Sites, including Local Nature Reserves and sites identified in Appendix B taking into account their relative significance.

The City Council will require planning applications likely to affect any of the above sites to be accompanied by an analysis of the likely effects of the proposal on their nature conservation value and how these have been minimised. The City Council will seek to negotiate appropriate mitigating measures such as compensation, enhancement or long term management, for any damage likely to occur.”

3.6.59 Policy E5 requires the retention of nature conservation features unless avoidable. It states that:

“Applications for new development on sites which have features of nature conservation interest will only be approved where provision is made for the retention of those features. These will include mature trees, established hedgerows and shrub areas, water features and geological resources, and other Biodiversity Action Plan priority habitats and priority species. Where the loss of significant features is unavoidable the City Council may require by condition, or seek to negotiate a planning obligation to secure, suitable mitigation to compensate for that loss.”

3.6.60 Policy E7 sets out the considerations for determining applications having an affect on protected species. Its states that:

“Development which would materially affect sites supporting wildlife species protected by law will only be permitted where:

a. Proposals are made to minimise disturbance to, and to facilitate the survival of, the affected species on the site; or,

b. An offer of the creation of alternative habitats is made, supported by a planning obligation, which would sustain the current levels of the species population.”

3.6.61 Policy E9 sets out that development which would have an unacceptable affect on trees which make a contribution to the amenity of the area will not permitted. It states that:

“Planning permission will not be granted for development which would seriously damage, destroy or compromise the long term retention of individual trees, groups of trees or areas of woodland which contribute to the amenity of an area. Conditions will be imposed on outline and full planning permissions to secure the protection of trees before and during development.

The City Council will also declare new Tree Preservation Orders on appropriate trees and groups of trees.”

3.6.62 Policy E10 requires development to have regard to the need to reduce the use of energy and supports renewable energy subject to criteria. It states:

“Development proposals will have full regard to the need to reduce the net use of energy and shall:

- Ensure that construction methods and materials maximise opportunities for using recycled materials, conserving energy and generating energy from renewable sources such as solar energy.*
- Ensure that the siting, design, layout and orientation of buildings has full regard to the need to reduce energy consumption and will facilitate use of renewable energy sources.*
- Minimise the emission of greenhouse gases.*

Planning permission will be granted for development required in connection with the generation of renewable energy provided that:

- The proposal would not have a material adverse effect on either the natural or built environment;*
- The proposal would not inhibit the development potential of and allocated in the Plan for other uses;*
- The benefits of the scheme in securing energy from a renewable source outweigh any adverse effects.*

In considering applications, full weight will be given to the extent to which proposals would help to reduce emissions of greenhouse gases.”

3.6.63 Policy E12 sets out that development will not be granted for polluting development where it would have unacceptable impact on health and amenity. It states:

“Planning permission will not be granted for development which would generate pollutants that would be unacceptably detrimental to the health and amenity of users of the development, users of adjoining land or the environment; or where the level of existing pollutants would be unacceptably detrimental to the health and amenity of users of the proposed development.”

3.6.64 Policy E13 sets out the criteria for determining applications for proposals on contaminated land, and the requirement for assessment and remediation. It states:

“Planning permission for development on contaminated or unstable land will be granted provided that the City Council is satisfied that the proposal would not cause adverse or hazardous effects and that any necessary remedial measures are carried out before development starts. Where it is known or suspected that land is contaminated, or unstable to an extent which would adversely affect the proposed development or the surrounding area, an independent investigation to the satisfaction of the City Council to identify remedial measures required to deal with the hazards, will normally be required before the application is determined.”

3.6.65 Policy E14 requires new development near to Roll Royce at Sinfin not to prejudice their operations at the site. It states that:

“Planning permission will only be granted for development close to the following sites provided it is compatible with their reasonable operation and will not result either in unreasonable pressure to curtail their operation, or in new costly conditions or restrictions being imposed:

- 1. Rolls Royce test beds at Sinfin;*
- 2. Derby sewage works at Raynesway;*

Conditions may be imposed or legal agreements sought, requiring developments near the above sites to include permanent measures to protect future occupiers from potential nuisances from the above sites, or to limit future changes of use.”

3.6.66 Policy E17 outlines the need for landscaping and the objectives of landscaping schemes. It states that:

“In granting planning permission, conditions will be applied requiring the undertaking of landscaping schemes where these are necessary to meet the following objectives:

- 1. To assimilate the development into its local environment and surroundings;*
- 2. To screen obtrusive or unsightly features and minimise adverse visual impact;*
- 3. To retain and incorporate existing natural features such as trees and hedges; or*

4. To provide visual and ecological links between important environmental resources such as green wedges, public open space, sites of natural history importance and wildlife corridors.”

3.6.67 Policy E21 sets out the need for archaeological assessment and considerations. It states that:

“Planning permission will not be granted for development which is likely to adversely affect nationally important archaeological remains, whether scheduled or unscheduled, or their settings.

Where archaeological sites or monuments of more local importance, and their settings, are likely to be adversely affected by development, physical preservation in situ will be the preferred option and applications may be refused.

Within the Archaeological Alert Areas, or other areas of archaeological potential where the City Council considers that a proposed development will affect remains of archaeological significance, applicants will be required to provide the results of an archaeological evaluation before the planning application is determined in order to enable an informed and reasonable planning decision to be made.

The evaluation should comprise:

- a. an archaeological assessment of the archaeological impact of the proposed development, which may include a field evaluation of the site, undertaken in accordance with a written specification agreed with the city Council; and*
- b. a written mitigation strategy prepared to the satisfaction of the City Council demonstrating how the impact of the proposed development on archaeological remains will be alleviated.*

Where, following an archaeological assessment, the Council considers that the need for development outweighs the need for preservation in situ of the archaeological remains, conditions will be attached to planning permissions, or developers required to enter into legally binding agreements with the City Council, to secure an appropriate programme for the investigation and recording of archaeological remains prior to and during development, and for the subsequent analysis and publication of results.

Where appropriate, the City Council will seek to secure the enhanced management and preservation of archaeological sites and their settings.

3.6.68 Policy E23 requires a high standard of design and outlines considerations. It states:

“The City Council will expect proposals submitted for planning permission to be of a high standard of design and to complement the surrounding area in which the development would be located. The City Council will provide clear indications of the Planning Authority’s design expectations by means of specific design guidance for key sites. The guidance will concentrate on broad matters of overall scale, density, massing, height, landscape, layout and access.”

3.6.69 Policy E24 sets out the need to consider community safety and crime prevention and the need to incorporate measures into design. It states:

“New development will provide a safe and secure environment and take full account of the need for community safety and crime prevention measures. In considering development proposals, the City Council will have particular regard to their design, layout, lighting arrangements, landscaping proposals and the extent to which they encourage lively, attractive and welcoming environments.”

3.6.70 Policy T1 sets out the consideration of transport implications and the need for transport assessments and travel plans. It states:

“In considering applications for planning permission, the City Council will seek to ensure that the proposed development will not result in increased traffic congestion, have a detrimental effect on the local environment or lead to a reduction in road safety.

Any development likely to have significant transport implications will not be granted planning permission unless the applicant submits a Transport Assessment identifying potential impact and measures to alleviate any adverse effects of the development.

Examples of such measures could include;

- *Measures to assist access to the site on foot or by cycle;*
- *Measures to assist access to the site on foot or by powered two wheelers and cycles;*
- *Provision of or contributions towards public transport infrastructure;*
- *Partnership with a local bus operator;*
- *Measures to minimise the environmental impact of goods vehicle movements;*
- *Traffic management measures which could help to overcome consequent problems of, for example, traffic congestion, through-traffic in residential areas, road traffic accidents or on street parking.*

Travel Plans should be submitted alongside planning applications that are likely to have significant transport implications, and where they are within or near to air quality management areas.

The City Council will seek to negotiate with developers to secure such arrangements by conditions or by obligation under Section 106 of the 1990 Act.”

3.6.71 Policy T4 sets out the policy for parking and servicing. Its states:

The City Council will only grant permission for development that makes safe and appropriate provision for:

- a. Access to and egress from the development by pedestrians, cyclists, powered two-wheelers, public transport users and the private car;*
- b. Car, powered two-wheelers and cycle parking, in accordance with the parking standards set out in Appendix A;*
- c. Vehicle servicing and access arrangements clear of the highway.*

In areas with good access by modes of transport other than the car, lower levels of on-site parking will be sought. These locations will include the Central Area of the city and the District Shopping Centres as defined on the inset maps.

Planning permission for more than the maximum standard will only be granted if a Transport Assessment demonstrates that a lower level of parking is not achievable and that serious road safety or amenity problems would otherwise arise.

3.7 Emerging Policy Framework

Derby & Derbyshire Waste Development Framework

Waste Core Strategy DPD

3.7.1 In March 2009 preparation of the Derby & Derbyshire Waste Core Strategy DPD will commence. The Waste Core Strategy (WCS) will establish a spatial vision and objectives for waste planning until 2030 and a strategy for delivering the objectives, including core policies and the identification of strategic sites. The Minerals and Waste Development Scheme (Feb 2009) programmes the WCS to be adopted in September 2012.

Waste Implementation SPD

3.7.2 In July 2009 preparation of the Derby & Derbyshire Waste Implementation SPD will commence. The Waste Implementation SPD will provide greater detail on how the policies in the WCS will be implemented. It will consider to what extent the existing development control

policies of the Derby City Council need elaboration to ensure that they relate clearly to waste development. It will provide more site specific detail than the WCS. It will provide advice to potential applicants for planning permission, particularly with regard to the strategic sites identified in the WCS, but will not identify any new sites. The Minerals and Waste Development Scheme (Feb 2009) programmes the Waste Implementation SPD to be adopted in September 2012.

City of Derby Local Development Framework

Core Strategy DPD

- 3.7.3 In September 2005 work commenced on the preparation of the Core Strategy DPD and will set out the vision, key objectives and the spatial strategy for meeting known and anticipated non- minerals and waste development requirements to 2026, including the number of dwellings required. It will need to be consistent with the new RSS and major strategies of the City Council such as the Community Strategy.
- 3.7.4 It will include a key diagram to show broad locations (not specific sites) to meet specific requirements, key transportation elements, main patterns of movement and relationships to other strategies & and with other local authority areas. It will not include development control policies which will be prepared separately. The Local Development Scheme programmes the Core Strategy for adoption in June 2010.

Sites for More Sustainable Communities DPD

- 3.7.5 In September 2007 work commenced on the preparation of the Sites for More Sustainable Communities DPD (SFMSC). The SFMSC will be produced jointly with South Derbyshire District Council and Amber Valley Borough Council and will identify sites for, and to guide the development of housing, employment and supporting facilities, public open space, other infrastructure and to establish affordable housing needs to meet the City's needs for the period 2011 to 2026. The Local Development Scheme programmes its adoption for August 2011.