

# **Report to Bedford Borough Council, Central Bedfordshire Council and Luton Borough Council**

**by Geoffrey Hill BSc DipTP MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Date: 4<sup>th</sup> October 2013**

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PLANNING AND COMPULSORY PURCHASE ACT 2004 (AS AMENDED)

SECTION 20

## **REPORT ON THE EXAMINATION INTO**

### **MINERALS AND WASTE LOCAL PLAN: STRATEGIC SITES AND POLICIES**

**(Minerals and Waste Plan for Submission incorporating  
Main Modifications and Additional Modifications)**

Document submitted for examination on 10 August 2012

Examination hearings held between 4 December 2012 and 24 January 2013,

and between 30 July and 8 August 2013

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## Abbreviations used in this Report

AWP	Aggregates Working Party
B&LM&WLP	Bedfordshire & Luton Minerals & Waste Local Plan 2005
C&I	Commercial and Industrial waste
CHP	Combined heat and power
IMM	Inspector's Main Modification
JAs	Joint Authorities – a short-hand term used to refer to the three local authorities which have prepared this Local Plan; Bedford Borough Council, Central Bedfordshire Council and Luton Borough Council
LP	Local Plan
m	metres
MSA	Minerals Safeguarding Area
MSW	Municipal Solid Waste
mt	million tonnes
MWDF	Minerals and Waste Development Framework for Bedford Borough Council, Central Bedfordshire Council and Luton Borough Council
the Plan	Bedford Borough Council, Central Bedfordshire Council and Luton Borough Council - Minerals and Waste Local Plan: Strategic Sites and Policies
PPS10	Planning Policy Statement 10: Planning for Sustainable Waste Management + Companion Guide to PPS10
RDF	Refuse derived fuel
RRF	Resource Recovery Facility
SA	Sustainability Appraisal
SRF	Solid recovered fuel
TAB	Technical Advisory Body
NPPF	National Planning Policy Framework

## **Non-Technical Summary**

This report concludes that the Minerals and Waste Local Plan: Strategic Sites and Policies provides an appropriate basis for the planning of Bedford Borough Council's, Central Bedfordshire Council's and Luton Borough Council's administrative areas over the next 15 years providing a number of modifications are made to the Plan. The Joint Authorities have specifically requested that I recommend any modifications necessary to enable them to adopt the Plan.

All of the modifications to address this, except one, were proposed by the Joint Authorities, and I have recommended their inclusion after full consideration of the representations from other parties on these issues.

The modifications can be summarised as follows:

- change the title of the Plan and the nomenclature within it to accord with the Local Plan Regulations 2012;
- inclusion of a policy to actively support sustainable development;
- re-casting of some policies to give more positive support for proposed development and to support sustainable waste management;
- deletion of one allocated landfill site;
- clarification of the green belt status of one site;
- clarification or elaboration of some terms used in the Plan and its Glossary.

The one recommended modification not proposed by the Joint Authorities – relating to the allocated site for waste recovery at Thorn Turn - is explained fully in the text of this report.

## Introduction

1. This report contains my assessment of the Minerals and Waste Local Plan: Strategic Sites and Policies<sup>1</sup> in terms of Section 20(5) of the Planning and Compulsory Purchase Act 2004 (as amended). It considers whether the Local Plan (LP) is sound and whether it is compliant with the legal requirements. The National Planning Policy Framework (paragraph 182) makes clear that to be sound a local plan should be positively prepared, justified, effective and consistent with national policy.
2. The starting point for the Examination is the assumption that the Joint Authorities (JAs) – that is, Bedford Borough Council, Central Bedfordshire Council and Luton Borough Council - have submitted what they consider to be a sound plan. The basis for my Examination is the version dated May 2012 and submitted 10 August 2012.
3. An initial version of the Plan, entitled *Minerals and Waste Core Strategy Plan for Submission* was published for consultation purposes in November 2011, and representations were received. In response to that consultation the JAs accepted that changes should be made to the Plan. Revisions were put forward as either “Main Modifications” or “Additional Modifications”<sup>2</sup>, and carried through into a subsequent version entitled *Minerals and Waste Core Strategy Plan for Submission with Main Modifications and Additional Modifications*, dated May 2012. For the most part, the Additional Modifications were factual updates, corrections of minor errors or other minor revisions in the interests of clarity or which are consequent to the introduced Main Modifications.
4. I had, therefore, two versions of the Plan before me for consideration at the Examination - the November 2011 Submission version and the May 2012 version with Main and Additional Modifications.
5. This had given rise to a degree of confusion amongst the representors as to who had a duly made representation for me to consider at the Examination. This was resolved by the JAs contacting everyone who had made a representation to the November 2011 version and advising them that, unless they have specifically withdrawn their representation in response to the May 2012 version, it would be regarded as being a ‘live’ duly made representation. That is, representations made by groups or persons to the November 2011 version, and whose concerns had not been resolved by the proposed changes in the May 2012 version, were carried forward by the JAs and placed before me for consideration, together with the representations made in response to the May 2012 version.
6. However, one consequence of having two submission versions before me is the problem of being able to confidently refer to specific policy numbers - which are different between the two versions. Also, passages of the text of the Plan(s) have inconsistent paragraph numbering between the two documents -

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<sup>1</sup> The document was originally called the Minerals and Waste Core Strategy Development Plan Document, but is proposed to be renamed to accord with the 2012 Local Plan Regulations.

<sup>2</sup> See my comments on the JA’s categorisation of proposed changes at paragraphs 19 – 25 below.

or it is entirely absent from parts of the May 2012 version. In this report, unless specifically stated, my comments refer to the May 2012 version where Policy and paragraph numbers are cited.

7. During the Examination I identified a numbers of areas of concern relating to the soundness of the Plan which have led to proposed changes being put forward by the JAs. My report deals with the changes that are needed to make the LP sound and legally compliant. In accordance with section 20(7C) of the 2004 Act the Joint Authorities requested that I should recommend any modifications needed to rectify matters that make the Plan unsound/not legally compliant and thus incapable of being adopted<sup>3</sup>. All except one of the modifications that go to soundness have been subject to public consultation and, where necessary, Sustainability Appraisal (SA).
8. The one exception (IMM 05)<sup>4</sup> is essentially a drawing together of points which had been aired during the Examination but which, for clarity, I consider need to be specifically set out in the Plan. The recommended modification raises nothing new and the points have been in the public domain during the Examination; that is, in my view it is unlikely to adversely affect any interested parties. In which case it is not necessary to publicise the recommended modification before moving to adopt the Plan.
9. The main modifications recommended by me are set out in the Appendix to this report.
10. Further changes are necessary, largely as consequential adjustments as a consequence of the publicised changes. As these do not bear upon the soundness of the Plan and have been drawn up in response to representations made and the discussion at the hearing sessions, it is not necessary for them to be open to wider public consultation or to be considered under an SA exercise. The proposed changes which are not identified by me as main modifications can be regarded as 'additional modifications' under Section 20 of the Planning and Compulsory Purchase Act 2004, as amended, which can be made by the JAs without endorsement from me.

## **Assessment of Duty to Cooperate**

11. Section s20(5)(c) of the 2004 Act requires that I consider whether the Council complied with the duty imposed on them by section 33A of the 2004 Act in relation to the Plan's preparation.
12. The Plan has been prepared jointly by Bedford Borough Council, Central Bedfordshire Council and Luton Borough Council. These three local authorities are unitary authorities who are waste and minerals planning authorities as well local planning authorities for (amongst other matters) housing, economic and social development, and protection of the built and natural environment. There has been, therefore, close cooperation in the formulation of the policies

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<sup>3</sup> See comments on categorisation of proposed changes and which are specifically recommended by me at paragraphs 19-25 below.

<sup>4</sup> See paragraph 23 below for explanation of the IMM categorisation.

of this LP, with the preparation and implementation of the local plans of the three unitary authorities which cover these other planning issues.

13. Preparation of the *Minerals and Waste Local Plan: Strategic Sites and Policies* has included consulting all the bodies prescribed for the purposes of Section 33A(1)(c), as given at Regulation 4. Other relevant bodies have also been consulted, including neighbouring minerals and waste planning authorities, the Aggregates Working Party (AWP), the Technical Advisory Body for waste (TAB), and the Greater London Authority. Liaison with the Mayor of London was necessary insofar as this LP is expected to make provision for the disposal of a quantity of residual treated waste from London. Through the TAB, account has been taken of the anticipated net movement of waste within the Plan area and between neighbouring authorities.
14. Views expressed in the consultations have been taken into account in the preparation of the LP. Quantities of aggregate minerals and sites for extraction have had due regard to the views expressed by the consultees. Similarly, account has been taken of the views expressed by the Mayor of London on receiving wastes for disposal. Accordingly, the duty to cooperate has been met.

## Assessment of Soundness

### Preamble

15. The LP has been prepared to accord with the Minerals and Waste Local Development Framework for Bedford Borough, Central Bedfordshire and Luton Borough Councils (MWDF).
16. The relevant broader planning context for minerals and waste for this LP is provided through joint forums for industry and local authorities engaged in minerals production and waste and management. These forums take a broader view across several neighbouring or otherwise associated minerals and waste planning authorities. Guidance on waste management and disposal capacity is drawn up in consultation with the TAB, as advised in the Companion Guide to Planning Policy Statement 10 (*Planning for Sustainable Waste Management - PPS10*). For minerals production, guidance for a wider geographical area than just the historic county of Bedfordshire is drawn up in consultation with the AWP, as advised in Guidance on the Managed Aggregate Supply System<sup>5</sup>. Use of the AWP's figures as the context for minerals planning is, therefore, entirely appropriate.
17. As a consequence of my initial consideration of the representations the JAs asked for the Examination to be suspended whilst parts of the LP were reviewed and proposed changes drawn up. In addition, changes were put forward to take account of the publication of the National Planning Policy Framework (NPPF) and to acknowledge the need to offer support for sustainable development. Proposed modifications were published for public consultation in April 2013.

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<sup>5</sup> *Guidance on the Managed Aggregate Supply System*: Department for Communities and Local Government, October 2012

18. This report takes into account responses to the consultation exercises both for the initial deposit periods and for the various proposed changes. As well as having regard to all of the written representations, hearing sessions were held in December 2012 and January 2013, with further hearing sessions in July and August 2013 to consider points raised in response to the proposed changes.

### **Categorisation of proposed changes**

19. The proposed changes published in April 2013 were variously categorised by the JAs as Proposed Modifications (with a 'P' numbering), Other Modifications (with an 'O' numbering, and Modifications to Nomenclature (with a 'N' numbering). Each of these categories was presented as a self-contained set of tables. Within these tables the JAs had noted whether they considered the proposed change is to be regarded as a 'Main' or an 'Additional' modification.
20. The majority of the proposed changes put forward by the JAs deal with minor points of clarification or correction of slips and errors. These can be regarded as 'Additional Modifications' – as usually accepted in the context of Section 20 of the Planning and Compulsory Purchase Act 2004. However, some of the proposed changes address points where the LP as submitted could have been found to be unsound. These more fundamental changes are ones conventionally regarded as 'Main Modifications' in the context of Section 20 and, in order for the LP to be found sound, require to be endorsed by me through my recommendations in this report.
21. The categorisation applied by the JAs into 'Main' or 'Additional' modifications in the tables of published proposed changes does not reflect my own view on whether all of these proposed changes can be regarded as having a direct bearing on the soundness of the Plan, such that all of the 'Main Modifications' as categorised by the JAs require endorsement by me.
22. A further confusion over what can be regarded as proposed changes arising during the course of the Examination arises from inclusion within the May 2012 submission version of passages which the JAs had called 'Main Modifications' - as noted above (paragraph 3). These were open to public consultation during June and July 2012 and representations on these (where relevant) have contributed to the subject of this Examination. These do not constitute proposed modifications which are a consequence of the Examination process and which need separate commentary from me – they are part of the submission version of the Plan, rather than a proposed change to the submission version.
23. In order to make clear which of the proposed changes are endorsed by me as Main Modifications in the terms envisaged by Section 20 (that is, changes which I consider address fundamental points of soundness), these are identified as Inspector's Main Modifications - **IMM** (in bold text) - in this report.
24. Amongst the proposed changes put forward in April 2013 was a re-configuration of the document to draw together a number of basic or context setting strategic policies relevant to both minerals and waste development (categorised as MWSP policies) and the re-naming of other policies as either WSP or MSP policies (from WCP and MCP policies), with some re-numbering to take account of the fact that some policies had now been converted into MWSP



policies and, in order to remove duplication, some policies had now been deleted. I do not see this reclassification, renumbering and deletion as matters which bear upon the four tests of soundness set out in NPPF, and such changes can be regarded as 'Additional Modifications' which do not need my specific endorsement.

25. For the purposes of this report (which addresses the submission version of the Plan) I will refer to the policies by their original (May 2012) numbering, except where something entirely new has been introduced.

## Matters and Issues

26. Taking account of all the representations, written evidence and the discussions that took place at the Examination Hearings I initially identified eleven Matters upon which the soundness of the Plan depends.
27. Following the conclusion of the three consultation exercises on proposed changes to the Plan which were carried out whilst the Examination was suspended, I identified four further Matters for exploration. My conclusions on these are integrated with my discussion below of the original eleven Matters. Matter 13 covers a range of smaller points, which are not all addressed under a separate heading. Discussion of the various points under Matter 13 is indicated amongst the headings below with the sub-title 'Matter 13 (part)'.

### **MATTER 1. LEGAL and PROCEDURAL MATTERS (GENERALLY)**

28. The LP has been drawn up in conformity with the MWDF and the Local Development Scheme of October 2012, which looks to an adoption date of July/August 2013. Publicity for the Plan and any proposed changes has been carried out in accordance with the 2006 Statement of Community Involvement.
29. As noted above, the JAs have complied with the Duty to Cooperate as required by section 110 the Localism Act 2011 as it applies to section 33A of the Planning and Compulsory Purchase Act 2004.
30. A proposed change put forward by the JAs is to include a policy which gives clear support for sustainable development. This policy is based upon the Model Policy posted on the Planning Portal, adapted as necessary to meet the particular circumstances of this LP. I support the inclusion of this policy and recommend (subject to minor wording revisions) that the Plan be modified accordingly (**IMM 01**).
31. The versions of the Plan which were open to public consultation, including the proposed changes put forward between November 2011 and May 2012 were subject to Sustainability Appraisal (SA). Concerns were raised over the conclusions of the SA and whether those conclusions could be regarded as reliable indicators of the likely consequences of the Plan's proposals and where mitigation might be required.
32. The SA was carried out by a firm of independent consultants with a particular experience and expertise for SA. The objectives were developed in consultation with the JAs and the scoring system was calibrated in consultation

with the stakeholders, which included local interest groups and developers. Topics covered included possible impacts on health and living conditions of local residents. Whilst different scorings may have been used (and these inevitably would have been largely subjective), overall the methodology used in the SA represents a balanced approach to evaluating the various potential impacts and mitigations.

33. I am satisfied that the SA was carried out competently, professionally and impartially and that best good practice has been followed. I accept that the SA had due regard to the other local plans of the local authorities who are also signatories to this Minerals and Waste Local Plan. This would include the Bedford Borough Allocations and Designations Local Plan and its allocation of a major housing expansion at the Wixams.
34. Whilst at least one representor had concerns over the potential impact of the Plan's proposals on what are seen to be sensitive receptors, the Plan's policies and proposals are only an 'in principle' indication of what minerals and waste development may take place. Any future planning applications will be subject to detailed consideration of their possible effect on sensitive receptors having regard to the saved General Environment (GE) Policies in the Bedfordshire & Luton Minerals & Waste Local Plan 2005 (B&LM&WLP). Also it is likely that most strategic-level waste and minerals applications will fall within the provisions of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 and require an Environmental Statement to accompany the application to carefully assess likely impacts and identify effective mitigations. Furthermore, waste developments will be subject to additional controls imposed by an Environmental Permit issued by the Environment Agency.
35. Because the Plan was drafted prior to the publication of the Town and Country Planning (Local Planning) (England) Regulations 2012, the nomenclature used in the Plan does not conform to the current requirements. The JAs have put forward proposed changes to address this, such as changing the title of the Plan from a Core Strategy to a Local Plan, and revising references to the Proposals Map to refer instead to the Policies Map. I support these changes and recommend that the Plan be modified accordingly (**IMM 02**).
36. Since the Plan was submitted for examination, the Secretary of State has revoked the East of England Plan. Consequently, that plan no longer forms part of the policy context for this LP, and all references to the East of England Plan should be deleted. The JAs put forward proposed changes to address this point and a formal consultation was carried out on the implications of the revocation and how it would impinge upon the policies and proposals of this LP. I support the proposed changes and recommend that the Plan be modified accordingly (**IMM 03**).

## **MATTER 2. SCOPE OF TOPICS ADDRESSED IN THE PLAN and**

### **MATTER 12. CRITERIA TO ENSURE PROTECTION OF NEIGHBOURING OR SENSITIVE LAND USES**

37. A number of representations were made along the lines that the Plan does not give adequate coverage of a number of topics, including protection of heritage assets, climate change, lorry routing, encouragement for the use of

- alternatives to road transport, drainage and the groundwater environment. It was argued that without policies to cover these topics the Plan is deficient and would not offer adequate protection or safeguards for nearby residents, sensitive environments and ecological interests.
38. In response to representations made, at the Examination Hearings the JAs put forward a number of proposed changes to the policies in the Plan to offer more positive support for sustainable development and for development which would have greater regard to potential implications on climate change. I have commented elsewhere in this report on the introduction of positively worded policies and a policy to support sustainable development. I do not need to comment further here.
39. The fundamental consideration here is that the Plan only deals with strategic sites and policies; it is not a stand-alone or all-inclusive planning policy document. It has to be read together with other elements of the development plan which, in this case, includes policies in the district council local plans and the saved policies of the B&LM&WLP – in particular the General and Environmental (GE) Policies. These other development plan documents provide detailed policy coverage for the sorts of concerns noted above. This is specifically noted at paragraphs 1.5 and 1.6 of the Plan. In addition, matters such as protection of heritage assets, climate change, flood risk and drainage are given broad coverage in the NPPF. In which case, it would be unhelpful and potentially confusing if this LP were to repeat policy coverage which exists elsewhere.
40. For waste-related development there are additional protections for sensitive receptors. For both minerals and waste developments, local amenities, sensitive environments and ecological interests would be taken into account in a planning permission through planning conditions and Section 106 planning obligations. These are put in place to control the planning issues of appropriateness of the location, size of operation, site design, boundary treatment, landscaping, hours of operation and protection of the wider environment. For waste development, there is the additional control regime of environmental permitting, administered by the Environment Agency. Permitting is more concerned with pollution control on the site and how operations on the site might affect off-site health, water resources and the environment<sup>6</sup>.
41. Proposals for waste and minerals development are likely to require careful consideration of the possible implications of such a scheme for traffic generation, disturbance to local amenities arising from noise, dust, smell, lighting, environmental disturbance of habitats, disturbance of groundwater and pollution of air and ground water. It was suggested that the Plan should include a policy to require that all such applications should be supported by technical reports to address such concerns. I am satisfied that the JAs are well aware of such concerns and that, simply through the application of experience and best practice, information on these matters is routinely required when planning applications are made. Furthermore, as noted above (paragraph 34) waste and minerals applications may also be subject to

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<sup>6</sup> See paragraph 30 of PPS 10.

Environmental Impact Assessment where Regulations require information of this kind to be provided to support an application. I do not see it as necessary to include a policy in this plan to set out what is already established practice, and I do not see that the failure to include such a policy leads to the Plan being seen to be "unsound".

42. It was suggested that the LP should take a precautionary approach and that it may be prudent to include prescriptive 'buffer zones' of a fixed distance around minerals and waste sites. Whilst I can see the initial attraction in such an idea, it has the disbenefit of being crude and not necessarily correct or relevant to all sites. For some sites the degree of potential harm can be quite limited, particularly if ameliorative measures (noise insulation and suppressants, screening, dust controls, enclosed buildings with negative pressure ventilation, etc.,) are incorporated into the design of the site and its installations. In which case an extensive buffer zone would be inappropriate and needlessly sterilise land which might otherwise be put to use for other purposes. Conversely, another proposed scheme may not be susceptible to close controls and effective amelioration; in which case a buffer zone of a width which had been pre-determined in a policy could be insufficient, yet the scheme would be compliant with policy on that point.
43. Whilst the precautionary principle is laudable and one which may be supported in general terms - according to the evidence - there is a risk that a fully prescriptive regime would be needlessly restrictive and frustrate schemes which could go ahead entirely acceptably with appropriate controls and safeguards in place. The restrictions need to be proportionate and not skewed by concerns over risks which have a very low probability of arising. I agree with the JAs that it is far more useful and responsible to allow separation distances to be considered on a case-by-case basis, having regard to the nature of the scheme and the current availability and effectiveness of technical and management measures to control, reduce or suppress potential harm. Very relevant to this process will be responses from formal consultees at planning application stage, local representations and the views of elected representatives, based on sound planning grounds. This approach is already embodied in saved Policy GE 25.
44. Having said that, Policy WCP9 (proposed to be renumbered WSP 7) establishes a 250 metre (m) stand-off for open-air composting sites, and WCP13 sets a 400 m stand-off distance for waste water treatment works. These are particular types of development where experience has shown that such specified distances are appropriate. I do not see these policies as setting a precedent or requirement for prescriptive separation distances for other forms of minerals and waste developments. The JAs have introduced a proposed change to WCP13 (proposed to be renumbered WSP 11) to ensure that not only at newly proposed but also at existing waste water treatment works it is expected that a 400 m separation distance should be maintained, unless it can be shown that this would be unnecessary. I do not see this as a matter which impinges upon the soundness of the Plan, and it does not need me to specifically endorse it as a modification.
45. Whereas moving waste and minerals by means other than road transport might hold higher sustainability credentials, it would not be helpful for the Plan to include policies to require this where it would not be viable or practical. I

am content that saved B&LM&WLP Policy GE 22 offers adequate encouragement for such alternatives, and I do not consider that a different or stronger policy needs to be included in the LP.

46. Similarly, saved Policies GE 15 and GE 16 give clear detailed protection for listed buildings, conservation areas and other heritage assets. The commentary which accompanies each of the allocated sites in this LP draws attention to the proximity of heritage assets where appropriate, and the need to have due regard to these when coming forward with planning applications. I do not consider that additional protection for heritage assets is required in this LP in order to make it sound.
47. The saved policies from the B&LM&WLP are subject to the caveat set out at paragraph 215 of NPPF that the weight attributable to such saved policies will depend upon how consistent they are with NPPF. Nothing was identified during the course of the Examination which indicates the saved policies are notably divergent from the policies of NPPF. In which case, I do not consider that adopting this LP in its present form (subject to the recommended changes) would leave it ineffective in providing a sound development plan context to satisfactorily address the sorts of concerns raised.
48. The JAs have put forward other proposed changes which introduce additional references to climate change. I see these as being beneficial, but I do not see that the Plan would be unsound without them. In which case, I do not consider that it is necessary for me to specifically endorse the inclusion of these proposed changes.

### **MATTER 3. STRATEGIC OBJECTIVES**

49. The Plan has been drawn up around a range of strategic objectives, with a separate group of objectives for waste and another for minerals. However, both sets of objectives are very similar. As perhaps for all plans, not every major policy area is identified as an overarching objective, but I recognise that all such relevant concerns are, nonetheless, covered in this Plan's policies.
50. Whilst the Examination was suspended, the JAs took the opportunity to make a number of proposed changes to bring together what they see as the overarching strategic policies applicable to both minerals and waste development. This approach will give the Plan greater focus and eliminate a degree of repetition. I support these proposed changes but, notable and helpful as they are, I do not consider that these changes affect the soundness of the Plan (as addressed at paragraph 182 of NPPF) and they do not need to be specifically recommended by me as an Inspector's Main Modification.
51. Representations were made that the Plan should include objectives relating to climate change for minerals development. In this case, Policies WCP 5 and MCP 11 expressly require proposals for new waste management and minerals development to take account of the need to address the climate change implications of the scheme.
52. Whilst the inclusion of references to climate change in the body of the policy MCP 11 (as now proposed to be revised and recategorised as MWSP2) will help provide a degree of context or continuity I do not consider that this bears upon the soundness of the Plan as the point is already embodied in the Plan's

policies and is further backed up by NPPF. Accordingly, the proposed change does not need to be endorsed by me.

53. It was also argued that Strategic Objective 5 for minerals development represented an unreasonably high expectation; it being argued that there is no justification to expect that new minerals development will bring benefits to local communities. However, it was acknowledged that this is not specifically carried through into a policy of the Plan.
54. Whereas minerals strategic objective 5 may raise expectations, I consider this objective represents no more than an aspiration; it is not a policy requirement where non-compliance would lead to a refusal of planning permission. Were that to be the case then the Plan could well be seen to be unsound. Whether some kind of enhancements or benefits might be brought forward in conjunction with a proposed scheme would most probably have to be set out in a Planning Obligation under Section 106 of the Town and Country Planning Act 1990. Such an obligation would need to be assessed against the tests set out in NPPF as to whether the agreement or undertaking sought was reasonable and related to the development to be permitted. I do not consider that the Plan needs to be modified to make it sound on this point.

#### **MATTER 4. WASTE STRATEGY AND THE RANGE OF FACILITIES**

##### ***Waste volumes to be catered for***

55. The Plan was drawn up in the context of the East of England Plan, which established some of the background for this LP's policies and allocations, including an indication of the quantities of waste likely to need to be processed and the amount of residual waste to be disposed to landfill. The East of England Plan was revoked by the Secretary of State whilst the Examination into this LP was in progress. However, its cancellation does not make a material difference to the requirements this LP has to provide for; the Duty to Cooperate (see paragraphs 11 -14 above) has involved consultation with all neighbouring authorities where there is likely to be common interest, and the Mayor of London.
56. The Plan is based upon the need to provide management capacity for some 2.1 million tonnes (mt) at the beginning of the Plan period, rising to 2.3 mt by 2028/29. Whereas locally generated wastes are seen to rise over this period, the volume of London residual wastes for landfill will fall significantly from 165,000 tonnes to 31,000 tonnes by 2028/29. These figures relate to the low-growth scenario set out in Waste Technical Evidence Paper 2, but no substantial evidence was put before me to demonstrate that this was an unreasonably low estimate on which to base an assessment of future needs.

##### ***Processing and recovery of waste***

57. The Plan is based on an estimate of annual waste recovery of just under 700,000 tonnes by the end of the Plan period, of which capacity for just over 400,000 is already available – leaving a need for about 250,000 tonnes additional capacity. The Plan identifies four sites for waste recovery operations. None of these was seriously challenged as being unsuitable or unviable, albeit that there has to be a degree of uncertainty as to what kind of facilities may actually be developed. Nevertheless, and having regard to the

advice in PPS 10 that planning policy should not be prescriptive over what type of operations should take place on particular sites, the size and distribution of the identified sites – bearing in mind the likelihood of new technologies or processes being developed over the Plan period - represent a suitable opportunity for enough of the right kind of waste recovery operations to be developed to meet the anticipated waste arisings.

58. Having said that, I acknowledge that predicting the likely future waste processing capacity is not a precise science; it depends not only the amount of waste arising and its characteristics and sources, but also on technological progress and the evolution of new processes. It could be that the volumes indicated in the Plan to be sent for disposal may not be as great as anticipated – the need to drive waste up the hierarchy is likely to require wastes to be more intensively processed to recover a higher proportion of useable resources and thereby leaving a smaller proportion for final disposal of the irreducible residue.
59. It was not argued that the sites identified in the Plan would be so constrained as to be unable to accommodate additional processing and recovery capacity if needed. Furthermore, the identified sites are for strategic level operations; Policy WCP 8 would allow for further processing and recovery, albeit perhaps at a more local level. The allocated sites and the WCP 8 sites could realistically be regarded as appropriate for all kinds of processing, including energy-from-waste, thermal treatment, and possibly processes not yet developed, subject to careful consideration of the potential impact on the surroundings of the site (see discussion under Matter 10 below).

### ***Disposal of residue waste to landfill***

60. There are currently no sites within the Plan area which can accept non-hazardous waste for landfill. This is, on the face of it, an unsustainable position as it requires the export of all residues to be landfilled elsewhere. The Plan is based upon an anticipated overall need for about 5.5 mt capacity by 2028/29. Some representors argued, quite reasonably, that the corollary of encouraging higher rates of recovery is that there will be a proportionately declining need for landfill capacity for disposal of the irreducible residues. That is, the 5.5 mt figure is too high; it might be more realistically in the order of 3.0 mt, including the agreed proportion of pre-treated London waste. If the Covanta Resource Recovery Facility (RRF) is developed at Rookery South, this would almost certainly reduce the amount of required landfill capacity. Having said that, I acknowledge that, towards the end of the Examination Covanta announced that they may withdraw from their UK operations, which leaves a degree of doubt hanging over whether the RRF scheme will be developed.
61. The agreement to accept a proportion of residual London waste may be unpopular locally, but I do not see this as unsound. It is a figure which has been arrived at by agreement, having regard to the acknowledged needs of London and the lack of landfill capacity there. It is in line with the agreed acceptance of London waste with other, neighbouring authorities, and is not disproportionate. Furthermore, presumably on the basis that higher levels of processing will be brought on stream by the London authorities, the amount being imported into this Plan area will significantly reduce during the Plan period.

62. It may be that planning for an excess of capacity could be seen as unsustainable, in that it may reduce the pressure on recovery and allow a less rigorous approach to be taken, with a greater than minimal proportion of residue being sent to landfill. That may be so, but I do not see this necessarily as a problem of soundness in that there are other policies – both national and in this LP – which support the imperative of driving waste up the hierarchy, and thereby reducing the need for landfill. Having said that, I consider it is prudent to identify sufficient capacity to correspond with the figures on which the Plan is based. The consequence of this may be that a declining need or demand will lead to the capacity not being filled by the end of the Plan period. If an extended time-scale for landfilling does not lead to other planning concerns over disturbance, unneighbourliness, landscape impact or restoration then this should not be a problem which *per se* indicates this LP is unsound.
63. This LP identifies two sites with a combined capacity far in excess of the anticipated landfill requirement. One site (Elstow South) would not be big enough for even the 3.0 mt prediction, and the other (Rookery South) is much larger than the 5.5 mt prediction. That is, on the face of it, the Plan significantly over-provides for landfill. This might be seen as a prudent approach, representing a degree of flexibility where there might be uncertainty over the timing or feasibility of one or other of the sites. This point is discussed further under Matter 5 below. Suffice it to say under this Matter that I consider that there is ample land identified for strategic processing/recovery requirements and more than enough landfill capacity.

**MATTER 5. PROPOSED WASTE MANAGEMENT SITES  
and  
MATTER 14. ELSTOW SOUTH AND ELSTOW NORTH**

64. There are five strategic waste management sites identified in the Plan under Policy WCP 2; three of these are for waste recovery uses and one for landfilling of non-hazardous waste, and one for both landfilling and waste recovery. Of these sites four were discussed at the Examination Hearings. There was no discussion – except in passing – to the Brogborough waste recovery site.
65. As a general point, and subject to particular concerns and considerations at each of the sites, with something in the order of 60-65 hectares of land allocated for waste recovery purposes (that is, net of waste disposal) in this Plan, this would be more than sufficient to meet the needs of the Plan area. Each of the four waste recovery sites is large enough, and far enough away from sensitive receptors to accommodate a range of recovery processes, such that integrated operations could be developed, to maximise recovery potential with minimum risk of harm to human health, amenity, nature conservation or the environment.
66. As discussed under Matter 4 above, the LP over-provides for landfill capacity. I have come to the view that this – of itself – does not make the Plan unsound, but the implications of this do need to be considered further. As noted above, such over-provision might be acceptable if there are doubts over whether one or other of the two identified sites for landfilling would come forward during the Plan period.



### ***Elstow South (landfill)***

67. It was acknowledged by the JAs at the Hearing that the JAs' knowledge of the circumstances at Rookery South has moved on since the Plan was drafted and there is greater confidence that the Rookery South landfill site can be brought into operation relatively quickly, there being now no major constraints or unresolved concerns relating to (amongst other matters) access, nature conservation and hydrogeology. Indeed, taking account of the site specific engineering concerns relating to bringing the Elstow South site into operation (see below) it is likely that Rookery South can be brought into use much sooner than Elstow South. This was corroborated by the owner/developer of Rookery South site.
68. This, taken together with the JAs' acknowledgement that Rookery South would have sufficient capacity to accept all of the Plan's anticipated landfill needs – and particularly in a period where there is an expectation that greater and more intensive pre-treatment will lead to a lower than predicted amount of residues requiring disposal to landfill - indicates that there is no overriding need for Elstow South to be identified in addition to Rookery South.
69. At the resumed hearing sessions (for Matter 14) it was argued that there is a historic planning permission for restoration of this site which includes backfilling as one of the possible acceptable options. Nevertheless, progress on implementing such a scheme based on this earlier permission has seemingly stalled.
70. A planning application has been made to Bedford Borough Council for an integrated waste recovery and landfilling operation at Elstow South. It was also acknowledged that, should planning permission be granted, it would take at least 5 years for the preparatory engineering, dewatering and drainage to be put in place before landfilling could commence. I acknowledge that the Environment Agency has indicated that Elstow South could be developed subject to conditions, but there is considerable doubt as to whether complying with those conditions is either feasible or could be met without incurring other consequences which may in themselves be harmful. It was confirmed that relevant details to satisfy the concerns of the Environment Agency remain to be considered. The feasibility and timing of the scheme applied for are therefore still open to doubt.
71. The scheme being put forward by the applicant is framed around an integrated (and self-contained) waste recovery and landfilling operation. That is, the landfill would only be used to serve its own waste recovery operation and the Elstow South site would make only a small (see paragraph 73 below) contribution to the total non-hazardous landfill requirement across the Plan area. This being so, neither would it offer the flexibility of an alternative strategic site in the event of an interruption to operations at the Rookery South landfill.
72. My attention was drawn to views expressed by the potential developer of Elstow South at the parliamentary Special Procedure Order hearings into the Rookery South RRF. At those hearings the Elstow South developer did not give an unequivocally firm assurance that the confirmation of a Development Consent Order (DCO) for the RRF would not undermine the viability of a waste-related development at Elstow South. The parliamentary Joint

Committee has now confirmed the DCO, and I acknowledge that the planning application had been made for the Elstow South scheme subsequent to the DCO being issued and prior to Covanta announcing the possibility of them withdrawing their interest in the RRF development. This could be taken as an indication that, irrespective of whether the RRF scheme goes ahead, it would not negate the commercial viability of the Elstow South scheme.

73. In terms of what Elstow South could contribute to the strategic need, it was confirmed that the planning application scheme envisages landfilling at a rate of 40,000 tonnes per year, but only 20,000 tonnes of that would be for non-hazardous materials; 20,000 tonnes would be inert materials for engineering and containment purposes. That is, the site would, at best, meet some 6% of the Plan's needs. Furthermore, at 20,000 tonnes per year this would fall well outside the Plan's own definition of a strategic waste operation, which sees such a site handling a minimum of 75,000 tonnes per year<sup>7</sup>. Thus, taking account of the uncertainty over whether the site would be granted planning permission, whether it would actually come into operation and when, and the relatively small scale of the operation, I do not regard the Elstow South site as representing a 'sound' allocation in the context of this Local Plan whose purpose is to identify sites which would perform a strategic rôle.
74. There are other concerns relating to the impact of the Elstow South landfill proposal on the confidence of investors, house purchasers and service providers at the Wixams development. These could be characterised as being a fear of harm to health, amenity and the environment rather than the likelihood actual harm (taking account of safeguards embodied in the policies of this Plan, saved B&LM&WLP policies, guidance in PPS10 and controls imposed through an Environmental Permit).
75. However, there is clear evidence that these concerns are having a significant effect upon investor confidence; a number of infrastructure and service providers associated with the Wixams development have stated their reluctance to commit their contribution if Elstow South remains as an allocated site for landfilling in this LP. This has to be accepted as real harm where those concerns demonstrably undermine the momentum behind achievement of what is seen to be a necessary major urban extension for Bedford. The scheme being put forward in the current planning application for landfilling at Elstow South could take as much as 40 years to complete, thereby prolonging the perceived harm to the Wixams housing expansion. This, of itself, is not determinative of whether the identification of Elstow South in this Plan as a strategic landfill site is sound or not, but it does add to the points noted above relating to scale, effectiveness and deliverability.
76. I acknowledge that Bedford Borough Council (a partner in the preparation of this LP) has aligned itself with both the allocation of Elstow South as a landfill site and a major urban expansion scheme at Wixams. On the face of it, that local planning authority does not appear to be concerned about any incompatibility between these two schemes.
77. I consider that the allocation of Elstow South as a landfill site is not justified in that it is not required to meet the anticipated strategic needs set out in the

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<sup>7</sup> Section 8 Glossary, page 78 of submitted version

Plan; the Companion Guide to PPS10 only looks for "sufficient provision", rather than an excess or alternative level of capacity as some sort of safety net<sup>8</sup>. Furthermore, an over-provision of landfill capacity is not supported by the imperative to drive waste up the hierarchy and hence it could be seen to be contrary to national policy. The allocation is not effective as there is uncertainty over when and how it could be delivered. The site is too small to be regarded as able to fulfil a strategic rôle. Finally, allocating this as a strategic waste landfill site in this Plan would jeopardise the successful implementation of a necessary major housing development, which could put at risk the effectiveness of the Bedford Borough Allocations and Designations Local Plan.

78. The JAs have put forward a proposed change to the Plan to delete Elstow South as an allocated strategic landfill site. I endorse this proposed change and recommend the Plan be modified accordingly (**IMM 04**). Changes will also have to be made to the Policies Map to delete the site allocation.

#### ***Elstow North (waste recovery)***

79. Part of the Elstow North allocation is presently used as a waste recovery and transfer facility. It is envisaged that this would be expanded to meet the growing requirement for waste recovery, processing, and household waste recycling from the Bedford Borough area, as well as likely increases in demand arising from the Wixams development.
80. At the resumed hearings it was confirmed that the recovery operation at Elstow North is not dependant upon any landfilling, dewatering or associated leachate level reductions at Elstow South. This being the case, then I do not consider there are any overriding objections to this allocation in the Plan. Referring to the other policies in this Plan, and to the saved B&LM&WLP, waste recovery could be carried out at Elstow North within buildings and without impinging upon sensitive receptors in the vicinity. The site has excellent access onto the A6 and the Strategic Freight Network for lorry traffic. It is separated from the residential parts of the Wixams urban expansion by the present lake at Elstow South. The employment allocation at Wixams shown in the Bedford Borough Council Site Allocations and Designations Plan would offer an added degree of segregation between the waste recovery site and the housing area of Wixams.
81. I do not consider that the allocation of Elstow North as a site for a strategic waste recovery operation is unsound.

#### ***Rookery South (waste recovery site and landfill site)***

82. Rookery South is identified in the Plan both as a waste recovery site and a landfill site. These allocations are in addition to the Covanta RRF scheme, but neither is dependant upon the RRF scheme going ahead.
83. Whereas there may at one time have been uncertainties about when the Rookery South sites could be brought on stream, as noted above under the discussion of Elstow South, it was accepted at the Examination that these concerns have now been overcome and it is accepted that Rookery South

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<sup>8</sup> Paragraphs 7.21 etc.; Companion Guide to PPS10

could be brought into operation within approximately 2 years. The issues over access were addressed when the RRF proposal was being considered and the same access scheme could be constructed for the landfill and waste recovery allocations on their own.

84. With landfill and waste recovery on the same site this would optimise efficient waste processing and disposal; integrated operations would minimise haulage and transfer trips and economies of scale are likely to reinforce the viability of the allocations, as well as present opportunities for new, innovative or 'niche' processing operations on the same site.
85. I acknowledge that the Stewartby area has had a history of receiving wastes from Bedfordshire and beyond for many years and that the allocations in this LP could be seen to be an unreasonable extension or continuation of the perceived unneighbourly impact on the local community. However, I accept that the proposed allocations in this LP would have minimal impact on the settlement of Stewartby; the scale of operations would be significantly smaller than the previous operations, the operational areas would be largely entirely screened from view (apart from trains passing on the adjacent railway lines), there would be something in the order of 500m separation between the edge of the site and the village, with a significantly smaller bio-degradable proportion in the residual waste there would be a much reduced smell, and traffic would be routed via Green Lane, away from the village.
86. I do not consider that the two Rookery South allocations can be regarded as unsound.

#### ***Thorn Turn (waste recovery)***

87. Thorn Turn is, at present, in a fairly isolated and rural setting to the north of Dunstable and Houghton Regis. The site is allocated in this LP for a strategic waste recovery operation.
88. Although presently rural, the site lies within the North of Houghton Regis Strategic Site Specific Allocation proposed by Central Bedfordshire Council in its emerging Development Strategy. This is an area proposed for mixed development, with the waste recovery allocation identified as part of one of the employment areas.
89. That is, whilst the waste allocation might be seen in isolation as representing a significant change to the character of this location and bringing potentially disturbing development to a presently relatively quiet rural location, in the context of the envisaged urban expansion the allocation would be compatible. Any potential harm or disturbance to those who presently live close to the allocated waste recovery site (or who might live in this vicinity in the future) would be mitigated in line with other policies of this LP, saved policies of the B&LM&WLP, the advice and guidance given in PPS10 and controls imposed by an Environmental Permit issued by the Environment Agency. These safeguards would apply even if the urban expansion scheme were not to go ahead. Consequently, I do not consider that local residential amenities would be unacceptably harmed were the allocation to be developed without other major development nearby.

90. Access to the site from the east is presently poor. The urban expansion scheme is associated with the proposed A5-M1 Link Road which would provide a high quality connection to the east and north. However, in the mean time, the site offers easy access on to the present A5, which is part of the Strategic Freight Network and therefore suitable for lorry traffic. This would be an appropriate access route until (or even irrespective of) the construction of the A5-M1 Link Road.

*Green Belt implications*

91. As noted at page 95 of the Plan at Table 9, the site is presently in Green Belt<sup>9</sup>. Referring to paragraphs 89 and 90 of NPPF, on the face of it, new waste-related development - and particularly if located in new buildings - might be regarded as inappropriate development in the Green Belt and therefore contrary to national policy.
92. The Companion Guide to PPS10, while seeking to protect green belts, acknowledges that particular locational needs for waste facilities may not be met outside the green belt<sup>10</sup>. It goes on to advise that an alteration to the green belt boundary to accommodate a site inset within the green belt may be required to give the necessary certainty, if such a site is to be allocated in a local plan.
93. It is proposed in the Development Strategy Local Plan for Central Bedfordshire to re-draw the Green Belt boundary at this point to exclude the proposed urban expansion area. Progress on the Development Strategy has fallen some way behind that of this Minerals and Waste Local Plan and it is not certain when (or, perhaps, if) the site will be removed from the Green Belt. However, there is a degree of confidence that indicates the revision to the Green Belt boundary will have to be made in order to accommodate the current predicted levels of growth in this part of Central Bedfordshire. In which case, and following the guidance given at paragraph 87 of NPPF, until such time as this area is removed from the Green Belt it will be necessary to demonstrate very special circumstances to justify a planning permission for a waste recovery facility here.
94. Having said that, and without wishing to pre-empt the outcome of any planning application (which will have to be assessed on its own merits), PPS10 does acknowledge that the particular needs of some types of waste management facilities and the wider environmental and economic benefits can be material considerations when dealing with proposals which affect a green belt<sup>11</sup>.
95. In the case of Thorn Turn, no other site in this southern part of the Plan area (Luton / Dunstable / Leighton Buzzard) was identified during the consultations during the course of preparation of this Plan. That is, no evidence has been put forward that an alternative site with the necessary characteristics exists on a site outside the Green Belt in this part of the Plan area. The JAs have not

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<sup>9</sup> Incorrectly categorised as a 'Landscape Designation' in Table 9.

<sup>10</sup> Companion Guide to PPS10, paragraphs 7.34 and 7.35

<sup>11</sup> Sixth key objective at paragraph 3, PPS10.

carried this through into seeking a revision of the Green Belt boundary in this vicinity as part of this Local Plan on the assumption that the Central Bedfordshire Development Strategy Local Plan would address this point.

#### *Conclusions on Thorn Turn site allocation*

96. I accept that, disregarding its location in the South Bedfordshire Green Belt, in general terms the Thorn Turn waste recovery allocation would not lead to unacceptable impacts on its setting and surroundings, its access, or the future residential expansion of Dunstable and Houghton Regis. On the basis that the Development Strategy Local Plan is seen to be leading to the site being removed from the Green Belt at some time in the future, I consider that it would be reasonable to retain the allocation for the waste recovery site in this Local Plan on the understanding that, until such time as it is removed from the Green Belt, very special circumstances will have to be demonstrated in support of a planning application.
97. The points discussed above relating to the site's location in the Green Belt were not raised by representors during any of the public consultation exercises. However, they do impinge upon soundness in that there could be a potential conflict with national policy on green belts. Accordingly, for soundness reasons, it is necessary for me to make a recommendation to modify the Plan to ensure that the green belt implications are properly explained and embodied in the relevant part of the Plan. Nevertheless, as noted at paragraph 8 above, the points discussed above are not new and all participants had the opportunity to comment during the course of the Examination had they chosen to do so. My recommended changes are a drawing together of these points and do not introduce new policy or delete anything from the submitted version. They are in conformity with national policy on this subject. Accordingly, I do not consider that any interested party would be prejudiced or disadvantaged if the Plan were so modified. In which case it is not necessary to formally publicise this recommended Modification before moving to adopt the Plan.
98. I recommend that the Plan be modified to include the proviso that due regard has to be paid to the site's Green Belt status (**IMM 05**).

#### **MATTER 6. WASTE CATCHMENT AREAS**

99. There is an underlying imperative in waste management that wastes should be processed and disposed of in the most sustainable way. This would include handling the waste as close as possible to its arisings to minimise "waste miles" – that is, transporting waste over unnecessary distances and thereby using fossil fuels and other resources unnecessarily.
100. However, whereas PPS10 advises that waste should be disposed of in an appropriate location as close as possible to its arisings, there is no requirement to restrict the movement of waste which is still capable of further recovery before disposal of the irreducible residue. With the need to drive waste up the hierarchy waste is likely to go through several stages of processing and recovery before disposal. More specialised processes may be able to recover value from waste but which would require a wider catchment than a purely local area, which may only be able to offer a fairly basic level of sorting, screening and recovery. That is, what may be regarded as waste at its point

of arising, can be a recoverable resource (or at least a potential resource) thereafter and the opportunity to recover that resource economically should not be hindered unreasonably.

101. As new and innovative technologies evolve during the Plan period this may bring forward recovery processes which are more and more specialised, possibly requiring a wider market area. That is, it may be a more sustainable balance overall for waste with a potential economic value to be transported over some distance for processing and recovery. In which case, there is no justification for Policy WCP8 to seek to assess proposed schemes in the context of "the proximity principle" – that principle is not supported by PPS10. The idea of a local authority needing to be self-sufficient in waste processing is not in accordance with current national policy, as set out in PPS10 and the subsequent Waste Strategy for England 2007. Indeed, the authorities who have prepared this LP openly acknowledge that they depend upon facilities outside the Plan area for processing of hazardous wastes.
102. I recognise that landfill capacity is something which has to be husbanded carefully, particularly where local authorities in this Plan area presently have to send waste to neighbouring local authority areas for disposal. This is, on the face of it, unsustainable and contrary to the intentions of PPS10. Restrictions on the catchment of wastes for disposal at sites allocated in this LP would be justifiable on the basis that there ought to be a reasonable correlation between the finite capacity identified at the strategic allocations sites and the need for landfill volume which has been calculated on a largely local (Plan area) assessment, plus acceptance of a proportion of pre-treated waste from London.
103. Having said that, there is the risk of creating a false dilemma if the limitations on movements are defined by the local authority boundaries. It is unlikely that the 'market' area for waste coincides with the boundaries of the JAs – social and economic activity does not regard a local authority boundary as some kind of barrier or frontier restricting access to work, shops, schools or leisure; nor should such boundaries be regarded as frontiers for waste management. Policy WCP 6 acknowledges this.
104. However, WCP 6 also states that catchment area restrictions will be applied to planning permissions for both new waste disposal and recovery facilities. Whereas this may be appropriate for disposal sites, the justification for restrictions to apply to recovery facilities is questionable, at best. The effectiveness of the policy is also unclear or uncertain in that there is no indication of what sort of restrictions would be applied (in terms of distance) to what forms of waste, how the origins and destinations would be verified and how would any catchment area restrictions be enforced.
105. The 20% limitation appears to be arbitrary, and implies that there is an expectation that a processing facility might have to operate at less than optimum efficiency if not enough locally sourced waste can be brought in. Indeed, for some specialist operations this may negate the viability of an operation – to the overall disbenefit of sustainability of waste management. That is, it is doubtful if the proposed limitations or restrictions would meet the six tests set out in the Annex to Circular 11/95 *The Use of Conditions in*

*Planning Permissions*, in particular the tests of reasonableness and enforceability.

106. If the underlying concerns are to minimise harm to local communities and the environment then this can be achieved through the usual planning controls on size (physical extent or throughput capacity), having regard to access, traffic generation, amenity impact and environmental containment. Such protections do not derive from limiting the catchment area of a recovery site. As noted at paragraph 6.4 of the Plan, I acknowledge that in his decision on the Twinwoods Business Park proposal<sup>12</sup>, the Secretary of State indicated there need be no objection in principle to a catchment area limitation, but he also came to the view that such a limitation was not necessary in that case and, in the event, did not go on to grant permission. That is, the Secretary of State did not formulate and apply such a condition, and neither was it attached to a planning permission where its validity might have been challenged.
107. The JAs acknowledge that there needs to be flexibility in how restrictions are to be applied (if any) and have put forward proposed changes to Policies WCP 6 and WCP 8 and the associated reasoned justifications, to give a clearer rationale for the policies and an explanation of how any restrictions will be assessed with regard to the nature and value of the recovery operation, the degree of flexibility which will be applied, how any restrictions are to be enforced, and giving an indication of what are to be regarded as the origins of wastes going through a recovery facility. I support these changes (subject to very minor changes in wording as set out in the Appendix to this Report) and recommend that the Plan be modified accordingly (**IMM 06**).

**MATTER 11. USE OF PRODUCTS OF WASTE  
and  
MATTER 13. OTHER CONCERNS (part)**

108. It was argued that the Plan does not offer positive support for sustainable development in that it does not make specific provision for the promotion of combined heat and power (CHP) schemes which could be fuelled by materials derived from waste.
109. The issue here focuses around what is appropriate to include in a plan which deals solely with strategic waste and minerals policy and site allocations. I acknowledge that a CHP which generates electricity and heat for an associated urban development has the potential to be a sustainable form of development. However, although a CHP plant may use fuel which has been made from waste (refuse derived fuel – RDF, or solid recovered fuel - SRF) burning that fuel *per se* does not necessarily constitute a waste management operation. That is, it is not relevant to identify sites, or make policy provision, for a CHP scheme in this Minerals and Waste Local Plan.
110. What would be relevant is to ensure that a proposal for a plant which can produce RDF/SRF (ie which converts waste into an economic resource in the form of fuel) is supported by this Plan where that is compatible with driving waste up the hierarchy. Policy WCP 8 gives direct support for materials recovery schemes on allocated and unallocated sites, subject to various

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<sup>12</sup> Planning Inspectorate Ref: APP/K0235/A/10/2141593



caveats. Having said that, it would make it more effective in furthering national policy on waste recovery if the Plan made clear that this also includes the production of RDF/SRF.

111. The point is accepted by the JAs and a proposed change has been put forward to include RDF/SRF as appropriate processes under Policy WCP 8 (Policy WSP6 as proposed to be renumbered) and to add the manufacture of RDF/SRF to the Glossary definition of 'recovery'. I support these proposed changes and the Plan should be modified accordingly, (**IMM 07**).
112. It was argued in response to the proposed change that sites for the manufacture of RDF/SRF fuel should be located next to rail or waterway routes, to offer an alternative means of transport between the point of production and where such fuels might be used. Reference was made to National Policy Statement for Renewable Energy Infrastructure (EN-3).
113. Whereas as EN-3 encourages the use of water or rail routes, this is not an absolute requirement. The advice is that alternatives to road should be used "*wherever possible*", but goes on to recognise that the viability of alternative modes will be governed by economics of the scheme<sup>13</sup>. Even if EN-3 applies to the policies of this Plan (and arguably EN-3 only applies to major infrastructure projects being considered by the Nationally Significant Infrastructure branch of The Planning Inspectorate) there is no overriding requirement to include a limitation that RDF/SRF schemes should only be permitted adjacent to rail or waterway routes. Saved Policy GE 22 of the B&LM&WLP (which will still be applicable after the adoption of this Local Plan), requires the use of alternative modes of transport for bulk conveyance wherever practicable.
114. Without knowing where RDF/SRF fuels are likely to be used (and whether these would be sited adjacent to a rail route or waterway), it is unreasonable to impose a limitation (which might prove to be unrealistic and therefore unviable) on where such production facilities should be sited. I do not consider that, in this respect, this LP can be considered unsound in the form it is now proposed to be changed.

## **MATTER 10. DELIVERY OF WASTE OBJECTIVES**

115. Policy WCP 1 sets various targets for rates of recovery from Municipal Solid Waste (MSW) and Commercial and Industrial (C&I) waste streams, expecting ever increasing proportions to be recovered as the Plan period progresses. These targets derive from the Waste Strategy for England 2007 and hence should be regarded as achievable. These targets will drive the expectation to raise the proportion of materials which are recoverable for other purposes and thereby reduce the amount of residual waste needing to be sent to landfill.
116. The targets may be easier to achieve for MSW where the local authorities and their contractors are under more direct control. For C&I waste, there is an increasing awareness of the need to recover a higher proportion of materials, which is being reinforced by the increases in landfill tax. However, there is no reason to believe that the targets set in the policy are unrealistic, and incompatible with national policy. Monitoring Objective 3 in the Plan for waste

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<sup>13</sup> National Policy Statement for Renewable Energy Infrastructure (EN-3); paragraph 2.2.25

- looks for 100% pre-treatment of waste prior to disposal. This may be ambitious, but is expressed in terms of wanting to see that the Plan can allow sufficient waste management capacity to allow this to happen.
117. There is a potential discrepancy between Policy WCP 11 and its requirement for "maximum practical recovery" and "intensive residual treatment" used in Monitoring Objective 3. The latter implies more intensive or a higher level of treatment than is required by the Policy. This, on the face of it, could be unjustified or possibly ineffective and therefore unsound. The JAs have put forward proposed changes to address this by revising the definitions of these terms in the Glossary. I support the proposed changes and recommend that the Plan be modified accordingly (**IMM 08**).
118. On the matter of waste developments and climate change, as discussed above (paragraph 51 *et seq*) Policy WCP 5 adequately addresses this. In addition, the JAs have put forward a proposed change to the supporting text for Waste Objective 4 to reinforce the need to have regard to climate change and sustainability. Saved policies of the B&LM&WLP also deal with the need to have due regard to the possible impact of matters such as flooding and water resources. That is, this LP, together with the saved policies and those of NPPF and its associated Technical Guidance, as well as the Environmental Permitting regime administered by the Environment Agency, provide a proportionate policy context to consider and control the potential impact of new waste developments on climate change. Although the proposed change put forward by the JAs would be a useful addition, I do not consider it is essential in order to make the Plan 'sound' and I do not consider that it requires to be endorsed by me as a Main Modification.
119. Other concerns were raised over the compatibility of waste development and other, arguably sensitive, land uses and how this may impinge upon the Plan's ability to deliver the stated objectives on waste management. It is perhaps unfortunate that waste management has an unfavourable public image which does not, in many instances, correspond with current best practice. PPS10 advises that waste management operations can be regarded as similar to B2 (general industry) or B8 (warehousing and distribution) land uses<sup>14</sup>, and should be no more unneighbourly.
120. Many waste management operations, if not most, (other than landfill and open-air composting) can be accommodated inside a building or other forms of containment which can be designed and built to minimise possible harm and disturbance by reason of noise, smell, litter and unsightliness. Some types of development may need to be physically separated from nearby development (such as waste water treatment works and open-air composting). However, I believe that a separation distance (sometimes referred to as a buffer zone) would not be required as a matter of routine for the majority of waste management schemes (see discussion of Matters 2 and 12, paragraph 42 *et seq* above).
121. Virtually all new waste developments are likely to have to be supported by an Environmental Impact Assessment to fully assess likely harm to human health and the environment. The saved policies of the B&LM&WLP give closer policy

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<sup>14</sup> *qv* Town and Country Planning Use Classes Order 1987 (as amended)

coverage for new development having regard to neighbouring development, ecology and the natural environment. In parallel with these controls is the need to comply with an Environmental Permit from the Environment Agency.

122. Whilst a degree of concern is understandable about the potential harm a waste facility may introduce into an area, I do not consider that there is the likelihood that new waste development would be unable to meet strict controls and safeguards such that it should not be permitted. That is, I do not consider that it would not be possible to meet the waste objectives of this Plan, even allowing for all due precautions and reservations to safeguard sensitive land uses and environments.

### **MATTER 13. OTHER CONCERNS (part)**

123. A representation was made to proposed change P14 which offers wider opportunities for schemes which propose energy generation from waste. The representation sought to ensure that such schemes were generally only permitted on sites identified under Policy WCP2. Somewhat confusingly, the objection went on to argue that the policy as proposed to be changed ought to include criteria to direct landfilling to the most appropriate locations. No further submissions were made to elaborate on the representation nor did anyone appear at the scheduled hearing session to explain the basis of the representation.
124. As noted above under the discussion of Matters 2 and 12, this Plan has to be read together with all other policies of this Plan, the saved policies of the B&LM&WLP, NPPF and PPS10, all of which provide a comprehensive list of concerns which need to be addressed for new waste management sites, together with the policy context which would shape any planning applications and control the subsequent operations.
125. I do not consider that a properly considered and managed proposal for an energy from waste scheme would necessarily be incompatible with locations other than those listed under Policy WCP 2. Indeed, were such schemes to be designed as (say) a local CHP project, they would only be workable if located close enough to other built development to deliver the heat produced.
126. Policy WCP 2 identifies strategic sites and to seek to limit energy from waste schemes only to those sites could unhelpfully preclude perfectly acceptable local schemes – which, if successfully developed, could be seen to strengthen the sustainability credentials of this Plan.

### **MATTER 7. MINERALS SUPPLY AND IDENTIFICATION OF SITES**

127. The allocations of minerals sites in the Plan are based on the Aggregates Working Party figures of 10 years' annual sales. This gives an averaged annual demand of 1.84 mt. This has been carried through into identifying sufficient sites to meet this level of demand, using available information on the quantity of reserves likely to be available at the identified sites. This approach and its conclusions were not seen to be flawed or inadequate by those making representations.
128. It was contended that, in addition to the allocated sites, there ought to be areas of search in the Plan where further sites might be developed. From the evidence heard at the Examination Hearings this would not be necessary.

Recent demand for aggregate minerals has been well below the 1.84 mt base figure used for this Plan – perhaps as low as 1.0 mt in recent years. This could be partly attributed to economic recession and an associated slow-down in construction. It may also be on account of a greater use of secondary or recycled aggregates for some engineering or construction projects. Secondary aggregates are hard to predict and plan for in terms of quality and quantity and hence these cannot be reliably factored in to the predictions of aggregate need. In addition, there is a proportion of co-products from silica sand quarries which can be used for construction purposes.

129. It may be, of course, that demand could return to the 1.84 mt level when the wider economy picks up, but this has to be set against the likelihood that a bigger proportion of secondary aggregates could become available as greater emphasis is given to the recovery of wastes before disposal. That is, I consider that, taken together with the permitted reserves, the amount of minerals reserves allocated as future workings in this Plan would be sufficient to accommodate a continuous 7 year landbank throughout the Plan period, and possibly beyond. The Plan includes monitoring indicators – which would be tied to the requirement to produce a local aggregates assessment - to ensure that this is kept under review. Consequently, the Plan is consistent with national policy, justified and effective on this point.
130. There is, therefore, no need to also identify areas of search. Indeed, recognising the strength of the evidence upon which this Local Plan has been drawn up, introducing areas of search (even if the information was available to allow this) would probably introduce an unnecessary and unwelcome degree of uncertainty for local communities and operators.
131. Having said that, Policy MCP 6 should be worded more positively to allow unallocated sites (and associated additional or replacement processing plant) to be permitted where there is a demonstrable requirement either in terms of capacity not meeting predicted production levels, or there being improved or alternative technologies. The JAs have put forward a proposed change to this effect which I endorse in principle. However, the wording put forward by the JAs makes reference to exceptional circumstances in the reasoned justification – which would be a *non-sequitur* in a positively worded policy. I have adapted the proposed modification to revise the reference to exceptional circumstances, and the Plan should be modified accordingly (**IMM 09**).
132. The production of silica sand – and its potential contribution of co-products for construction purposes - is discussed below under Matter 8.

## **MATTER 8. SILICA SAND**

133. The importance of silica sand to the Bedfordshire area and beyond is fully recognised and the JAs wish to make proper provision for the continuing production of this during the Plan period and the longer term.
134. Paragraph 146 of NPPF looks for permitted reserves of silica sand to support at least 10 years continuing production through existing plant and equipment. The Technical Guidance to NPPF looks for an identified land bank for silica sand production and gives a formula to calculate this. However, in this Plan the situation is complicated by there being relatively few producers of silica sand and all are found in a geographically small area around Leighton Buzzard. For

understandable commercial confidentiality reasons, the producers are unwilling to make their sales figures publicly available – which makes it impossible to apply the formula to forecast the likely need and an appropriate landbank to meet that need. This situation is further complicated by the variety of sand types found even within a single quarry.

135. The JAs have allocated one site (Clipstone Brook) as a replacement should existing sites and permitted reserves become insufficient during the Plan period. It might be more in line with NPPF if further sites were identified, but seemingly none have been promoted by the industry. The JAs have put forward proposed changes to Policy MCP 5 and its supporting text to offer more positive support for further planning permissions for non-allocated sites to ensure continuity of production for at least 10 years. I agree with the proposed change and recommend that the Plan be modified accordingly (**IMM 10**). See also paragraph 147 below.
136. In view of the problems of providing information on production which can be made publicly available I consider that the LP (as proposed to be modified) represents the best practical approach to ensuring the continuing supply for silica sand. Whilst this approach does not comply with that set out in NPPF and its associated Technical Guidance I consider that the Plan has to be regarded as being sound in its policies and allocations for silica sand in that its approach is positive, justified and it would be effective in its implementation.

## **MATTER 9. MINERALS SAFEGUARDING AREAS and**

### **MATTER 13. OTHER CONCERNS (part)**

137. There seemed to be some uncertainty as to whether the Plan properly identified and adequately safeguarded potential reserves of building stone. Building stone is an important resource for the conservation of the historic built environment where vernacular building traditions require local stone for repair or new build.
138. The Plan includes policies (MCP 13 and MCP 14) to establish Minerals Safeguarding Areas (MSA), which are shown on the Policies Map plans. As well as aggregates minerals, these show the deposits of the main building stone types used in this locality; Cornbrash Limestone, Totternhoe Stone (chalk) and Woburn Sands. These are the stone types identified by English Heritage in their *Strategic Stone Study: A Building Stone Atlas of Bedfordshire*. Having said that, the presentation of MSAs is not as clear as it might be, which could affect the effectiveness of the Plan – a point accepted by the JAs.
139. Re-drafted versions of the MSAs as shown on the Policies Map have been prepared and are put forward as modifications to the Plan. I support these changes. However, as these are shown on the Policies Map, and the Policies Map is not a document before me for consideration as part of the Examination, I am not able to formally recommend that the Plan be modified accordingly.
140. There was an objection raised to the proposed change to the MSA in the vicinity of Elstow, around Medbury Farm (modification O59). This objection was seemingly rooted in a misunderstanding of the purpose of MSAs, a failure to appreciate that the area had been identified on the Policies Map supporting the May 2012 version of the Plan, and the fact that modification O59

introduced a reduction (albeit a small one) in the extent of the MSA. It was accepted that, with a clearer understanding of the history of the MSA around Medbury Farm and the purpose of the proposed change, there was no substantive objection relating to soundness.

### **MATTER 15. CLARITY, CONSISTENCY OR CONFORMITY OF MINERALS AND WASTE POLICIES**

141. Matter 15 is couched in terms which suggest the concerns raised are of wider interest. However, the points were raised only by Sibelco, a producer of silica sand, and the points relate mainly to the appropriateness of the Plan's policies to the silica sand industry.

#### ***Expectations relating to climate change***

142. Concerns were raised that the proposed policy MWSP2 imposed unrealistic expectations on a developer to respond to climate change. As noted above, proposed policy MWSP2 was introduced by the JAs as a recasting of some of the policies in the submitted version of the LP, to bring together all policies which have a more strategic overview for both waste and minerals developments, and to eliminate an unnecessary and unhelpful level of duplication. MWSP2 is a reconfiguration of Policy MCP 11 and WCP 5, to which no objections had been raised previously, the only differences being some of what is set out as in the policy box in the submitted version of the Plan is now proposed to be included in the supporting text. I do not see this as a change of great significance which bears upon the issue of soundness.
143. In view of the importance placed upon climate change in NPPF (particularly paragraph 93) I do not consider the proposed policy to be unreasonable or inconsistent with national policy or unsound for any other reason. From the evidence given at the hearing session for this Matter it was shown that what is expected by the policy is – for the most part – already being complied with by prospective developers. The proposed change does not attempt to vary the mandate of a planning permission once granted, it only serves to highlight that any subsequent planning applications on an established site will be considered on the basis that it should have regard to advances in technologies or operational practices which would improve the site's contribution to minimising climate change.

#### ***Policy cross references***

144. It was agreed that, on the basis that the policies of the development plan are to be read as a whole, it is not unsound for proposed new Policy MWSP3 not to include a direct cross-reference to Policy MCP 6 (now proposed to be Policy MSP6).
145. For the same reason it was agreed that Policy MCP 6 does not need to refer to railheads, wharves and mineral processing facilities as such safeguards are given by Policy MCP 12 (now proposed as Policy MSP 10) and B&LM&WLP policy M 9.
146. No evidence was brought forward which showed that any new railheads or wharves are likely to be proposed during the Plan period, which might necessitate a rewording of the policy. In any event Policy MCP 12 (now proposed as Policy MSP10) gives positive support to proposals for new

railheads which, if developed, would then become established railheads and enjoy the protection offered by this same policy. I do not consider that Policy MCP 12 as proposed to be changed is unsound in terms of paragraph 182 of NPPF.

### ***Time horizons for silica sand production***

147. Policy MCP 5 (now proposed to be renumbered MSP5) does not directly carry forward, in terms, the second sub-point of the third bullet point of paragraph 146 of NPPF, in that it does not specifically say that 15 years is a relevant time horizon for assessing permission for silica sand production where significant new capital is required. That may be so, but Policy MCP 5 (as proposed to be changed) does not negate what is said in NPPF; the use of the phrase "maintain continuity of production for at least 10 years" does not exclude consideration of a longer period where justified. Not only would paragraph 143 of NPPF provide such justification, the proposed revised supporting text for MCP 5 acknowledges that 15 years may be a relevant time horizon in relevant cases. In which case I do not see that the policy, as proposed to be changed, is not 'sound'.

### ***Minerals Objective 3***

148. A representation was made in response to the proposed changes publicised in April 2013 to the wording of Minerals Objective 3 in Section 6 of the Plan. No changes to Objective 3, which formed the subject of the representation made in response to the proposed changes, had been put forward as part of the proposed changes. In which case, it was acknowledged that the representation was not duly made and was not before me for consideration.

## **Other Matters**

149. The insertion of the Inspector's Main Modifications (**IMMs**) and Additional Modifications into the Plan (including the consolidation, re-ordering and renumbering of some policies), will require consequent renumbering of paragraphs throughout the document. These changes, together with changes to index references and any other corrections of typographical errors, cross-references and similar points can be made by the JAs prior to the adoption of the Plan without being referred to or endorsed by me.

## **Assessment of Legal Compliance**

150. My examination of the compliance of the Minerals and Waste Local Plan: Strategic Sites and Policies with the legal requirements is summarised in the table below. I conclude that the Plan must be modified to ensure legal compliance. The required changes are identified as **IMM 01 – IMM 10** in the Appendix accompanying this report.

<b>LEGAL REQUIREMENTS</b>	
Local Development Scheme (LDS)	The Minerals and Waste Local Plan: Strategic Sites and Policies is identified within the approved LDS October 2012 which sets out an expected adoption date of July 2013. The content of the Minerals and Waste Local Plan: Strategic Sites and Policies and its timing are compliant with the LDS.
Statement of Community Involvement (SCI) and relevant regulations	The SCI was adopted in May 2006 and consultation has been compliant with the requirements therein, including the consultation on the post-submission proposed 'main modification' changes (referred to as <b>IMMs</b> in this report)
Sustainability Appraisal (SA)	SA has been carried out and is adequate.
Habitats Regulations Assessment (HRA)	The Habitats Regulations HRA has been carried out and is adequate.
National Policy	The Minerals and Waste Local Plan: Strategic Sites and Policies complies with national policy except where indicated and modifications are recommended.
Sustainable Community Strategy (SCS)	Satisfactory regard has been paid to the SCS.
2004 Act and Regulations (as amended)	The Minerals and Waste Local Plan: Strategic Sites and Policies complies with the Act and the Regulations.

## Overall Conclusion and Recommendation

151. The Plan as submitted has a number of deficiencies in relation to soundness and/or legal compliance for the reasons set out above. These deficiencies have been explored in the main issues discussed above.
152. The Joint Authorities have requested that I recommend Main Modifications to make the Plan sound and/or legally compliant and capable of adoption. I conclude that with the recommended Inspector's Main Modifications set out in the Appendix the Bedford Borough Council, Central Bedfordshire Council and Luton Borough Council Minerals and Waste Local Plan: Strategic Sites and Policies satisfies the requirements of Section 20(5) of the 2004 Act and meets the criteria for soundness in the National Planning Policy Framework.

*Geoffrey Hill*

Inspector

**This report is accompanied by the Appendix containing the Inspector's Main Modifications**



## Appendix – Inspector’s Main Modifications

The modifications below are expressed by specifying the modification of additional or replacement words in bold.

The page numbers and paragraph numbering below refer to the submission (May 2012) version of the Plan, and do not take account of the deletions or addition of text as subsequently proposed.

The 'Ref' column refers to the numbering system given to the JA's proposed modifications published in April 2013

Ref	Page	Policy/Paragraph	Inspector’s Main Modification
<b>IMM 01</b> <i>Include a policy offering positive support for sustainable development.</i>			
Modification P1	17	After paragraph 3.8	Insert: <b>Minerals and Waste Strategic Policy MWSP1</b> <b>Presumption in Favour of Sustainable Development</b> <b>When considering development proposals the Minerals Planning Authority/Waste Planning Authority will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. The Minerals Planning Authority/Waste Planning Authority will always work proactively with applicants jointly to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the Plan area.</b> <b>Planning applications that accord with the policies in this Plan and subsequent Local Development Documents will be approved without delay, unless material considerations indicate otherwise.</b>

Ref	Page	Policy/Paragraph	Inspector's Main Modification
			<p><b>Where there are no policies relevant to the application or relevant policies are out of date at the time of making the decision then the MPA/WPA will grant permission unless material considerations indicate otherwise taking into account:</b></p> <ul style="list-style-type: none"> <li><b>a. any adverse impacts of granting permission which would significantly and demonstrably outweigh the benefits when assessed against the policies in the National Planning Policy Framework taken as a whole; or</b></li> <li><b>b. specific policies in that Framework indicate that the development should be restricted.</b></li> </ul>
<p><b>IMM 02</b> <i>Change nomenclature and references throughout the Plan to conform to the Local Plan Regulations</i></p>			
<p>Modifications N1 N15, N17- N49</p>			
<p>i)</p>	<p>Throughout the Plan</p>		<p>Delete title and references to Minerals and Waste Core Strategy Plan for Submission with Main Modifications and Additional Modifications (May 2012) and replace with:</p> <p><b>Bedford Borough Council, Central Bedfordshire Council and Luton Borough Council Minerals and Waste Local Plan: Strategic Sites and Policies</b></p>

Ref	Page	Policy/Paragraph	Inspector's Main Modification
ii)			Delete references to Core Strategy and replace with <b>This Plan</b>
iii)			Delete references to Proposals Map and replace with: <b>Policies Map</b>
iv)			Delete references to Development Plan Document and (DPD) and replace with: <b>Local Development Document and (LDD)</b>
<b>IMM 03</b> <i>Delete references to the regional plan</i>			
Modification N16			Delete References to The East of England Plan (RSS) and regional strategy
<b>IMM 04</b> <i>Delete Elstow South as an allocated site for landfilling of non-hazardous waste.</i>			
Modification P5			
i)	24	WCP 2 (proposed to be renumbered WSP2)	Delete Elstow South as a landfill allocation
ii)	85 – 86	Table 5	Delete references to Elstow South

Ref	Page	Policy/Paragraph	Inspector's Main Modification
<p><b>IMM 05</b> <i>Include a proviso that a planning application for the allocated waste recovery site at Thorn Turn made before the site is removed from the Green Belt will have to demonstrate very special circumstances to justify a planning permission.</i></p>			
i)		WCP 2 (proposed to be renumbered WSP2)	Put an asterisk (*) against Land at Thorn Turn in the list of allocated waste recovery sites.
ii)			<p>Under the list of waste recovery sites include:</p> <p><b>* The site is currently in the South Bedfordshire Green Belt and, until such time as it may be removed from the Green Belt, it will be necessary for any planning application for the facility to demonstrate very special circumstances to justify a grant of planning permission.</b></p>
iii)			<p>Include in the reasoned justification for WCP 2 / WSP2 the following:</p> <p><b>The land at Thorn Turn is currently in the South Bedfordshire Green Belt. However, at the time of drafting this Minerals and Waste Local Plan it is within the North of Houghton Regis Strategic Site Allocation proposed by Central Bedfordshire Council in its emerging Development Strategy. That local plan (which is in its early draft stages) proposes to take this area, including the Thorn Turn waste recovery site, out of the Green Belt. Until the site is removed from the Green Belt the considerations set out at paragraph 87 of NPPF will be applicable.</b></p>

Ref	Page	Policy/Paragraph	Inspector's Main Modification
<b>IMM 06</b> <i>Include more detailed policy and associated reasoning relating to proposed catchment area restrictions.</i>			
Modification P9			
i)	27	WCP 6 (proposed to be renumbered WSP4)	<p>Delete text of WCP6 and replace with:</p> <p><b>Waste Strategic Policy WSP4</b></p> <p><b>Catchment Area Restrictions</b></p> <p><b>Recovery and disposal capacity will be provided for the equivalent of the local arisings of waste that will arise from within the Plan area, as well as an apportionment of pre-treated residual waste from London. In order that the majority of waste that is managed is to be received from Plan area, developers of new waste recovery or disposal facilities on the strategic sites allocated in Policy WSP 2, will be subject to planning controls (either planning conditions or planning obligations) relating to the origin of waste that they receive, so as to ensure that any facility permitted will meet the needs of the Plan area.</b></p> <p><b>In considering any proposals for new recovery facilities on strategic sites allocated in Policy WSP 2, the Waste Planning Authority will consider the need for a catchment area restriction in relation to:</b></p> <p><b>a) whether the any waste to be managed at the facility is specialised such that it can only be managed at a limited number of facilities for appropriate recovery or final disposal, or whether wastes that it will manage are more generalised wastes;</b></p>

Ref	Page	Policy/Paragraph	Inspector's Main Modification
			<p><b>b) whether the wastes to be managed by the facility originate from either a waste transfer facility or other waste recovery facility, a household, or a business premises within the Plan area;</b></p> <p><b>c) the proportion of waste which will originate from within the Plan area to be managed at the facility, taking into account a) and b) above, and any other considerations, such as the location of the facility.</b></p>
ii)	27	4.12	<p>The reasoned justification for Policy WCP6 (as proposed to be renumbered WSP4) to read:</p> <p><b>The Plan is based upon local communities assuming responsibility for the management of waste arising within the Plan area. In order to ensure that sufficient recovery and disposal capacity exists which is in close proximity to where waste will arise during the Plan period new waste recovery and disposal capacity on strategic sites identified in Policy WSP 2 will be subject to catchment area restrictions. This is so as to help bring about a situation whereby waste will be managed close to where it arises, with the exception of specialised wastes, for which appropriate facilities are rare in occurrence, and for which it is more sustainable for such wastes to travel longer distances to reach appropriate facilities for their recovery or disposal. The unnecessary transport of waste by road over long distances is unsustainable, due to the damage to the environment that it will bring about. It is not anticipated that there will be a significant shift from utilising this mode of transport during the Plan period. In determining individual proposals the</b></p>

Ref	Page	Policy/Paragraph	Inspector's Main Modification
			<p><b>Waste Planning Authority will take into account the location of the facility and the types of wastes that it intends to manage, in considering the form of catchment area restriction.</b></p>
<p><b>IMM 07</b> <i>Include more detailed policy relating to sites for waste recovery, including RDF/SRF.</i></p>			
<p>i) Modification P11</p>	<p>28</p>	<p>Policy WCP8 (proposed to be renumbered WSP6)</p>	<p>Delete text of WCP8 and replace with:</p> <p><b>Waste Strategic Policy WSP6</b></p> <p><b>Non-hazardous waste transfer and materials recovery.</b></p> <p><b>Proposals for waste transfer and materials recovery operations will be permitted on either:</b></p> <ul style="list-style-type: none"> <li>• a strategic site set out in Policy WSP 2; or</li> <li>• an existing employment area of similar uses; or</li> <li>• within the area of and for the duration of an existing planning permission for a waste related use; or</li> <li>• within the area of, and for the duration of an existing planning permission for minerals extraction; or</li> <li>• within areas of despoiled, contaminated or derelict land.</li> </ul> <p><b>Proposals for waste transfer/materials recovery/ the production of refuse derived fuel (RDF) and solid recovered fuel (SRF) operations in locations other than those listed above, will be permitted where it can be demonstrated that:</b></p> <ul style="list-style-type: none"> <li>• they serve an identified need which cannot be met by</li> </ul>

Ref	Page	Policy/Paragraph	Inspector's Main Modification
			<p><b>existing facilities, and;</b></p> <ul style="list-style-type: none"> <li><b>no land in the above categories is available.</b></li> </ul>
ii) Modification O49	77	Glossary	<p>Delete definition for 'Recovery' and replace with:</p> <p><b>Waste can be 'treated' by either being disposed of (through incineration without energy recovery, or landfilling) or by recovery processes, which are generally about deriving value from them, in the form of reusable materials or energy, and includes the production of RDF/SRF. This distinction derives from European Union legislation which is applied into UK law, and specifically the Waste Framework Directive 2008/98/EC. These operations include composting, recycling, anaerobic digestion, gasification, pyrolysis, and energy recovery.</b></p>
<b>IMM 08</b> Clarify the definitions of 'maximum practicable recovery' and 'intensive recovery operations'			
i) Modification O47	75	Glossary	<p>Delete definition of Maximum Practicable Recovery and replace with:</p> <p><b>The state achieved when waste has been subjected to Intensive Recovery Operations/ Intensive Residual Treatments, which have changed their biological, physical, or chemical nature, and only energy recovery or disposal to landfill are the available options for managing this waste.</b></p>
ii) Modification O48	75	Glossary	<p>Delete definition of Intensive Recovery Operations and replace with:</p> <p><b>Recovery operations (as defined under Annex 2 of Directive 2008/98/EC) which change the characteristics of waste in order to</b></p>



Ref	Page	Policy/Paragraph	Inspector's Main Modification
			<b>reduce its volume and/or its impact on the environment and human health, and in so doing recover materials and/or energy from it.</b>
<b>IMM 09</b> <i>Revise wording of policy to permit extraction (or associated additional or replacement processing plant) at unallocated sites where there is a demonstrable need or benefit.</i>			
i) Modification P28	39	Policy MCP 6 (proposed to be renumbered MSP6)	Delete text of MCP 6 and replace with:  <b>Mineral Strategic Policy MSP6</b>  <b>Mineral Extraction outside Allocated Sites</b>  <b>Mineral extraction or the development of new or replacement concrete batching, asphalt and stone coating plants outside of the identified strategic sites will be permitted where it can be demonstrated that there is an overriding need and/or benefit.</b>
Modification P29			
ii)	39		Delete first sentence of the first paragraph of reasoned justification for Policy MCP 6 and replace with:  <b>Planning applications for mineral working outside of the allocated strategic sites identified in Mineral Strategic Policy MSP1 will be permitted where a demonstrable need or overall benefit can be demonstrated. Particular requirements may include the prevention of the sterilisation of reserves, where there are significant environmental and biodiversity benefits or where it can be demonstrated that an allocated strategic site identified in Policy MSP1 is no longer likely to come forward. In such circumstances sites will be assessed against the sequential test in paragraph 6.4.</b>

Ref	Page	Policy/Paragraph	Inspector's Main Modification
iii)	39		<p>Insert new paragraph before paragraph beginning "Large permitted reserves of clay ...":</p> <p><b>The National Planning Policy Framework introduced a requirement to safeguard existing or planned batching, asphalt and stone coating plants. This requirement has been set out in Minerals Strategic Policy MSP4. However, there is still the need to ensure that there is provision for new or replacement plant to come forward should the demand arise. This is addressed in Minerals Strategic Policy MSP6 where provision is made for these plants subject to the case being made in terms of need or benefit. Applications for such plant would also be determined in accordance with the requirements of Minerals and Waste Strategic Policy MWSP3.</b></p>
<b>IMM 10</b> <i>Positive support to be given for non-allocated sites for silica sand to ensure continuity of production for at least 10 years.</i>			
i) Modification P26	38	Policy MCP 5 (proposed to be renumbered MSP5)	<p>Delete Policy MCP 5 and replace with</p> <p><b>Mineral Strategic Policy MSP5</b></p> <p><b>Provision of Silica Sand.</b></p> <p><b>Silica sand sites will be released where there is a demonstrable need for the product to supply individual processing plants in the Plan area and this need cannot be met from existing extraction sites in the Plan Area or from alternative materials, in order to maintain continuity of production for at least 10 years.</b></p>
ii) Modification P27	38	5.11	<p>Delete paragraph 5.11 and replace with:</p> <p><b>The National Planning Policy Framework states that MPAs should</b></p>

Ref	Page	Policy/Paragraph	Inspector's Main Modification
			<p><b>aim to ensure that landbanks of at least 10 years are maintained for individual silica sand sites. In addition, the Framework also states that where significant capital investment is required it may be necessary for plant to be provided with a stock of permitted reserves to provide for at least 15 years of operation depending on the circumstances. In this instance, due to confidentiality issues, it has not been possible for the MPAs to identify a landbank against which to assess whether or not the need for permitted silica sand reserves has been met. Additionally, the Cuesta Silica Sand Study undertaken in 2006/7 demonstrated that there is a range of silica sands, which vary in their grain size, colour and chemical composition, and also the increasing variety of uses to which these silica sands may be put. There may therefore be justification for allowing the extraction of further reserves so as to maintain the production of a particular type of silica sand at an individual processing plant. The MPAs consider that it is the processing plant sites which are the important sites, in the context of the National Planning Policy Framework, as this is where significant investment may be required for new plant and where it is necessary to maintain and improve existing plant. Within the Plan area several silica sand quarries may feed one plant site. It is important to maintain the continuity of production at these plant sites and to this end permission will be granted for new quarries or the extension to an existing quarry, in accordance with policies MSP1 and MSP5. However, the need for further reserves must be balanced against environmental constraints and there may, in some circumstances, be overriding environmental reasons why stocks of permitted reserves cannot be replenished.</b></p>