



## **GLOUCESTERSHIRE WASTE CORE STRATEGY**

Programme Officer  
Ms Yvonne Parker  
2 Priory Court  
Burnley  
Lancashire  
BB11 3RH

Tel: 01282 450522  
Mobile: 0781 333 4305  
Email: [posltd@virginmedia.com](mailto:posltd@virginmedia.com)

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Kevin Phillips BSc (Hons) BTP, MRTPI  
Strategic Planning  
Environment Directorate  
Gloucestershire County Council  
Shire Hall,  
Westgate Street,  
Gloucester  
GL1 2TG

Dear Mr Phillips

### **Localism Act – Implications for the Gloucestershire Waste CS Examination**

You will be aware that the amended sections 20-23 of the Planning and Compulsory Purchase Act 2004 Act came into force on 15 January. There are a number of implications for the examination of your plan that you will need to be aware of and you will also need to consider how you now wish to proceed. I have yet to read the further statements that were submitted by all parties and this letter is therefore without prejudice to anything that may be within them.

You have confirmed in CD13.2 and again at the PHM (see CD13.8) that the plan to be examined is CD1.1, that is the December 2010 version. One effect of the changed legislation is that where your plan may need modifications to make it sound, I will not be able to recommend these 'main modifications' unless you make a specific request under new section 20(7C). This would appear to alter the status of all your Focused Changes (CD1.3), the schedule of minor editorial changes (CD1.4) and any other changes embedded in further documents (for example, FC44 within CD1.11).

My understanding is that the 'main modifications' that I can make are limited to the rectification of issues of legal compliance and/or soundness. In order for me to take forward a 'main modification' initiated by you or any other party the requirements of s.20(7B) and (7C) must be met. These modifications cannot be accommodated unless the submitted plan is, in my view, potentially unsound or not legally compliant.

Obviously I will also need to be satisfied that the modification proposed will rectify the soundness problem.

From para 2.10 of CD1.11 it is clear that you do not consider any of the Focused Changes to be necessary for soundness. If that remains your view my understanding is that these, together with the minor editorial changes, would become 'additional modifications' that you could make upon adoption. Provided that when taken together with any 'main modifications' they do not materially affect the policies of the plan, they do not need to be subject of the examination or my report. There would therefore be no need for a schedule of such changes to be provided.

In CD13.1 I alerted you to a number of matters that were of concern to me and indicated that these would form the basis for the hearing sessions, which they do. Obviously, it is too early in the examination to say whether my concerns will be addressed by what I have yet to read and the debate that we will have at the end of this month. However, I have no power now to initiate any changes to the plan myself. Thus, if my concern(s) remain and you do not specifically request a 'main modification' to address it/them, you will appreciate there appears some likelihood that my report will be confined to identifying any soundness or legal compliance failures and recommending non-adoption of the Plan.

The 'duty to co-operate' requirements of s33A and s20(5)(c) do not apply as the plan was submitted for examination prior to 15 November 2011 when this provision came into force.

Clearly, there are matters for you to consider. As some of the statements previously made to those interested in the examination no longer hold true, this letter should be placed on the examination web site as soon as possible. Any early response as to your preferred approach should also be placed there. If you are unable to do that, you should indicate this either in your opening remarks on 31 January or during session 1 of the hearings. Session 7 and question 7.2 takes on a new significance and would appear to be the appropriate place for you to indicate, having reflected on the discussions at the hearing sessions, the 'main modifications' that you will ask me to recommend. You should also set out then your programme for consultation on the 'main modifications' which will, by definition, not have been subject to this before. I drew your attention to the implications of the *Barrow* judgement in this regard in CD13.1.

Yours sincerely,

*Brian Cook*

Brian Cook, Appointed Inspector

17 January 2012