

Waste Core Strategy Examination

Position Statement on Landfill – Inspector's Issue 2 Question 4

Prepared jointly between Gloucestershire County Council, Cory Environmental Ltd and Grundon Waste Management

1. Introduction

- 1.1 The Inspector appointed to examine the Gloucestershire Waste Core Strategy (WCS) has requested that a position statement is prepared on landfill in advance of the Pre-Hearing Meeting on 22nd November 2011. The Inspector has asked that a position statement be prepared between the Council, Cory Environmental Ltd and Grundon Waste Management and should set out where the parties agree, those where they do not and the reasons for the continuing dispute.
- 1.2 Further discussion and expansion on the issue of landfill within Gloucestershire may be addressed in a topic paper prepared by the County Council later on in the examination process. For the avoidance of doubt the other matters raised by the Inspector under Issue 2 will be dealt with through separate topic papers to be with the Programme Officer by the 5th January 2012. It is accepted however that those issues may be touched upon by all three parties in this position statement.

2. Background

- 2.1 The WCS has been in a process of preparation for approximately 5 years. In that time there has been consultation through Issues and Options in 2006, Preferred Options in 2008 and Site Options in 2009. Potential future landfill capacity was assessed and identified in appropriate papers; Issue & Options Explanatory paper Part B (CD2.2 paragraphs 4.57 – 4.67) and Technical Evidence paper WCS – A Data (CD10.3 section 8). The Council was aware that it would need to reassess the position with regards landfill capacity in moving towards the formal publication of the WCS in 2010.
- 2.2 As part of the publication of the WCS in December 2010 the Council produced an update to Technical Evidence Paper WCS - A Data (CD10.4). The main outcome from this was:
 - The Council's view is that landfill capacity based on a combination of existing void space and current deposits of waste to landfill would last at least for 10- 13 years and potentially longer.
 - As a result of the information that came out of this update the Council decided that a landfill policy was not needed in the (WCS).
 - The Council acknowledged that assuming landfill only lasted around 10 years to 2020; work on a landfill development plan document could potentially commence around 2017/18, although the situation would require ongoing monitoring.

2.3 However both of the two major landfill operators in the county have raised concerns through their representations to the publication stage of the WCS about the estimation of landfill void and the merits or otherwise of whether the WCS should contain a policy relating to landfill. Detailed discussion and response from the Council of the concerns raised by both operators in response to the Publication WCS is included within Regulation 30(e) statement (CD1.11 paragraphs 3.3 – 3.40).

2.4 The responses raised by Cory Environmental Ltd and Grundon Waste Management argued that the current landfill capacity may last either longer or conversely shorter than indicated within the WCS depending on alternative assumptions and view points. In relation to the Cory Environmental Ltd representation that landfill will last longer than 10 – 13 years the Council proposed focused change 25. This suggested that the landfill void may last potentially to the end of the plan period of 2027 or beyond depending on future diversion rates from landfill across all waste streams. The Council also proposed focused change 26 to acknowledge that the review of the landfill policy might need to be brought forward earlier than 2017/18 depending on the outcome of the determination of an application at Wingmoor Farm East.

2.5 Despite the consultation on the two focused changes during June – August 2011 Cory and Grundon have both submitted further representations. The detailed discussion and response from the Council of the concerns raised by both operators in response to the focused changes is included within Regulation 30(e) statement (CD1.11 paragraphs 4.133 – 4.146).

3. Wingmoor Farm East planning status

3.1 Since the Submission of the WCS the Inspector has raised a question about the 'soundness' of the plan specifically related to the fact that the Council has not included a landfill policy. The reasoning behind the Inspector's view appears to be largely, but not wholly, related to the planning status of the existing waste management operations at Wingmoor Farm East, given that a large percentage of the landfill capacity (non hazardous void of 2,945,000m³) in Gloucestershire is associated with the outcome of this planning application.

3.2 This position has subsequently changed as the planning application in question was considered and determined by the Council's Planning Committee on 22nd September 2011. The report presented to Committee (CD13.3) includes an assessment of the policy considerations relevant to the planning application. The resolution on that planning application was that it be approved subject to the completion of a Section 106 agreement. The planning permission was issued on 11th November 2011 and it should be noted that through the associated conditions the planning permission is granted until 2029 for non-hazardous waste and until 2027 for hazardous waste.

3.3 In light of the change in the status of the Wingmoor Farm East waste management operation the County Council has produced this statement to outline its current view along with those of Cory and Grundon.

4. Gloucestershire County Council's current position

- 4.1 As stated above the Council has taken the view that there is not a need for a landfill policy in the WCS. The reasons behind this are outlined in the Council's response to the landfill issues that are based on the consideration of statistical information on landfill (CD10.4) and consideration of the issues raised by the representation made by Cory and Grundon to the Publication WCS CD1.11, paragraphs 3.3 – 3.40 and 4.133 – 4.146. The most significant of these is that it is considered that there is adequate provision or capacity served by the current landfills in Gloucestershire.
- 4.2 Within the Publication WCS the Council has suggested that there is at least 10-13 years landfill capacity within the county. The 13 year projection is based on a non-hazardous landfill void of 6,029,500m³ and the 2008 throughput of non-hazardous waste deposits of 494,000 tonnes (dataset 2 waste operator landfill data – CD10.4 section11). The WCS continues by saying that this is conservative estimate due to a number of potential factors relating to a reduction in the amount of waste being sent to landfill. In CD1.11 the Council acknowledge that subject to future diversion rates from landfill across all waste streams that there is a good chance that there is sufficient void to last until the WCS end date of 2027.
- 4.3 The Council's view is that the position it has taken on landfill is now clarified by the approval of the planning application at Wingmoor Farm East. The supporting statement of the application submitted by the applicant suggested that the site would be accepting non hazardous waste until 2029. In addition, if the Cory view is taken into account that the landfill capacity at their two sites (3,205,000m³ at December 2009) will last until 2027 then it would also seem to support the stance taken in the WCS.
- 4.4 Within the focused change consultation that the council undertook it was acknowledged that if the application at Wingmoor Farm East was refused then the proposed landfill DPD would need to be brought forward. The Council outlined potential scenarios in CD1.11. Within the MWDS (CD11.1), the Publication WCS and the Focused Changes it suggests that the council will monitor the landfill situation and potentially there may be a need for work to begin on a landfill DPD in 2017/2018. Arguably now that the planning status of Wingmoor Farm East is clarified the focused change 26 (CD 1.3) may not be required or potentially will need to be modified.

5. Summary of Cory Environmental Ltd's response

- The reference in the WCS to 10-13 years remaining non-hazardous landfill void is an underestimation and misleading.
- The evidence base (CD10.4) and the strategic objectives in the WCS overestimate residual waste levels requiring treatment / disposal.
- The evidence base (CD10.4) and the WCS makes use of unrealistic projections of MSW, C&I and C&D waste being sent to landfill within the county.
- The approach adopted by the Council is inconsistent with available published data and neighbouring WPA's.

- Cory believes that landfill will be available within the county at Wingmoor Farm West until the WCS end date of 2027.

6. Summary of Grundon Waste Management's response

- The managed figure within the data paper update (CD10.4) is significantly less than that recently identified within the 2009 Defra C&I study.
- If the planning application for Wingmoor Farm East were to be refused then this would have significant consequences on landfill void. If this was the case then Grundon's suggested landfill could run out possibly within the next 5 years.

7. Matters agreed upon with all parties

7.1 One of the objectives of this statement was to gain an understanding of the areas in which there was agreement between the Council and the two stakeholders.

7.2 After discussions with Cory and Grundon it has been agreed:

- That the recent determination at Wingmoor Farm East has resolved the planning status of those operations and provides for the continued landfilling of non-hazardous waste. The legal agreements have been completed and the planning permission was issued on 11th November 2011.
- The application package provided in support of the application at Wingmoor Farm East identifies that the land filling of non-hazardous waste may potentially continue at this site until 2029 and hazardous waste until 2027 (until the end of the WCS timeframe). *Despite the position outlined in the supporting statement of the planning proposal the Grundon position as to the potential impact on the WCS is outlined in section 10 below.*
- That the operational life of the combined non-hazardous landfills in the county run by Cory is projected beyond the end of the WCS timeframe 2027. This is regardless of whether alternative waste management development takes place on 4ha of land at the front part of the Wingmoor West landfill.
- As already suggested by the Council, monitoring of the landfill situation through the AMR (or similar monitoring report) will indicate when and if a landfill DPD will need to be produced. Work on the DPD will begin in enough time to ensure it would be in place for when it would be required.
- Subject to the views provided by Cory Environmental and Grundon to this statement the Council will elaborate on any outstanding issues including proposing any potential ways forward through the topic paper that it needs to be prepared by 5th January 2012.

8. Matters of agreement between Cory and the County Council only

8.1 That in the opinion of Cory and the County Council through the combination of the factors identified in 7.2 bullets one-three, that there is no need for a landfill policy to be contained within the Development Plan (WCS) at this time.

9. Matters where there is still disagreement between Cory Environmental Ltd and the County Council

- The references in the WCS to an estimated 10-13 years of non-hazardous landfill capacity are considered inaccurate and misleading and should be amended to reflect an updated evidence base.
- The evidence base to the WCS in terms of projections of levels of waste requiring recycling, recovery and disposal in the county, and as a consequence the strategic objectives in the WCS, are not considered robust. For example:
 - The waste projections used in the WCS evidence base do not reflect the most recently available data such as WDA projections of residual MSW and Defra's C&I waste study published in 2010.
 - The waste projections used in the WCS evidence base do not have appropriate regard to recycling and recovery targets.
 - There is a lack of justification for the assumptions used to determine waste growth over the plan period.
- There is an overestimation of the projected levels of MSW, C&I and C&D waste requiring treatment / disposal within the county over the WCS timeframe.

10. Matters where there is still disagreement between Grundon Waste Management and the County Council

- 10.1 Grundon Waste Management still has concerns over a lack of a landfill policy. Grundon agree that although now they have obtained their planning permission their view is that it will be subject to a Judicial Review that subject to its outcome may result having to go back to and resubmit new proposals. If this happens the WCS would be in place with no policy against which to determine an application as it will have superseded saved policy from the Waste Local Plan.
- 10.2 Whilst there may be a large non hazardous void a percentage of this is taken up by inert/C&D waste. This happens at all the landfills in Gloucestershire. In 2007 some 29% on input and this has fallen to 18% in 2009 due to the recession (EA WDI data) which very much mirrors Grundon's own experience. Grundon is unsure how much inert/C&D waste will continue to be landfilled in non hazardous landfills and how this may affect available void capacity into the future.
- 10.3 Another factor potentially reducing available void quicker than envisaged is that this is dependant upon diversion which means thermal treatment and there is a delay on a facility being in use. Input levels have remained fairly consistent and have only fallen in recent years coinciding with the recession. Grundon considers that when construction and economic activity picks up so will waste volumes. The Technical Evidence Paper concluded that the void would last 10-13 years. As there has been no new evidence or reassessment of future inputs and recent trends have been impacted by the recession Grundon considers that the original conclusions are still valid.

11. Matters where there is still disagreement between Gloucestershire County Council, Grundon and Cory

- 11.1 The areas of agreement between all parties are identified in para 7.2 above. Some of these relate to the fact that the planning permission for Wingmoor Farm East has now been issued and the supporting planning statement with that proposal indicated that the landfill would be operational until around the end of the WCS timeframe of 2027. Cory has also confirmed that they believe that their landfill capacity will last beyond 2027.
- 11.2 Therefore Cory and the County Council are in agreement that there is no need for a landfill policy in the WCS at this time. However Grundon have concerns over a lack of a policy and the void space may not be sufficient for the WSC timeframe.
- 11.3 With regards the issue raised by Grundon relating to delay in terms of thermal treatment, the County Council (as the Waste Disposal Authority (WDA)) can confirm that it still intends that the diversion of residual MSW through an energy recovery treatment facility should be in place and operational by 2015. In any event Wingmoor Farm East does not currently receive any of Gloucestershire's residual MSW, as this is received by Cory at Hempsted and Wingmoor Farm West. Furthermore, the assumptions of 10 -13 year lifespan projection of the landfill in Gloucestershire used in the WCS, do not take account for any reduction in residual MSW inputs to landfill from residual treatment of MSW (CD 1.11) (para 4.140).
- 11.4 Therefore there is still disagreement between the positions of the two operators and the County Council on the landfill issue. Cory highlight their reasons for these differences in section 9 above. The majority of those areas of disagreement relate to matters which the County Council will address through it's topic paper on Issue 2. For example much of these matters raised by Cory also cover Issue 2, questions 1, 2 and 5 although the County Council accept that there is a relationship with these matters and landfill capacity.
- 11.5 In respect of the issue of growth and projections of waste for MSW, the WPA is advised on these issues by the Waste Disposal Authority (WDA). Indeed the information and data provided by the WDA is an important component of the MSW section of CD10.4. This will be expanded upon by the County Council within the topic paper covering Issue 2, question 1.
- 11.6 Grundon does not share Cory's position notwithstanding the matter of the change in planning status at Wingmoor Farm East. The main grounds of concern would appear to be that there may be a future challenge through the courts to the planning permission and the potential that Grundon may need to resubmit new proposals. The Grundon's concern seems to be that there could be difficulties in the determination of that proposal in the absence of a specific landfill policy. The County Council would clarify that the recent application at Wingmoor Farm East was determined in the absence of a landfill policy as the WLP Policy 20 – Landfilling /Landraising, as this

was not saved through the Secretary of State's Direction on the WLP of 5th October 2007. It should be noted that the County Council did not request WLP Policy 20 to be 'saved' as it did not add to guidance/policy already set out in PPS 10 and was considered unnecessary.

11.7 As already suggested by the Council, monitoring of the landfill situation through the AMR (or similar monitoring report) will indicate when and if a landfill DPD will need to be produced. Work on the DPD will begin in enough time to ensure it would be in place for when it would be required. At the moment the WCS identifies that the earliest that work might need to begin would be 2017/18. Cory disagree with this position. The County Council would be open to an amendment to this subject the latest view from Grundon.

12. County Council summary

- The County Council still believe from the evidence base for landfill capacity there is no overriding need for any additional capacity for landfill now or for the foreseeable future, particularly in light of the recent planning status of Wingmoor Farm East.
- The County Council considers that it has used the evidence correctly to conclude that there was no need for a landfill policy at this point in time. Obviously there would have been a need for a policy if the evidence suggested a different scenario and landfill was about to be complete.
- There is still some disagreement to exactly how long this landfill will last. With Grundon suggesting it may run out before the end of the WCS (2027).
- As there is still disagreement with Cory and Grundon as outlined in this statement the County Council will address this and outline its view further through its topic papers on Issue 2.
- However Grundon also point to a concern as to whether uncertainty might still hang over the status of Wingmoor Farm East in the form of a successful legal challenge. Grundon would appear to be suggesting an argument that a landfill policy is required in order for the WCS to contain a contingency in that scenario. The County Council can see the Grundon point of view on this. Therefore in light of this the Council will include a draft landfill policy for this 'contingency' situation in its Topic paper on Issue 2, question 4 should the Inspector consider through the examination process that a policy should be included in the WCS in order for it to be found 'sound'.
- In addition the County Council will expand in the Topic paper as to how any development plan review process for landfill would be undertaken should additional landfill capacity be required earlier in the WCS timeframe process than 2027.