

Minerals and Waste Development Framework Devon Waste Plan: Review

Report of the Chief Planner

Please note that the following recommendations are subject to consideration and determination by the Committee before taking effect.

Recommendation: It is recommended that the Committee note the work completed on the review of the Devon Waste Plan and endorse the conclusions from the review that:

- (a) the Waste Plan's policies remain fit for purpose and do not need to be updated at this time;
- (b) a guidance note is prepared to aid interpretation of the biodiversity net gain requirements of Policy W11: Biodiversity and Geodiversity in line with advice provided by Natural England; and
- (c) further work is undertaken to establish a robust methodology for estimating waste arisings which can be replicated annually and used to inform any future update to the Waste Plan that may be required at a later date.

1. Summary

- 1.1 This report outlines the context for the review of the Devon Waste Plan, the work that has been undertaken as part of this technical exercise and the conclusions drawn as a result of the evidence produced.

2. Background

- 2.1 The Devon Waste Plan was adopted in December 2014 and has since provided the local waste planning policy informing the determination of waste planning applications in the administrative area covered by Devon County Council.
- 2.2 There is a statutory requirement for planning authorities to review their local plan policies at least every five years from the date of their adoption. Paragraph 33 of the National Planning Policy Framework (NPPF) indicates that policies "*should be reviewed to assess whether they need updating at least once every five years, and should then be updated as necessary.*" It has therefore been necessary to review the Devon Waste Plan to assess if the vision and objectives of the Plan are on track to be achieved and whether the Plan's policies are proving to be effective and remain fit for purpose.
- 2.3 Planning Practice Guidance provides advice on what factors authorities should consider when reviewing a Plan. In addition, the Planning Advisory Service has published the Local Plan Route Mapper guidance to assist planning authorities in

undertaking Plan reviews. Both of these guidance documents have informed the review of the Devon Waste Plan, which has been completed as a technical exercise alongside input from various County Council specialist officers, including landscape, flooding, ecology and climate change.

- 2.4 A series of topic papers have been prepared which provide the evidence informing the conclusions of the review:

Topic Paper 1:	5 Year Review of Annual Monitoring Report data
Topic Paper 2:	Review of Consistency with National Policy
Topic Paper 3:	Spatial Strategy Review
Topic Paper 4:	Review of Climate Emergency Declaration Implications
Topic Paper 5:	Duty to Cooperate Engagement

- 2.5 A summary of these papers is provided below. Subject to the Committee's endorsement of the recommendations in this report, these topic papers will be published alongside an overarching '*Summary of Evidence and Conclusions*' paper. Please note that much of this Committee report has been taken from the overarching '*Summary of Evidence and Conclusions*' paper.

3. Summary of Evidence

Topic Paper 1: 5 Year Review of Annual Monitoring Report (AMR) data

- 3.1 The County Council is required to produce an annual report to monitor implementation of the Devon Waste Plan, and collating and reviewing the AMR data has provided a valuable source of information. The methodology used adopted a consistent two step approach which, firstly, flagged up if monitoring revealed any issues and, secondly, reviewed the issues identified.
- 3.2 Step 1 of the assessment indicated that, over the last five years, targets for some monitoring indicators had not been met and, in some cases, outcomes had been beyond trigger margins to review the relevant part of the Waste Plan and policies.
- 3.3 However, upon reviewing the outcomes for these indicators in step 2, it became clear that other non-policy based factors were often at play which had influenced the outcomes, and that changes to policy would not address the issues which had been identified. As an example, this was relevant to Indicator 1.3: Energy recovery from waste and Indicator 1.4: Disposal of waste. Delays in commencing a commercial contract meant targets for these indicators had not been achieved as quickly as anticipated when preparing the Waste Plan, and this situation was outside of the control of the Plan. It is worth noting that the contract referred to has since commenced and, therefore, this issue has been addressed.
- 3.4 In other cases where monitoring targets had not been met, alternative measures were identified through the review process which would support the achievement of the targets without the need to change the relevant policy. A good example of this is in relation to Indicator 1.1: Waste Audit Statements. The target is for 100% of major planning permissions to be supported by a waste audit statement or require one as a condition. However, over the last five years the highest rate achieved was 37%. Despite this poor outcome, the issue lies with the policy's

implementation by district councils rather than the policy itself. The policy content remains appropriate and fit for purpose, but its implementation needs to be more effective. As such, a system has now been established for weekly lists of district council planning applications to be reviewed and responses submitted accordingly if a waste audit statement has not been provided. This proactive measure is expected to achieve a better outcome for this policy in future years.

- 3.5 In light of the findings, this assessment concluded that it is not necessary to update any of the Plan's policies at this stage. However, continued monitoring is required to identify any changes which may trigger the need to update all or some of the Plan's policies.
- 3.6 Undertaking this exercise also provided an opportunity to reflect on the AMR process more generally with a couple of key points to note. Firstly, poor data availability means it has not been possible to report on a number of indicators, or elements of indicators and this has informed recommendation (c) of this report. This relates to indicators requiring reporting on commercial and industrial waste (CIW) and construction, demolition and excavation waste (CDEW), and those relating to energy efficiency and energy production waste sites. Secondly, when it is necessary to update the Plan, the indicators themselves should also be updated.

Topic Paper 2: Review of Consistency with National Policy

- 3.7 Conformity with national policy is an important consideration as part of the Plan review process. Since the adoption of the Waste Plan, the NPPF has been updated twice but the key principles have not fundamentally changed. A large number of the changes impact upon the way in which local planning authorities plan for housing development and are therefore not relevant to the Waste Plan.
- 3.8 The National Planning Policy for Waste (NPPW) and the Waste Management Plan for England have not been updated since the adoption of the Waste Plan. As such the conclusion from this element of the review is that the Waste Plan remains in conformity with national planning policy.
- 3.9 This process identified a number of additional policy drivers including the 25 Years Environment Plan, The Industrial Strategy, The Clean Growth Strategy and the 'Our Waste, Our Resource Strategy'. These drivers introduce new terminology, such as the 'circular economy' agenda, which should be incorporated if the Waste Plan were to be updated, but this alone does not warrant an update to the Plan.

Topic Paper 3: Spatial Strategy Review

- 3.10 This element of the review focused solely upon Policy W3: Spatial Strategy. Evidence has been collated and analysed regarding whether the existing spatial strategy has been effectively implemented and whether it remains fit for purpose in the context of any changes over the last 5 years.
- 3.11 Findings indicate that the vast majority of operational waste sites are located in conformity with the spatial strategy, and the granting of planning permission for

new sites over the last five years has also largely been in conformity with this strategy.

- 3.12 There have been limited changes to the planned distribution of future housing and employment growth, which is intrinsically linked to waste generation. As such, the spatial strategy and specifically Policy W3 remain appropriate and do not need to be updated at this stage.

Topic Paper 4: Review of Climate Emergency Declaration Implications

- 3.13 Devon County Council's Climate Emergency Declaration on 19 May 2019 represents a change to local circumstances which warrants consideration as part of the Waste Plan review process. The Plan was considered in the context of the current narrative surrounding climate change, in conjunction with officers from the County Council's Environment Group who are working on the county's response to the climate emergency declaration.
- 3.14 This review identified that tackling climate change features strongly as a key theme within the Waste Plan and is central to its vision, objectives and policies. The Devon Waste Plan policies contain a number of measures which seek to reduce, and adapt to the impacts of, climate change.
- 3.15 It has therefore been concluded that the existing measures in the Waste Plan are adequate in the context of the declaration, providing they are implemented robustly. However, upon publication of the final Devon Climate Emergency Action Plan expected in 2022, it will be necessary to reassess the Waste Plan in light of any specific measures which may be proposed in that Action Plan.

Topic Paper 5: Duty to Cooperate Engagement

- 3.16 Paragraph 68 of the Planning Practice Guidance indicates that authorities are expected to have due regard to the Duty to Cooperate when undertaking a review to assess if a Local Plan needs updating. Engagement with the County Council's Duty to Cooperate bodies has therefore been undertaken as part of the Waste Plan review process.
- 3.17 Virtual meetings were held with a number of Devon's local planning authorities, neighbouring waste planning authorities and statutory bodies to provide additional background and clarify particular details of the review.
- 3.18 No Duty to Cooperate issues were raised as part of this exercise and helpful feedback was provided in a number of areas. The topic papers and summary report were updated accordingly to reflect this. Notably feedback from Natural England identified the need for additional guidance to be prepared to aid the interpretation of the biodiversity net gain requirements of Policy W11: Biodiversity and Geodiversity, and the preparation of such a guidance note has been included as recommendation (b) to the Committee.
- 3.19 The response received from Historic England as part of this engagement exercise suggested Policy W13: Historic Environment would benefit from some amendments to make it more consistent with the NPPF. A virtual meeting was

held in order to understand these comments in more detail and, following this, further analysis was undertaken with input from the County Council’s Historic Environment Service. The conclusion from this additional analysis is that the vast majority of the wording in the 2019 NPPF in relation to the historic environment remains unchanged from when the Waste Plan was adopted (2012 NPPF) and, where wording has been tweaked, this does not bring about a material change which would warrant an update to Policy W13. As such no change is proposed to this policy.

3.20 Finally, it is worth highlighting that, in addition to the engagement discussed above, Devon County Council has continued to engage with waste planning authorities from across the region since the adoption of the Waste Plan through attendance of the South West Technical Advisory Body (SWWTAB), chairing this group throughout this period, as well as responding to planning policy consultations where necessary.

4 Review of Policies

4.1 Informed by the evidence discussed above, the table below presents a review of each of the Waste Plan’s policies and the conclusions from the review process. Please note the NPPW is not referred to in the table, as it has not been updated since the Waste Plan was adopted and therefore remains in conformity.

Waste Plan Policy	Review Summary	Conclusion
W1: Presumption in favour of sustainable development	This policy supports the overarching objectives set out in the NPPF. The wording in parts 3 a and b of Policy W1 is not identical to 11 c and d of para 11 but it embodies the same principles.	This policy remains fit for purpose and does not need to be updated at this time.
W2: Sustainable Waste Management	Similarly, to Policy W1, this policy supports the overarching objectives set out in the NPPF and the criteria provided in the policy cut across all three sustainable development objectives (economic, social and environmental).	This policy remains fit for purpose and does not need to be updated at this time.
W3: Spatial Strategy	Section 3 of the NPPF (plan making) is focused upon district Local Plans rather than Waste Plans, however, it does state, “ <i>Strategic policies should set out an overall strategy for the pattern, scale and quality of development</i> ”. Part d specifically refers to waste management facilities. This is provided in the Waste Plan through Policy W3. Topic paper 3 reviews this policy in detail. The evidence indicates that the policy is being effectively implemented as the vast	This policy remains fit for purpose and does not need to be updated at this time.

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	<p>majority of permissions granted since the adoption of the Plan are located within the areas identified within this policy and the accompany map (Figure 3.1 on page 55 of the Waste Plan).</p> <p>Generally, the scale and location of future growth remains the same as at the time of preparing the Plan (albeit the exceptions discussed in topic paper 3).</p>	
W4: Waste Prevention	Review of AMR data indicates this policy is not being implemented effectively and the target for 100% of major planning permissions to be supported by or requiring a waste audit statement by way of a condition is not being met.	<p>Policy does not need to be updated but needs to be implemented more effectively.</p> <p>In order to address this, DCC officers have recently began proactively checking weekly lists of district planning applications and responding accordingly if a WAS has not been provided.</p> <p>In addition, DCC to actively seek for the requirement for waste audit statements to be included within district validation checklists.</p>
W5: Reuse, Recycling and Materials Recovery	<p>The targets set out in this part 1 of this policy remain in line with national targets and therefore do not need to be updated.</p> <p>Increases in the recycling rate being achieved in Devon for LACW has stalled over recent years. No updated information is available regarding CIW and CDEW. Despite this, policy W5 is considered to be an enabling policy under which additional facilities can be brought forward. The criteria provided in part 2 of the policy remains relevant and fit for purpose.</p>	This policy remains fit for purpose and does not need to be updated at this time.
W6: Energy Recovery	Data indicates that annual operational energy recovery capacity for Devon's waste is	This policy remains fit for purpose and does not

Waste Plan Policy	Review Summary	Conclusion
	<p>currently 263,000 tonnes, which represents 74% of the 356,000 tonnes target for 2021. In addition, there remains 76,000 tonnes of permitted non-operational capacity, as well as a pending planning application which if approved, would offer further capacity.</p> <p>Energy recovery facilities have not been delivered on the sites identified in part 2c of this policy at this stage. However, there remains potential for their delivery. In any case, the criteria provided in part 3 of the policy enables alternative sites to come forward. The policy was written flexibly to ensure it remains fit for purpose in light of changing circumstances.</p> <p>Part 4 of the policy which refers to the need for HRA in relation to Natura 2000 sites remains relevant.</p> <p>Part 5 of the policy remains relevant and appropriate in the context of the climate change agenda and the waste hierarchy.</p>	<p>need to be updated at this time.</p> <p>However, going forward, updated evidence should be gathered in relation to the levels of CIW being generated in Devon in order to consider in the context of the targets set out in part 1 of the policy.</p>
W7: Waste Disposal	<p>The targets set out in part 1 of this policy remain in line with national targets and therefore do not need to be updated.</p> <p>AMR data has indicated that targets for the availability of landfill capacity have not been consistently met over the last 5 years. Non-hazardous capacity has fluctuated above and below the target, and in respect of inert landfill, available capacity has been below the target for last two years.</p> <p>Despite this, since the Plan's adoption, proposals for additional landfill capacity have been forthcoming. This includes extending the permitted lifespan of non-hazardous capacity at an existing site, the reopening of a former non-hazardous landfill site and the proposal of new inert landfill sites. As such it is considered that Policy W7 provides an effective framework to support the positive determination of planning applications for waste disposal.</p>	<p>This policy remains fit for purpose and does not need to be updated at this time.</p>

Waste Plan Policy	Review Summary	Conclusion
W8: Waste Water Treatment	The NPPF recognises the need for strategic policies to plan sufficiently for waste water (para 20 b). Part 1 c of W8 seeks to ensure the impacts of this type of development does not have significant adverse impacts on a number of receptors which aligns with the approach set out in the NPPF.	This policy remains fit for purpose and does not need to be updated at this time.
W9: The Management of Special Types of Waste	The NPPF does not deal with the management of special types of waste. Policy W9 recognises the need to avoid adverse impacts on local communities and the environment which aligns with the objectives of sustainable development as set out in the NPPF.	This policy remains fit for purpose and does not need to be updated at this time.
W10: Protection of Waste Management Capacity	This policy seeks to ensure that waste facilities making a significant contribution to Devon's waste management capacity do not become constrained by nearby non waste related development. Implementation of the policy has been effective with the district councils now routinely consulting DCC where proposals fall within the Waste Consultation Zones. The monitoring indicators relating to this policy are indirect and could be more specific to the policy.	<p>This policy remains fit for purpose and does not need to be updated at this time.</p> <p>When the Plan is next updated, consideration should be given to developing more effective monitoring indicators relating to this policy.</p>
W11: Biodiversity & Geodiversity	<p>This policy is consistent with section 15 of the NPPF (conserving and enhancing the natural environment). Policy W11 is split into 5 sections, and the NPPF covers these sections over paragraphs 174 – 177.</p> <p>The monitoring indicators most relevant to this policy (5.1, 5.2, 5.3) indicate the policy is being effectively implemented.</p>	This policy remains fit for purpose and does not need to be updated at this time.
W12: Landscape and Visual Impact	<p>This is the most extensively used policy from the Waste Plan.</p> <p>This policy is consistent with section 15 of the NPPF (conserving and enhancing the natural environment) and specifically paragraphs 170 and 172. Minor potential amendments to the policy have been identified in light of changes to the NPPF, but these would not fundamentally alter the policy. As such it would be appropriate to consider these</p>	This policy remains fit for purpose and does not need to be updated at this time.

Waste Plan Policy	Review Summary	Conclusion
	<p>potential amendments as part of a wider update to the Plan when necessary at a later date.</p> <p>The monitoring indicator most relevant to this policy (5.5) indicates that the policy is being effectively implemented and planning permissions for waste development are not having a significant landscape impact on an AONB or National Park.</p>	
<p>W13: The Historic Environment</p>	<p>Policy W13 supports the overarching objectives set out in paragraph 195 of the NPPF. Paragraph 195 sets out how local planning authorities should deal with harm to the historic environment. Policy W13 incorporates the key elements of this, and is compliant with para 189, 199 and 200.</p> <p>The monitoring indicator most relevant to this policy (5.5) indicates that the policy is being effectively implemented and planning permissions are not resulting in the loss of, or harm to, assets of heritage value.</p>	<p>This policy remains fit for purpose and does not need to be updated at this time.</p>
<p>W14: Sustainable and Quality Design</p>	<p>Policy W14 continues to be in conformity with relevant parts of the NPPF.</p> <p>Indicator 3.4: Inclusion of energy efficiency measures and use of low-carbon energy in planning applications for waste management facilities, is relevant to part a of this policy. Outcomes indicate that very few applications incorporate such measures and therefore there is potential for this policy requirement to be implemented more stringently.</p>	<p>This policy remains fit for purpose and does not need to be updated at this time.</p> <p>However, the policy should be implemented more robustly in recognition of the Devon Climate Emergency Declaration and should be reviewed following the publication of the final Devon Carbon Plan in 2022.</p>
<p>W15: Infrastructure and Community Services</p>	<p>Policy W15 continues to be in conformity with relevant parts of the NPPF.</p> <p>Only 2 monitoring indicators are relevant to this policy. Indicator 4.1 relates to the number and % of proposals where cumulative impact on amenity or quality of life is a reason for refusal. A single application</p>	<p>This policy remains fit for purpose and does not need to be updated at this time.</p>

Waste Plan Policy	Review Summary	Conclusion
	<p>determined in 2014/15 (prior to the adoption of the Waste Plan) used this as a reason for refusal. Indicator 4.2 relates to change in extent of public rights of way network attributable to waste development. The five-year trend indicates that none of the approved applications resulted in the any loss in the extent of the Public Right of Way (PROW) network.</p>	
<p>W16: Natural Resources</p>	<p>Policy W16 supports the overarching objectives set out in paragraph 170 of the NPPF, specifically parts b, e & f of that paragraph.</p> <p>Numerous monitoring indicators relevant to this policy (4.2 and 5.1-5.19) demonstrate positive outcomes indicating the policy is being effective at protecting natural resources.</p>	<p>This policy remains fit for purpose and does not need to be updated at this time.</p>
<p>W17: Transportation and Access</p>	<p>Policy W17 is consistent with section 9 of the NPPF, promoting sustainable transport.</p> <p>The monitoring indicators most relevant to this policy indicate the policy is being effective. Highways advice is being followed or conditioned as part of planning permissions, and applications are not having a negative impact upon PROWs.</p> <p>No waste management permissions have incorporated transportation by rail or water but it is accepted that this is challenging and not possible in most cases.</p>	<p>This policy remains fit for purpose and does not need to be updated at this time.</p>
<p>W18: Quality of Life</p>	<p>Policy W18 is in conformity with relevant parts of the NPPF, notably paragraph 180.</p> <p>A single application from 2014/15 has used this policy as a reason for refusal. Contrastingly, the policy has been widely used in the positive determination of applications.</p>	<p>This policy remains fit for purpose and does not need to be updated at this time.</p>
<p>W19: Flooding</p>	<p>Policy W19 supports the overarching objectives of the NPPF relevant to flooding. The need for flood resistant and resilient development is highlighted in the NPPF and</p>	<p>This policy remains fit for purpose and does not need to be updated at this time.</p>

Waste Plan Policy	Review Summary	Conclusion
	<p>this is addressed in part 1 of the policy. A small number of minor potential amendments to the policy have been identified in light of changes to the NPPF, but these do not go to the heart of the policy. As such it would be appropriate to consider these potential amendments as part of a wider update to the Plan when necessary at a later date.</p> <p>The monitoring indicators most relevant to this policy indicate good outcomes. For example, no applications have been determined contrary to Environment Agency advice on flood risk (indicator 3.3) and the target for 50% of waste planning permissions to incorporate Sustainable Drainage Systems has been met every year since the Plan's adoption.</p>	
W20: Restoration & Aftercare	<p>Whilst the Waste Plan's monitoring framework states a number of indicators are relevant to this policy, a number do not appear to directly inform how effectively the policy is being implemented. The most relevant indicator is 5.1 (biodiversity enhancement) and relates to part b of the policy. The outcome here was that an appropriate level of biodiversity enhancement is being provided where necessary.</p>	<p>This policy remains fit for purpose and does not need to be updated at this time.</p>
W21: Making Provision for Waste Management	<p>Paragraph 20 of the NPPF outlines that policies should make sufficient provision for waste management facilities and this policy sets out the criteria that major non waste development must meet in order to demonstrate it meets that requirement.</p>	<p>This policy remains fit for purpose and does not need to be updated at this time.</p>

5. Conclusion

- 5.1 Informed by the evidence collated through the review process, it is not considered necessary to update any of the Waste Plan policies at this time. The policies remain fit for purpose, consistent with national planning policy and provide an appropriate framework for the determination of waste planning applications across Devon.
- 5.2 Monitoring should continue through the normal annual monitoring process. A further review should be undertaken if necessary as a result of this process, or if there is a significant change in wider circumstances; for example, through the

updating of the national planning policy for waste, or as a result of any actions or outcomes set out in the Devon Carbon Plan which is due to be published in 2022. In the interim period, recommendations (b) and (c) of this report should be actioned.

6. Reasons for Recommendation/Alternative Options Considered

- 6.1 The only alternative option open to the County Council would be to resolve not to endorse the conclusions of the review, but given the comprehensive approach that has been taken, which has been informed by national guidance, this would be inadvisable.

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Electoral Divisions: All

Local Government Act 1972: List of Background Papers

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Background Paper	Date	File Ref
None.		

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sc/cr/minerals waste development framework review of Devon waste plan