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22 April 2020

Examination Representor Reference: KEM3-OP0

Mr Grahame Kean
Examining Inspector
National Infrastructure Planning
Temple Quay House
2 The Square
Bristol, BS1 6PN

By email: WheelabratorKemsley@planninginspectorate.gov.uk

Dear Mr Kean,

**Application by WTI/EFW Holdings Ltd for an Order Granting Development Consent for the Wheelabrator Kemsley (K3) Generating Station and the Wheelabrator Kemsley North (WKN) waste to energy facility
Response from the South East Waste Planning Advisory Group to the Examining Authority's further written questions and requests for information (ExQ1A)**

This response is submitted on behalf of the South East Waste Planning Advisory Group (SEWPAG). The response focusses on those questions in which SEWPAG has a particular interest and has been invited to respond to, that is questions 1.4, 1.14, 1.22, 1.24, 1.29, 1.31, 1.34, 1.40 and 1.44 listed under Q1A.1. 'Principle and nature of the development, including waste recovery capacity and management of waste hierarchy'. To assist the ExA a separate page is used for each response.

Please contact me if you have any queries regarding these responses or about attendance at any hearings.

Yours sincerely,

[REDACTED]

Ian Blake, Chair, South East Waste Planning Advisory Group

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Q1A. 1.4. The Applicant’s response to ExQ1.1.4 [REP2-009, Appendix 1] posits the Proposed Development as a regional facility which may well draw waste in from beyond Kent and beyond the SEWPAG area. Please provide an overlay showing the Study Area and SEWPAG WPAs, and other WPAs in the South East and Greater London, as noted in KCC: written representation [REP1-010, Annex 1] Minerals and Waste Planning Authority, that have pursued a policy of net-self-sufficiency.

The following table sets out the position of WPA members of SEWPAG regarding the adoption of policies related to net self-sufficiency. The authorities shown are those within a two hour travel time of the proposed facilities (which is the applicant’s proposed catchment area – see para 3.1.15 of the Waste Hierarchy and Fuel Availability Report (WHFAR [APP-086])). It is known that other WPAs within a two hour travel time (as well as SEWPAG members) include similar approaches in their adopted Waste Local Plans however it has been assumed that this information will be provided by Kent County Council.

Authority	Adopted Plan	Comments
East Sussex County Council	East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan Adopted 19 February 2013	Purpose of Policy WMP 5 (titled: ‘ <i>Provision of Built Waste Facilities to Ensure Net Self-Sufficiency</i> ’) is stated as follows: ‘ <i>To identify the future need for recycling and recovery facilities, and avoid any adverse effects that over-provision of capacity could bring. To provide flexibility in the Plan to demonstrate ‘net self sufficiency’ by allowing for additional recovery capacity of an amount equivalent to that amount that is identified as needing to be exported for disposal to land.</i> ’ The Plan includes estimated management capacity shortfalls calculated on the basis of achieving net self sufficiency (Tables 7 and 8)
Brighton & Hove City Council	As above	As above
Hampshire County Council	Hampshire Minerals and Waste Plan Adopted October 2013	Policy 25: Sustainable waste management states: <i>‘The long-term aim is to enable net self-sufficiency in waste movements and divert 100% of waste from landfill. All waste development should: a. encourage waste to be managed at the highest achievable level within the waste</i>

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Authority	Adopted Plan	Comments
		<p><i>hierarchy; and</i></p> <p><i>b. reduce the amount of residual waste currently sent to landfill; and</i></p> <p><i>c. be located near to the sources of waste, or markets for its use; and / or</i></p> <p><i>d. maximise opportunities to share infrastructure at appropriate existing mineral or waste sites.</i></p> <p><i>The co-location of activities with existing operations will be supported, where appropriate, if commensurate with the operational life of the site, and where it would not result in intensification of uses that would cause unacceptable harm to the environment or communities in a local area (including access routes), or prolong any unacceptable impacts associated with the existing development.</i></p> <p><i>Provision will be made for the management of non-hazardous waste arisings with an expectation of achieving by 2020 at least:</i></p> <ul style="list-style-type: none"> <i>• 60% recycling; and</i> <i>• 95% diversion from landfill.'</i> <p>Paragraph 6.145 states:</p> <p><i>'The approach above will support 'net self-sufficiency' which means the equivalent amount of capacity for all waste arising within Hampshire will be provided, with the acceptance of limited cross boundary movements. It is expected that waste will continue to cross administrative boundaries due to market forces but this is not expected to result in significant over or under provision of waste management capacity in Hampshire.'</i></p>
Medway Council	Kent Waste Local Plan Adopted March 1998	<p>Medway Council is revising its planning policies on waste. Its current policies are certain saved policies included in the Kent Waste Local Plan 1998.</p> <p>Medway Council published draft waste planning policies in March 2018 which included Policy MWE7: New Waste Management Facilities which includes:</p> <p><i>'The council will strive to maintain net self-sufficiency across each of the waste streams through permitting facilities for the reuse, recycling, treatment and transfer of waste materials, subject to their being of an appropriate environmental standard.'</i></p>

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Authority	Adopted Plan	Comments
West Sussex County Council	West Sussex Waste Local Plan Adopted 11 April 2014	<u>Strategic Objective 3</u> <i>'To maintain net self-sufficiency in managing the transfer, recycling, and treatment of waste generated within West Sussex.'</i>
South Downs National Park Authority	East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan West Sussex Waste Local Plan	See above - South Downs National Park Authority is party to both the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan and the West Sussex Waste Local Plan
Surrey County Council	Surrey Waste Local Plan Due for adoption May 2020 – Inspector's Report imminent	<u>3.1.1 Strategic Objective 1</u> <i>'Net self-sufficiency: to make sure enough waste management capacity is provided to manage the equivalent amount of waste produced in Surrey.'</i> <u>5.1.1 Policy 1 – Need for Waste Development</u> <i>'5.1.1.3 The WPAs aim is for Surrey to be net self-sufficient, that is, the county has enough waste management capacity to deal with the equivalent amount of waste to that which it generates.'</i>

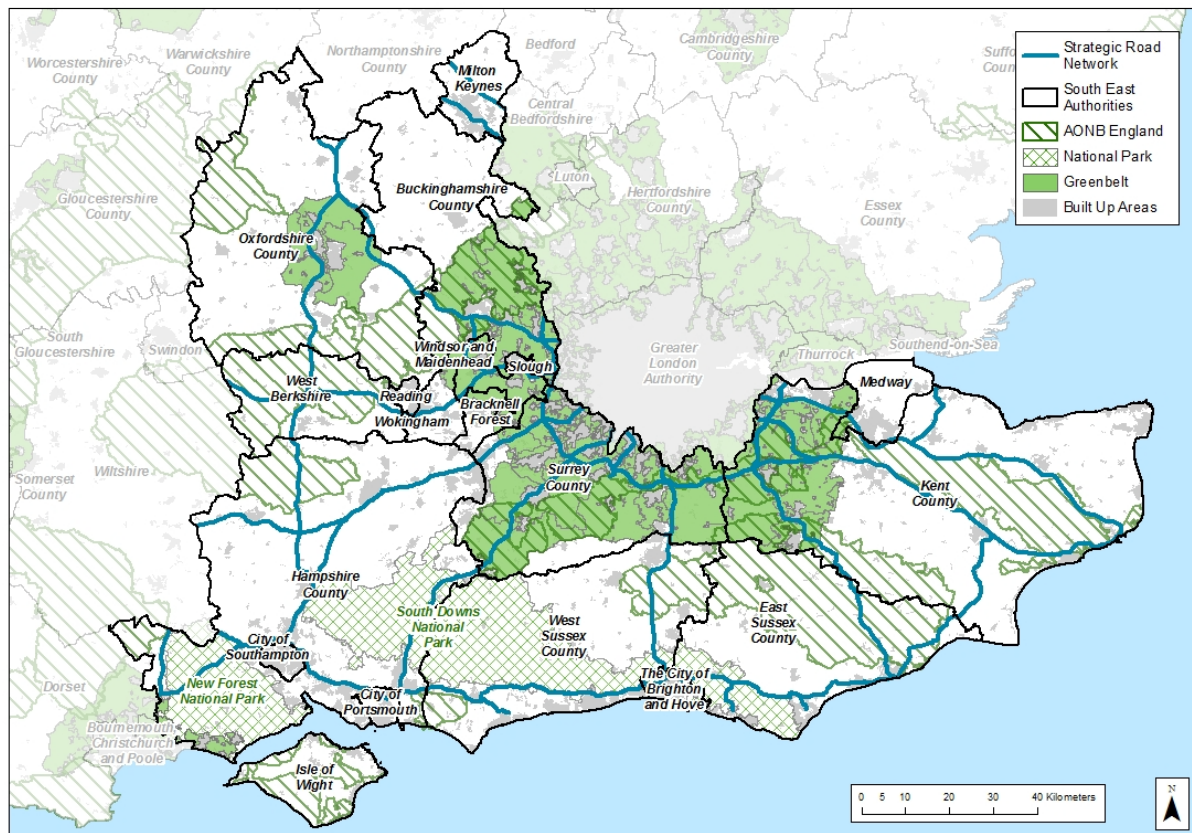
Since SEWPAG submitted its responses to the initial ExA questions the text of a Statement of Common Ground (SCG) has been agreed between the officers representing the waste planning authorities (WPAs). This SCG is now going through the process of formal agreement which for some WPAs involves elected Members. This SCG is provided at Appendix A. Paragraphs 2.1 to 2.7 of the SCG specifically concern net self sufficiency. The SCG replaces the previously provided Memorandum of Understanding.

Q1A.1.14. If the policy of net self-sufficiency is applied with the caveats stated in the MoU, and as expressed in the relevant local plan policies, would the fuel availability be fully taken up within the SEWPAG area? Is an assessment in accordance with NPS EN-3 of local as well as national waste management targets required to answer this question and if so what information is available to this end?

It is unlikely that fuel availability would be taken up within the entire SEWPAG area (which stretches from Kent around the M25 to Buckinghamshire and extends out to include the counties of Hampshire and Oxfordshire (see Figure 1 below), but it is entirely possible that it would for the authorities within SEWPAG that are within a two hour travel time. However, without a proper assessment of the type envisaged by NPS EN-3 (paragraphs 2.5.66 to 2.5.69) it is not possible to provide a definitive answer.

A wider point of concern is the nature of the waste materials which are taken to constitute ‘fuel’ – clearly these should only be those materials that cannot be realistically recycled. A surplus of ‘other recovery’ capacity within the region of the type proposed by WTI will result in waste that can be recycled being taken to the facilities for incineration (‘other recovery’) which is contrary to national and local policy (including NPS EN-3)).

Figure 1 – Waste Planning Authorities with the SEWPAG Area



Q1A.1.22. Does KCC seek to make the Proposed Developments predicated solely on the demands of its area or to what extent would the flexibility expressed in the MoU enable demands of a wider area to be met? (See also Q1A.1.14)

The SEWPAG MoU recognises that waste movements (and markets) may transcend administrative boundaries and that some authorities may seek to rely on capacity within other areas to manage specific streams. It is anticipated (and required by NPPF) that where authorities intend to rely on capacity in ‘neighbouring’ (these areas might not be immediately adjacent) areas to meet their needs then this should be agreed, via a Statement of Common Ground between the parties, that this is an acceptable basis on which to plan. The key consideration will be the extent to which the receiving authority is able to accommodate the waste capacity requirements of the exporting authority. It might be possible to show that a receiving authority is able to accept the proposals by an exporting authority on the basis that it has surplus capacity in the following forms:

- Existing capacity that is already meeting requirements of other areas;
- land allocated (in the Waste Local Plan) or with planning permission for waste management capacity which has not been developed;
- other deliverable opportunities for additional capacity such as:
 - o Existing sites operating under capacity;
 - o existing sites which might be reconfigured in a manner such that their capacity increases; and,
 - o mothballed sites.

In summary, the MoU does enable a WPA to plan to meet the demands of a wider area on a planned basis and generally in response to a request from a neighbouring area, which will be set out in a Statement of Common Ground.

Q1A.1.24 Is your objection to the Proposed Developments predicated on both K3 and WKN projects proceeding, or what is your position as regards any eventual consent being granted for one project but not the other, and why?

SEWPAG's concern centres around the lack of consideration of how either one, or both, of the facilities might impact on local planning for the management of waste and how the market may respond to adopted Plans. There is already sufficient capacity in Kent to meet its projected need for 'other recovery' capacity of the type proposed and the additional 'other recovery' capacity provided in Kent in future, the lower will be the potential impact; it is not possible to reach a definitive conclusion because the assessment required by paragraphs 2.5.66 to 2.5.69 of NPS EN-3 has not been undertaken.

Q1A.1.29. Please comment with reference to WHFAR [APP-086] paragraph 3.2.26 to 3.2.30 whether the LACW disposed to landfill or a percentage thereof should be deducted from the shortlisted combustible wastes, providing a justification for your comments.

As stated in paragraph 3.2.26, the management of LACW is mainly subject to long term waste management contracts and therefore should not automatically be assumed to be available for management at the K3/WKN. In addition, the landfill tax and Landfill Directive have meant that local authority Waste Disposal Authorities have made great strides in diverting LACW from landfill (as evidenced by Table 3.5) and such effort has continued. For example, since 2017/18 (the latest data provided in the WHFAR) the Beddington Energy Recovery Facility in South London (capacity 275,000 tonnes per annum) has come on stream and the Charlton Lane Gasification facility in Surrey (capacity 55,000 tonnes per annum) is due to come on stream this year. Both of these facilities have been provided under a long term contract for LACW management. In addition, a DCO was granted for an Energy from Waste facility in Belvedere, south east London (capacity 806,000 tonnes per annum) on 14 April 2020 which may take LACW.

While reducing quantities of LACW will continue to be disposed to landfill, increasingly this will constitute non-combustible elements or waste arising due to unforeseen plant closure.

Q1A.1.31. Do you have any comments on the position regarding the nature of LACW contracts in the second bullet point of WHFAR [APP-086]?

It is quite likely that LACW management contracts will be let during the lifetime of the Proposed Development but no comment is offered on how the length of LACW contracts is changing.

It is understood that the contract for the management of LACW at the Beddington Energy Recovery Facility is for the treatment of 200,000 tpa of LACW to at least 2042. Another example is the East Sussex municipal waste management contract was agreed in 2003 for a period of 25 years, and an agreement for a further 5 years taking it to 2033. Part of that contract involved the construction of a 210,000tpa Energy Recovery Facility in Newhaven.

N.B. In providing an answer it has been assumed that the question is referencing the second bullet point in paragraph 3.2.33 of the WHFAR.

Q1A.1.34 WHFAR [APP-086] paragraph 3.4.7 states “...the future capacity, and consequent availability, of landfill facilities cannot be relied upon beyond the next ten years...”. The Applicant’s response to ExQ1.1.4 [REP2-009, Appendix 1] SEWPAG on page 3, states provision of the consented capacity at K3 means management of waste will be locked into incineration for at least the next 25 years, compromising the ability to prevent it in the first place or to enable it to be recycled/composted.

What local or national studies exist of which you are aware, not already referred to, that identify the optimum role for the provision of energy recovery facilities similar to the Proposed Development, to move waste up the hierarchy, based on studied projected decreases in landfill availability and projected increases in recycling?

The Question appears to reference the applicant’s response set out in Appendix 1 of REP2-009 to a representation made by SEWPAG, however the applicant’s response in Appendix 1 of this document concerns representations made by Kent County Council.

In terms of relevant studies, each waste planning authority member of SEWPAG has prepared an assessment of waste management capacity requirements to underpin its Waste Local Plan. These assessments identify the requirement for ‘other recovery’, which include capacity provided for by energy recovery facilities, based on assessment of projected recycling and diversion from landfill.

Of the SEWPAG members within the study area, the most recent assessments can be found in the following documents:

- Brighton & Hove City Council

See East Sussex waste and minerals monitoring reports -

<https://www.eastsussex.gov.uk/environment/planning/mineralsandwaste/amr1/>

- East Sussex County Council

See East Sussex waste and minerals monitoring reports -

<https://www.eastsussex.gov.uk/environment/planning/mineralsandwaste/amr1/>

- Kent County Council

See Waste Needs Assessment prepared to support the Early Partial Review of the Kent Minerals and Waste Local Plan. This is available in the examination library with document reference KCC/SP38.

https://consult.kent.gov.uk/portal/second_call_for_sites_2016/document_library

- Medway Council

The latest published document available is Medway Authority Monitoring Report 2018 -

https://www.medway.gov.uk/downloads/file/3576/authority_monitoring_report_-_volume_1_2018

A Waste Needs Assessment is currently being prepared to underpin planning policies on waste to be included in the Medway Local Plan.

- Surrey County Council

See Waste Needs Assessment (April 2019) prepared as part of the evidence base to support the Surrey Waste Local Plan -

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https://www.surreycc.gov.uk/_data/assets/pdf_file/0020/194114/SWLP-8-Waste-Needs-Assessment.pdf

- South Downs National Park Authority

See East Sussex waste and minerals monitoring reports -

<https://www.eastsussex.gov.uk/environment/planning/mineralsandwaste/amr1/>

See West Sussex waste and minerals monitoring reports -

<https://www.westsussex.gov.uk/about-the-council/policies-and-reports/environment-planning-and-waste-policy-and-reports/minerals-and-waste-policy/monitoring-reports/>

- West Sussex County Council

See West Sussex waste and minerals monitoring reports -

<https://www.westsussex.gov.uk/about-the-council/policies-and-reports/environment-planning-and-waste-policy-and-reports/minerals-and-waste-policy/monitoring-reports/>

Q1A.1.40 Within the context of NPS EN-1 (paragraph 4.2.22), that intends that a framework only is provided for the market to respond to, but “in the places where it is acceptable in planning terms”, what is the scope of that tailpiece for taking into account sub-national policies of net self-sufficiency or over-capacity?

Other than for NSIPs, judgements on what is acceptable in planning terms are made by assessing whether a proposal is in accordance with the Development Plan for the area. As WKN is not an NSIP the proposal should be judged against the Development Plan related to the proposed development which includes the Kent Minerals and Waste Local Plan to be updated by Kent County Council’s Early Partial Review.

Q1A.1.44 NPS EN-3 appears to require, where appropriate, Annual Monitoring Reports to show existing waste capacity and future waste capacity requirements.

For the Proposed Developments who are the “relevant waste authorities” in paragraph 2.5.68 for these purposes?

The “relevant waste authorities” within the applicant’s Study Area which are members of SEWPAG are:

- Brighton & Hove City Council
- East Sussex County Council
- Kent County Council
- Medway Council
- Surrey County Council
- South Downs National Park Authority
- West Sussex County Council

Appendix A

Statement of Common Ground between
Waste Planning Authority members of the
South East Waste Planning Advisory Group
Concerning Strategic Policies for Waste
Management

March 2020

Statement of Common Ground between Waste Planning Authority members of
the South East Waste Planning Advisory Group Concerning Strategic Policies for
Waste Management

March 2020

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1.0 Introduction and Parties involved

1.1 National policy¹ states that: *“Local planning authorities and county councils (in two-tier areas) are under a duty to cooperate with each other, and with other prescribed bodies, on strategic matters that cross administrative boundaries.”* and *“Strategic policy-making authorities should collaborate to identify the relevant strategic matters which they need to address in their plans.”*

1.2 National policy² expects that Local Plans will include ‘non-strategic’ and ‘strategic’ policies, and explains that strategic policies should.....*“set out an overall strategy for the pattern, scale and quality of development, and make sufficient provision for:.....infrastructure”* and this includes *“for.....waste management”*.

1.3 National policy³ states: *“In order to demonstrate effective and on-going joint working, strategic policy-making authorities should prepare and maintain one or more statements of common ground, documenting the cross-boundary matters being addressed and progress in cooperating to address these.”*

1.4 The management of waste has no regard to administrative boundaries, with waste arising in one authority’s area frequently being managed in another. Furthermore, in order to secure economies of scale, waste management facilities will often have a catchment which extends beyond the boundary of the planning area within which it is situated. This is recognised in the current⁴ National Planning Policy for Waste that expects waste planning authorities to: *“plan for the disposal of waste and the recovery of mixed municipal waste in line with the proximity principle, recognising that new facilities will need to serve catchment areas large enough to secure the economic viability of the plant;”*. For these reasons the management of waste is a cross boundary strategic matter, the planning for which requires co-operation between waste planning authorities.

1.5 This document represents a **Statement of Common Ground between Waste Planning Authorities in the South East (SCG)** concerning the strategic matter of planning for the management of waste. The waste planning authorities in the south east have responsibility for planning for the future management of waste in their areas by including relevant strategic policies in their Local Plans.

1.6 The waste planning authorities in the south east (‘the Parties’) are as follows:

- Bracknell Forest Council
- Brighton & Hove City Council

¹ Paragraph 24 and 25 of the National Planning Policy Framework February 2019

² Paragraph 20 of the National Planning Policy Framework February 2019

³ Paragraph 27 of the National Planning Policy Framework February 2019

⁴ The version of National Planning Policy for Waste referred to in this document was published on 16 October 2014: <https://www.gov.uk/government/publications/national-planning-policy-for-waste>

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- Buckinghamshire County Council
- East Sussex County Council
- Hampshire County Council (incorporating Southampton City, Portsmouth City and New Forest National Park Waste Planning Authorities)
- Isle of Wight Council
- Kent County Council
- Medway Council
- Milton Keynes Council
- Oxfordshire County Council
- Reading Borough Council
- Royal Borough of Windsor and Maidenhead
- Slough Borough Council
- South Downs National Park Authority
- Surrey County Council
- West Berkshire Council
- West Sussex County Council
- Wokingham Borough Council

1.7 This SCG has the following broad aims:

- To ensure that planned provision for waste management in the South East of England is co-ordinated, as far as is possible, whilst recognising that provision by waste industry is based on commercial considerations;
- to ensure that the approach to waste planning throughout the South East is consistent between authorities;
- to help ensure that sufficient waste management capacity is planned for within each authority area which in turn will lead to regional net self sufficiency; and,
- to provide evidence of co-operation that has occurred, and is occurring, between the south east Waste Planning Authorities (WPAs) which helps underpin the preparation of their waste planning policies

1.8 The SCG sets out matters of agreement, reflecting the spirit of co-operation between the Parties. It is, however, not intended to be legally binding or to create legal rights.

1.9 This SCG replaces the ‘Memorandum of Understanding between the Waste Planning Authorities of the South East of England, April 2017’.

2.0 Strategic Matters and Areas of Agreement

Net self-sufficiency

2.1 **The Parties agree** that they will plan for net self-sufficiency which assumes that within each waste local plan area the planning authority or authorities will plan for the management of an amount of waste which is equivalent to the amount arising in that plan area. For the avoidance of doubt, **the Parties agree** that they will plan on the basis that no provision has to be made in their waste local plans to meet the needs of

any other waste local plan area which are basing their waste policies on achieving the principle of net self-sufficiency.

2.2 The Parties accept that when using this principle to test policy, it may not be possible to meet this requirement for all waste streams, particularly where a specialist facility is required to manage specialist waste streams such as hazardous waste.

2.3 The Parties agree that they will therefore prepare plans which provide for the development of facilities that will manage waste produced within, and beyond, their areas based on net self-sufficiency and in accordance with the waste hierarchy.

2.4 The Parties recognise that there may be cases where, despite assessing reasonable options, some waste will not be planned to be managed within a waste plan area because of difficulty in delivering sufficient recovery⁵ or disposal capacity (E.g. Due to certain designations e.g. Green Belt, AoNB, National Park (see sections below)). **The Parties agree** that provision for unmet requirements from other authority areas may be included in a waste local plan but any provision for facilities to accommodate waste from other authorities that cannot or do not intend to achieve net self-sufficiency will be a matter for discussion and agreement between authorities and is outside the terms of this SCG.

2.5 The Parties note that, despite assessing reasonable options, there may be some kinds of waste requiring specialist treatment that cannot be managed within their own plan area, either in the short term or within the relevant plan period. These may include hazardous wastes and radioactive wastes. Where provision for the management of these wastes will be planned for in a different waste planning authority area, this will need to be considered between the relevant authorities. **The Parties agree** that provision for some kinds of wastes, including hazardous and radioactive waste, from other authority areas may be included in a waste local plan but that any provision for facilities to accommodate this waste from other authorities that cannot or do not intend to achieve net self-sufficiency will be a matter for discussion and agreement between authorities and is outside the terms of this SCG.

Supporting information:

2.6 Net self-sufficiency is a principle generally applied to waste planning that means an authority will plan for waste management facilities with sufficient capacity to manage an amount of waste that is equivalent to the amount predicted to arise within its area (irrespective of imports and exports). This helps ensure that sufficient waste management capacity is provided consistent with National Planning Policy for Waste⁶.

2.7 The approach of net self-sufficiency in the south east was originally set out in the South East Plan and was subsequently included in the Memorandum of

⁵ 'Recovery' includes recycling.

⁶ Paragraph 3 of NPPW includes: "*Waste planning authorities should prepare Local Plans which identify sufficient opportunities to meet **the identified needs of their area** for the management of waste streams.*"

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Understanding⁷ between the WPAs in the South East. Therefore, all WPAs in the south east have calculated waste management requirements that need to be planned for in their areas on this basis. Examination of such plans has found that this is a sound basis on which to plan for future waste management requirements.

Movements of waste between authorities

2.8 **The Parties recognise** that the application of net self-sufficiency in local plans does not mean that an exact equivalent amount of waste, of the same type, will be transported between areas. It is possible that particular conditions exist which mean more waste is transported to one authority than another. However net self-sufficiency means that such a situation would, in principle, be broadly balanced by movements between other authorities.

2.9 **The Parties recognise** that for a majority of existing waste management facilities, there are no restrictions on the handling of waste that has arisen outside their authority area. In order to avoid impediments to the normal functioning of the waste management market, **the Parties agree** that they will seek to avoid preparing planning policy that might hinder the movement of waste between areas (e.g. through the use of ‘catchment’ conditions) while recognising the proximity principle expectation that waste will be managed at the nearest appropriate facility.

2.10 Notwithstanding, the agreement in paragraph 2.4, **the Parties agree** that they can rely on ongoing movements of waste to other areas provided there are no conditions related to the planning permission for any particular site which might hinder the receipt of waste from other areas.

2.11 Where movements of waste between areas are taking place which are of such a size and nature that separate provision would need to be planned for if they were to cease, **the Parties agree** that there will be a need for dialogue between areas to establish the existence of any planning matter which might hinder such an arrangement in future. Such waste movements are considered to be ‘strategic’. **The Parties agree** that what constitutes a ‘strategic’ level of waste movements will vary between authorities, however the levels set out below provide a starting point for considering whether dialogue is required:

- Non-hazardous waste – 5,000 tonnes per annum
- Hazardous waste 100t per annum
- Inert waste - 10,000t inert per annum

2.12 **The Parties agree** that agreement on ongoing waste movements between authorities may be achieved by an exchange of letters and that a separate SCG may not be required.

⁷ Memorandum of Understanding between the Waste Planning Authorities of the South East of England, April 2017

2.13 **The Parties agree** that when any WPA is updating waste planning policy that might affect the ongoing import of waste from another area that is considered to be ‘strategic’ in nature, it will notify the affected authority at related stages of consultation.

2.14 Regardless of the need for specific dialogue between individual authorities on strategic matters, **the Parties agree** that they will notify all other waste planning authorities at those stages of plan-making which involve publication of draft approaches and plans.

2.15 Although the Parties agree to the principle of net self-sufficiency, **the Parties also recognise** that particular constraints within a WPA area may mean that planning to achieve net self-sufficiency would not be consistent with the principles of sustainable development as set out in the NPPF and NPPW. **The Parties agree** that any WPA which seeks the management of waste on the basis of net export would need to provide robust evidence that clearly demonstrated that plans to meet needs within its area would not be consistent with the NPPF and NPPW.

2.16 **The Parties agree** that they will work together in the consideration of how to plan for the implications arising from the management of waste from London and any other authority areas that are not party to this SCG.

Permanent deposit of inert excavation waste

2.17 **The Parties agree** that this is not discouraged. Indeed, the achievement of timely restoration of such development is important and the availability of appropriate material, which may not be produced in sufficient quantities locally, is key to this. **The Parties agree** that available inert waste voidspace in the south east should continue to be monitored and will be taken into account when preparing related planning policy.

2.18 **The Parties recognise** that individual SCGs may also be prepared between individual WPAs where particular movements of waste requiring permanent deposit of inert excavation waste in a recovery or disposal operation exist which require specific recognition. This is likely to be the case between London Authorities and authorities in the South East in recognition of the unique waste needs of London⁸.

2.19 **The Parties agree** that while not all inert excavation waste can be recycled, close to 100% can be put to some beneficial use and this should be the starting point when setting targets in plans.

Supporting information

⁸ National Planning Practice Guidance for Waste Paragraph: 043
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2.20 *The permanent deposit of inert excavation waste on land may be beneficial and so can be classed as ‘recovery’ rather than ‘disposal’, for example, the restoration of mineral voids where it meets the criteria for being classed as recovery⁹.*

2.21 *Although inert excavation waste is not included in the London Plan target for net self-sufficiency, there is a target of 95% beneficial use¹⁰ of excavation waste (Policy SI7 4c) which applies to exports. There are severe constraints on the ability of producers of inert excavation waste in London to manage this waste within London and export of such waste for management within the south east will continue for the foreseeable future. However, inert excavation waste arising in London can be used to restore mineral workings in the south east.*

Safeguarding

2.22 **The Parties agree** to safeguard waste management capacity in their own areas through robust policies in their respective development plans on waste management. **The Parties agree** that this means their Plans will include a presumption against granting permission for other forms of development which could result in reductions in physical or operational capacity (either by reductions in numbers and size of sites or by reduction in site throughput or restrictions on operation). **The Parties agree** that, when preparing local plans, where development is proposed that would result in a reduction in capacity, the need for that capacity in meeting the needs of other local plan areas will be taken into account.

2.23 **The Parties agree** that it may be appropriate to allow the development of land that is permitted or allocated for waste management for a non-waste use where ongoing management of waste in that location would not be consistent with the principles of sustainable development as set out in the NPPF and NPPW.

Green Belt

2.24 Whilst it is recognised that waste management constitutes inappropriate development in the Green Belt, **the Parties agree** that the inability of the waste to be practically managed in other locations outside of the Green Belt, including those outside of the WPA area, may be one factor that would go toward comprising very special circumstances.

Supporting information

2.25 *As waste management is considered inappropriate development within Green Belt, the opportunities for developing waste facilities consistent with national policy in several WPA areas in the south east are reduced (as illustrated on Figure 1). Proposals will only be considered acceptable if ‘very special circumstances’ are shown to exist, which clearly outweigh the harm caused to the Green Belt by reason*

⁹ See the SEWPAG Joint Position Statement: Permanent Deposit of Inert Waste on Land in the South East of England, which recognises that inert excavation waste is often not easily recycled but lends itself to beneficial uses.

¹⁰ The London Plan also provides a definition of ‘beneficial use’.

of inappropriateness and any other harm, such as the preservation of openness of Green Belt designated land¹¹.

Areas of Outstanding Natural Beauty

2.26 **The Parties agree** that the presence of AONBs within the areas of the parties to this SCG is a constraint for the management of waste. **The Parties agree** that any proposal (including allocations in Plans) within an AONB would be considered against the existing development plan, national policy and guidance. **The Parties agree that** smaller scale waste development may be suitable in an AONB, in particular where it requires a countryside location or would serve a specific local need.

Supporting information

2.27 *An Area of Outstanding Natural Beauty (AONB) is land protected by the Countryside and Rights of Way Act 2000. As shown on Figure 1 the south east includes several Areas of Outstanding Natural Beauty. The Countryside and Rights of Way Act (2000) sets out that local authorities must ensure that all decisions have regard for the purpose of conserving and enhancing the natural beauty of AONBs. The development of major waste management facilities within AONBs is not encouraged by existing policy. Footnote 55 of the NPPF (2019) states that the question of whether a development proposal is ‘major’ in an AONB is a matter for the decision maker, taking into account its nature, scale and setting, and whether it could have a significant adverse impact on the purposes for which the area has been designated or defined.*

National Parks

2.28 **The Parties agree that** smaller scale waste development may be suitable in a National Park, in particular where it requires a countryside location or would serve a specific local need. **The Parties agree that** any proposal (including allocations in Plans) would be considered against the existing development plan, national policy and guidance.

Supporting information

2.29 *National Parks are designated through the National Parks and Access to the Countryside Act 1949. The South Downs National Park and New Forest National Park are both situated within the south east as shown in Figure 1. The development of major waste management facilities within National Parks is not encouraged by existing policy¹². Footnote 55 of the NPPF (2019) states that the question of whether a development proposal is ‘major’ in a national park is a matter for the decision maker, taking into account its nature, scale and setting, and whether it could have a significant adverse impact on the purposes for which the area has been designated or defined.*

Non-Hazardous Waste Landfill

¹¹ See paragraphs 143 and 144 of the NPPF

¹² See paragraph 172 of the NPPF

2.30 **The Parties agree** that despite the management of waste at higher levels of the waste hierarchy (in accordance with NPPW) there will continue to be a need for some landfill capacity to deal with waste in the South East and that this matter will therefore need to be addressed in their Local Plans.

2.31 When planning for non-hazardous landfill, **the Parties agree** that such facilities are regional in nature and will therefore receive waste from beyond the area within which they are located. **The Parties agree** that they will therefore consider the ability of their own area to accommodate new non-hazardous landfill capacity as well as the ability of other areas to meet their own needs over the period being planned for (in line with the agreement in paragraph 2.4).

2.32 **The Parties agree** that the assessment of need for any new¹³ non-hazardous landfill will also consider impacts associated with vehicle movements of waste across the South East.

Supporting information

2.33 *The SEWPAG Joint Position Statement on Non Hazardous Landfill (and subsequent SEWPAG Annual Monitoring Reports) recognise that there is a declining amount of non-inert landfill capacity in the south east.*

General

2.33 **The Parties agree** that the greatest challenge to be addressed is to implement the waste hierarchy and promote the circular economy by enabling better, more sustainable, ways of dealing with waste and to reduce the current dependence on landfill.

2.34 **The Parties agree** to continue to positively plan to meet any shortfalls in waste management capacity in their areas and to enable the delivery of new facilities. This includes making appropriate provision in their local plans, including, as required, the allocation of sites for new recycling and other recovery facilities.

2.35 **The Parties recognise** that private sector businesses (and, therefore, commercial considerations) will determine whether new merchant waste management facilities will be built and what types of technology will be used.

2.36 **The Parties agree** that they will seek to ensure that the matters in this SCG are reflected in the waste local plans that they prepare (including, in the case of unitary authorities, any local plans that include waste policies); this includes the allocation of sites.

¹³ This includes extensions to existing sites

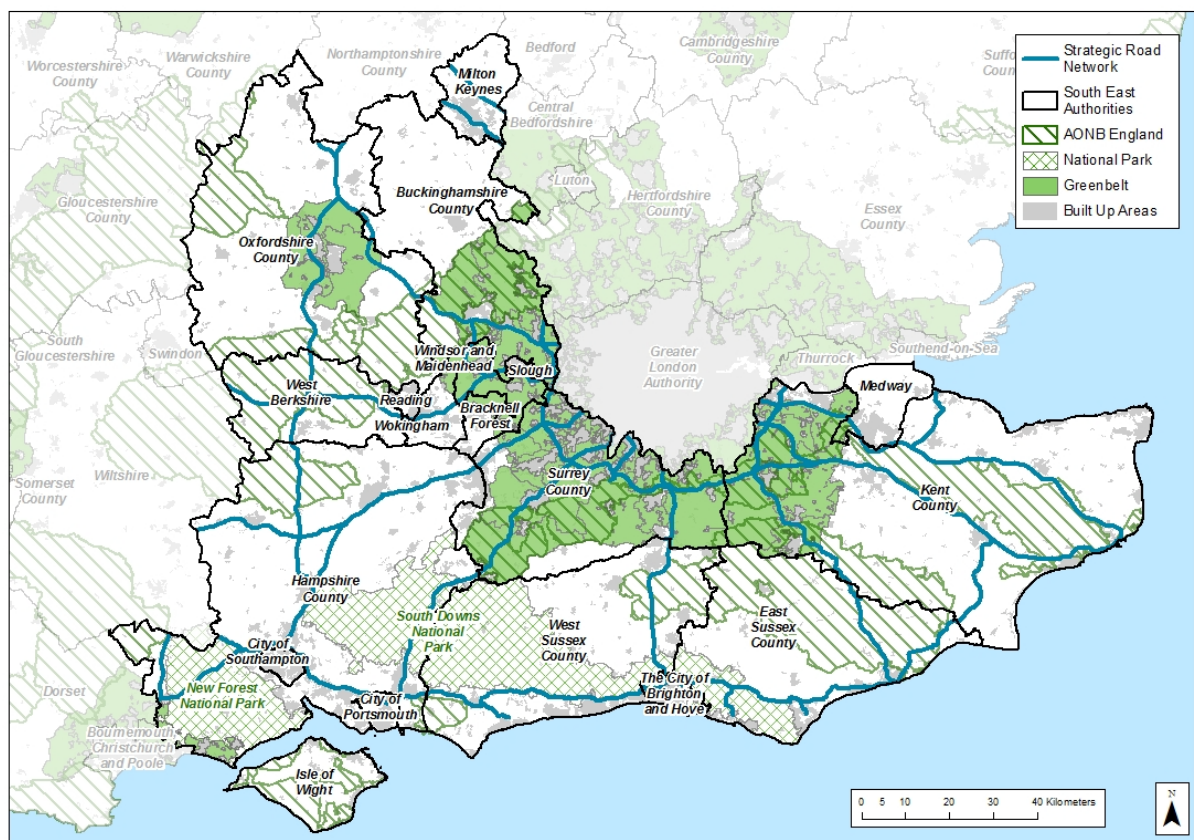
3.0 Signatories

3.1 This statement is agreed by the waste planning authorities listed above. A separate document is maintained on the SEWPAG area of the Local Government Association Knowledgehub website¹⁴ showing details of signatories. The template for this document is included at Appendix 1.

4.0 Strategic Geography

4.1 The location of each of the south east WPAs is shown in Figure 1 below.

Figure 1: Location of south east Waste Planning Authorities



4.2 There are good road and rail connections between the WPAs in the south east, including the M25, M2, M3, M4, M26, M23 and M20, which facilitate the movement of waste between authorities. Other key spatial issues were identified in the revoked South East Plan (2009) which are still relevant as follows:

- The extent of protective designations including Green Belt, Areas of Outstanding Natural Beauty and National Parks;
- unprecedented population growth;
- potential for significant economic growth;
- pressures on social and physical infrastructure;

¹⁴ <https://khub.net/group/southeastwasteplanningadvisorygroupsewpag>

- the need to stabilise the region's ecological footprint;
- declining household size;
- demand for housing;
- increasing development pressure on land; and
- the effects of climate change.

5.0 Additional Strategic Matters

5.1 The Parties to this SCG are also party to the following Joint Position Statements:

- Non-hazardous landfill in the South East of England
- Permanent Deposit of Inert Waste to Land in the South East of England

6.0 Cooperation Activities

6.1 Activities undertaken when in the process of addressing the strategic cross-boundary matter of waste management, whilst cooperating, are summarised as follows:

- Input to draft proposals for planning policy concerning waste management in each others' areas as appropriate;
- membership of the South East Waste Planning Advisory Group and signatories to related joint position statements and Annual Monitoring Reports;
- ad-hoc exchange of information (via correspondence and meetings) related to the monitoring of waste movements and management capacity;
- Undertaking a co-ordinated annual survey across the region of waste management capacity; and,
- preparation of bespoke Statements of Common Ground between individual authorities on specific matters affecting those authorities.

6.2 More generally, the Parties will continue to share knowledge and information relevant to strategic cross-boundary issues relating to waste planning.

6.3 The Parties recognise that there will not always be full agreement with respect to all of the issues on which they have a duty to cooperate. For the avoidance of doubt, this SCG shall not fetter the discretion of any of the Parties in relation to any of its statutory powers and duties, and is not intended to be legally binding.

7.0 Governance and Future Arrangements

7.1 The Parties to this Statement have worked together in an ongoing and constructive manner. The Parties will continue to cooperate and work together in a meaningful way and on an ongoing basis to ensure the effective strategic planning of waste management. Appropriate officers of each Party to this Statement will liaise formally through correspondence and meetings (usually four times a year) of SEWPAG.

7.2 The Parties will review this SCG at least every 12 months and establish whether this SCG requires updating. Specific matters likely to prompt updates of this SCG include the following:

- Changes to waste management capacity and patterns of waste arising within the south east
- Evidence which shows significant changes in the level of waste movements between the authorities within and beyond the south east.

Appendix 1 – Template for Details of Signatories

Bracknell Forest Council

Name of Signatory.....
Position

Signature

Date.....

Brighton & Hove City Council

Name of Signatory: Max Woodford

Position: Assistant Director - City Development and Regeneration

Signature: M Woodford Date: 07.04.20

Buckinghamshire County Council

Name of Signatory.....
Position

Signature

Date.....

East Sussex County Council

Name of Signatory.....
Position

Signature

Date.....

Hampshire County Council (incorporating Southampton City, Portsmouth City and New Forest National Park Waste Planning Authorities)

Name of Signatory.....

Position

Signature

Date.....

Isle of Wight Council

Name of Signatory.....

Position

Signature

Date.....

Kent County Council

Name of Signatory.....

Position.....

Signature

Date.....

Medway Council

Name of Signatory.....

Position

Signature

Date.....

Milton Keynes Council

Name of Signatory

Position.....

Signature

Date.....

Oxfordshire County Council

Name of Signatory.....

Position

Signature

Date.....

Reading Borough Council

Name of Signatory.....
Position.....

Signature

Date.....

Royal Borough of Windsor and Maidenhead

Name of Signatory

Position.....

Signature

Date.....

Slough Borough Council

Name of Signatory.....

Position.....

Signature

Date.....

South Downs National Park Authority

Name of Signatory

Position

Signature

Date.....

Surrey County Council

Name of Signatory

Position

Signature

Date.....

West Berkshire Council

Name of Signatory

Position

Signature

Date.....

West Sussex County Council

Name of Signatory: Mike Elkington

Position: Head of Planning Services

Signature:



Date: 31 March 2020

Wokingham Borough Council

Name of Signatory

Position.....

Signature

Date.....