



DEVELOPMENT OF A SUSTAINABLE ENERGY PLANT.

KEMSLEY PAPER MILL, SITTINGBOURNE, KENT

**ST REGIS PAPER COMPANY LIMITED & E.ON
ENERGY FROM WASTE UK LIMITED**

ENVIRONMENTAL STATEMENT

CHAPTER 3:

PLANNING POLICY FRAMEWORK

Prepared by:
Andrew Stevenson

Checked by:
Jonathan Standen

34 Lisbon Street
Leeds
LS1 4LX

Tel 0113 220 6190
Fax 0113 243 9161
Email rpsld@rpsgroup.com

RPS Planning & Development

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3 Planning Policy Framework

3.1 Introduction

- 3.1.1 This chapter of the Environmental Statement sets out the current planning policy framework relevant to the proposed development.
- 3.1.2 Rather than assessing the development proposals against the policy framework, the intention of this chapter is to provide the planning policy framework within which the proposals should be considered.
- 3.1.3 Individual chapters throughout the Environmental Statement assess the proposals within the context of the relevant policies. A detailed assessment against the relevant policies is contained within the Planning Application Supporting Statement.

3.2 Policy Framework

- 3.2.1 Chapter 1 of this Environmental Statement sets out the statutory requirements for the content of an Environmental Statement (ES). From this, it can be seen that Schedule 4 to the Town and Country Planning (Environmental Impact Assessment) (England and Wales) 1999 (EIA Regulations) does not make any specific reference to the inclusion of an assessment of planning policy. Chapter 6 of the Department of Transport, Local Government and the Regions "Good Practice Guide on the Preparation of Environmental Statements includes sections on 'Policies and Plans'. At paragraph 6.1 it states:

"An ES should include a section on policies and plans which are relevant to the environmental assessment of the development in question. The rationale for this is stated as "The objective is to demonstrate how these policy guidelines have been taken into account in developing the project and compiling the ES, and to provide a picture of the decision making context in which environmental impact will be evaluated."

- 3.2.2 The Government is committed to a plan led system, with the development plan forming the basis of all planning decisions. Accordingly, policy and plans play an important role in determining any planning application. It is normal practice therefore to include an assessment of policy considerations within the supporting documentation for the planning application. This section provides an overview of the policies that have been considered in undertaking the Environmental Impact Assessment.

- 3.2.3 This section sets out the broad planning policy framework within which the planning assessment will be undertaken. Planning policies are developed at national, regional and local levels, and for each, the policies considered to be most relevant are detailed below. National policies set out in a series of planning policy guidance notes and planning policy statements, provide a framework within which local planning authorities are required to draw up their development plans and take decisions on individual applications. Development Plans are examined by the Secretary of State to ensure consistency with national guidance and general conformity with regional guidance. Planning Policy Statement 1: Creating Sustainable Communities and Section 38 of the Planning and Compulsory Purchase Act 2004 reaffirms the Government's commitment to the plan led system.
- 3.2.4 Under this approach applications for planning permission are determined in accordance with the approved development plan, unless material considerations indicate otherwise.
- 3.2.5 It is not intended to address every aspect of the guidance that could have some bearing on the proposal within this chapter, but rather to identify those matters that are particularly relevant in assessing the compatibility of the proposals with key elements of the policy or guidance.

3.3 Energy & Waste Policy

Introduction

- 3.3.1 National Policy relating to waste management, like many other matters including Environmental Impact Assessment, is derived from a number of European Directives. These include the Waste Framework Directive (75/442/EEC as amended by 91/156/EEC, 2006/12/EC); the Hazardous Waste Directive (94/31/EEC); the Packing and Packaging Waste Directive (94/62/EEC) and most recently the Landfill Directive (99/31/EC).
- 3.3.2 Historically, waste strategy has focused on controlling waste disposal to prevent unacceptable harm to human health and the environment. The introduction of the Environmental Protection Act 1990 changed the focus to the management of waste to "cradle to grave", introducing concepts such as Best Available Techniques Not Entailing Excessive Cost (BATNEEC) and "Duty of Care". Most recently, the strategic approach to waste management has been updated through the Landfill Directive (implemented in the Landfill Regulations). This introduced the concept of sustainability into waste management planning. A key aim of the Landfill Directive is to reduce the volumes of biodegradable municipal waste sent to landfill. This European legislation has been translated into National Policy through Waste Strategy 2007.

Waste Framework Directive (75/442/EEC, amended by Directives 91/156, 91/692 and 96/350)

- 3.3.3 This EU Directive establishes the principle that the essential objective of all provisions relating to waste disposal must be the protection of human health and the environment against harmful effects. It states that the recovery of waste and the re-use of recovered materials should be encouraged in order to conserve natural resources. It also introduces measures designed to implement these principles.
- 3.3.4 Waste Framework Directive (2006/12/EC) of the European Parliament and of the Council of 5 April 2006 on waste establishes the legislative framework for the handling of waste in the Community. It defines key concepts such as waste recovery and disposal and puts in place the essential requirements for the management of waste such as moving waste up the waste hierarchy. It also establishes major principles such as an obligation to handle waste in a way that does not have a negative impact on the environment and human health, an encouragement to apply the waste hierarchy and, in accordance with the polluter-pays principle, a requirement that the costs of disposing of waste must be borne by the holder of waste, by previous holders or by the producers of the product from which the waste came.
- 3.3.5 The Common Position adopted by the Council of the European Union (20 December 2007) with a view to the adoption of a Directive of the European Parliament and of the Council on waste and repealing certain Directives relates to the preference of recovery operation over the disposal of waste.
- 3.3.6 Paragraph 14 of Article 3 defines recovery as:
'any operation the principal result of which is waste serving a useful purpose by replacing other materials which would otherwise have been used to fulfil a particular function, or waste being prepared to fulfil that function, in the plant or in the wider economy.'
- 3.3.7 Paragraph 18 (Article 3) defines disposal as:
'any operation which is not recovery even where the operation has as a secondary consequence the reclamation of substances or energy.'
- 3.3.8 Article 11 defines the waste hierarchy as follows and states that it should be applied as a guiding principle in waste prevention and management legislation and policy:
- prevention;
 - preparing for re-use;
 - recycling;

- d) other recovery, e.g. energy recovery; and
- e) disposal.

3.3.9 When applying the waste hierarchy, measures should be taken to encourage the options that deliver the best overall environmental outcome. This may require specific waste streams departing from the hierarchy where this is justified by life-cycle thinking on the overall impacts of the generation and management of such waste.

3.3.10 The European Parliament's Environment Committee has amended the Waste Framework Directive to allow efficient waste-to-energy plants to be classified as 'recovery' operations rather than disposal. A crucial aim for MEP's (Members of European Parliament) is to reduce the amount of landfill and incineration. MEP's backed the position to classify Waste to Energy as recovery – provided plants meet an energy efficiency standard. The Confederation of European Waste-to- Energy Plants has welcomed this recognition of Waste to Energy's (WTE) place in the waste hierarchy as a better option than landfilling. WTE is essentially the same as Energy from Waste (EfW).

The 1999 Landfill Directive (1999/31/EC)

3.3.11 The 1999 Landfill Directive was introduced in order to prevent, or reduce as far as possible, the negative effects of landfilling waste. It requires Member states to draw up strategies for a reduction in the quantity of 'bio-degradable municipal solid waste' disposed of to landfill.

3.3.12 This is to be achieved in three successive stages, as follows:

- By 2010 to reduce the Biodegradable Municipal Waste (BMW) landfilled to 75% of that produced in 1995;
- By 2013 to reduce the BMW landfilled to 50% of that produced in 1995; and
- By 2020 to reduce the BMW landfilled to 35% of that produced in 1995.

3.3.13 Directly linked to the Landfill Directive is the Landfill Allowance Trading (England) Regulations 2004 as described in the following section.

3.3.14 The Regulations also introduce the concept of pre-treatment of waste. This requires that with immediate effect, any landfill that has been granted its licence since July 2001 must only take waste that is pre-treated. From July 2004, all hazardous sites must only take waste that is pre-treated.

Landfill Allowance Trading Scheme (LATS)

- 3.3.15 The Landfill Allowance Trading Scheme (LATS) implemented under the Waste and Emissions Trading Act (2003) began on April 1st 2005. It requires a progressive reduction in the amount of Biodegradable Municipal Waste (BMW) landfilled by the UK from 2005/06.
- 3.3.16 Allowances to deposit BMW to landfill have been allocated by DEFRA to Waste Disposal Authorities for each year until 2020. LATS introduces a degree of flexibility into the system by allowing trading of permits between Waste Disposal Authorities. WDAs also have the opportunity to “bank” and “borrow” permits for future years. However, if, following trading, an authority exceeds their quota, a financial penalty of £150 is enforced for every tonne of biodegradable waste taken to landfill in excess of the permitted allowance.

Directive on Integrated Pollution Prevention and Control (IPPC) (96/61/EC)

- 3.3.17 This Directive establishes the IPPC process as a means of achieving a high level of protection of the environment, taken as a whole by, in particular, preventing or (where that is not practicable) minimising and controlling emissions into air, water and land. It requires regulators to set permit conditions to achieve a high level of protection for the environment as a whole.

Directive on Waste Incineration (2000/76/EC)

- 3.3.18 This EU Directive introduced stringent operating conditions and sets minimum technical requirements for waste incineration and co-incineration. The requirements of the Directive have been developed to reflect the ability of these facilities to more cost effectively achieve high standards of emission control in comparison to the 1980s. It covers virtually all waste incineration and co-incineration plants.
- 3.3.19 The main aim of the Directive is to prevent and limit adverse environmental effects by emissions to air, soil, surface and ground-water, and the resulting risks to human health, from the incineration and co-incineration of waste. It is not of itself concerned with the place of incineration in waste management strategies, but with ensuring that these facilities continue to be appropriately regulated.

Strategic Planning for Sustainable Waste Management: Guidance on Option Development and Appraisal (October 2002).

- 3.3.20 This guidance was published by the Office of the Deputy Prime Minister (ODPM) in October 2002 and is aimed primarily at the waste Regional Technical Advisory Bodies (RTABs) to assist them in advising on the preparation of Regional Waste Strategies. However, it emphasises the need for significant investment in new and upgraded waste management facilities to achieve the Government's targets for waste recycling/composting and the fact that "waste management is central to the sustainable development agenda". It also endorses an integrated approach and a long-term approach, referred to as a "planning horizon of at least 20 years".
- 3.3.21 The above legislation is implemented through the Environmental Permitting Regulations 2007, the Waste Strategy for England 2007, and PPS10.

Waste Strategy for England 2007, May 2007

- 3.3.22 The National Waste Strategy is part of the implementation for England of the requirements within the Framework Directive on Waste, and associated Directives to produce waste management plans. The European Landfill Directive (Council Directive 1999/31/EC) sets targets for the reduction of biodegradable municipal waste sent to landfill. These targets were incorporated into the National Waste Strategy (Waste Strategy 2000).
- 3.3.23 Since that time the National Waste Strategy has been taken forwards to the Waste Strategy for England 2007 issued in June 2007 as a white paper (WS 2007). This new strategy builds on Waste Strategy 2000 (WS2000) and the progress since then but aims for greater ambition by addressing the key challenges for the future through additional steps.
- 3.3.24 The Government's key objectives as set out in the strategy are to:
- decouple waste growth (in all sectors) from economic growth and put more emphasis on waste prevention and re-use;
 - meet and exceed the Landfill Directive diversion targets for biodegradable municipal waste in 2010, 2013 and 2020;
 - increase diversion from landfill of non-municipal waste and secure better integration of treatment for municipal and non-municipal waste;
 - secure the investment in infrastructure needed to divert waste from landfill and for the management of hazardous waste; and
 - get the most environmental benefit from that investment, through increased recycling of resources and recovery of energy from residual waste using a mix of technologies.

- 3.3.25 The Strategy reinforces the importance of the waste hierarchy whereby landfill is treated as the option of last resort, with an emphasis upon reduction in waste generation followed by reuse and recycling and recovery of value.
- 3.3.26 It places a greater focus on waste prevention through a new target to reduce the amount of household waste not re-used, recycled or composted from over 22.2 million tonnes in 2000 by 29% to 15.8 million tonnes in 2010 with an aspiration to reduce it to 12.2 million tonnes in 2020 – a reduction of 45%. This is equivalent to a fall of 50% per person (from 450 kg per person in 2000 to 225 kg in 2020).
- 3.3.27 Higher national targets than in 2000 have been set for:
- Commercial and waste land filled falling by 20% by 2010 compared to 2004;
 - recycling and composting of household waste – at least 40% by 2010, 45% by 2015 and 50% by 2020; and
 - recovering value from municipal waste – 53% by 2010, 67% by 2015 and 75% by 2020.
- 3.3.28 With respect to stimulating investment in waste collection and treatment infrastructure, key new policies within WS2007 (Chapter 5) include: *“Ensuring that Regional Spatial Strategies and local development plans conform to national planning guidance on waste so that the waste infrastructure projects needed to deliver this strategy receive planning approval, while promoting best practice in the way local authorities consult stakeholders on their waste strategies and “Developing collection arrangements and the energy market for wood waste which cannot be re-used or recycled”.*
- 3.3.29 With regards to recovering energy from waste, the strategy states, at paragraph 17 of Chapter 5 that: *Recovering energy from waste which cannot sensibly be reused or recycled is an essential component of a well-balanced energy policy*”. Paragraph 23 states that: *“Evidence from neighbouring countries, where very high rates of recycling and energy from waste are able to coexist, demonstrates that a vigorous energy from waste policy is compatible with high recycling rates”.*
- 3.3.30 Guidance on the application of the strategy within the White Paper states: *“There is a particular requirement in the Waste Framework Directive for the waste management plan to identify suitable disposal sites or installations. PPS10 sets out relevant national policies for waste management facilities, including location criteria to inform local planning policy and planning decisions. Local planning authorities in England are reminded of their obligation*

under the Waste Management Licensing Regulations 1994 to produce detailed policies in respect of suitable disposal sites or installations for waste management purposes when producing local development documents, and also their obligation to have regard to national policies and to this strategy. PPS10 provides that local planning authorities should, among other things, identify in development plan documents sites and areas suitable for new or enhanced waste management facilities for the waste management needs of their areas, and, in particular, allocate sites to support the pattern of waste management facilities set out in the RSS (in accordance with the broad locations identified in the RSS)".

3.3.31 WS 2007 highlights that there is a particular requirement in the Waste Framework Directive for the waste management plan to identify suitable waste disposal sites or installations. PPS10 sets out relevant national policies for waste management facilities, including location criteria to inform local planning policy and planning decisions. Local planning authorities in England are reminded of their obligation under the Waste Management Licensing Regulations 1994 to produce detailed policies in respect of suitable disposal sites or installations for waste management purposes when producing local development documents, and also their obligation to have regard to national policies in this strategy. PPS10 provides that local planning authorities should, among other things, identify in development plan documents sites and areas suitable for new or enhanced waste management facilities for the waste management needs of their areas, and, in particular, allocated sites to support the pattern of waste management facilities set out in the RSS (in accordance with the broad locations identified in the RSS).

Energy Policy

EU Renewable Energy Directive (2009/28/EC)

3.3.32 This EU Directive reaffirms the EU's commitment to the development of renewable energy beyond 2010. The directive obliges Member States to:

- Meet the 2020 national renewable energy targets (15% for the UK)
- Introduce measures to meet these targets
- Introduce mandatory requirements for biofuels
- Adopt national action plans setting out adequate measures to achieve the 2020 targets
- Submit bi-annual progress reports to the EU Commission.

3.3.33 It defines "energy from renewable sources" as energy from renewable non-fossil fuels namely wind, solar, aero-thermal, geothermal, hydrothermal and ocean energy, hydropower, biomass, landfill gas, sewage treatment plant gas and biogas.

3.3.34 It defines biomass as the biodegradable fraction of products, waste and residues from biological origin from agriculture, as well as the biodegradable fraction of industrial and municipal waste.

Meeting the Energy Challenge: A White Paper May 2007

3.3.35 The Energy White Paper (at paragraphs 5.3.3 and 5.3.4) highlights the importance renewable energy plays in the future security of future energy supplies but also reducing carbon emissions. At paragraph 5.3.44, it highlights the use of the biodegradable fraction of waste as a renewable resource and states that the Renewable Obligation will apply to certain types of energy from waste facility including good quality CHP facilities. Table 5.3.1 identifies energy from waste with CHP as a renewable technology.

3.3.36 Paragraph 5.3.6 acknowledges the EU's binding target for 20% of all energy consumption being renewable by 2020, and the EU's binding target of reducing greenhouse gas emissions by 20% by 2020.

3.3.37 Paragraph 5.3.44 identifies that generating energy from that portion of waste that cannot be prevented, reused, or recycled has both energy and waste policy benefits. It further acknowledges that energy generated either directly from waste or through refused derived fuel has benefits for the security of supply and confirms that the biodegradable fraction of waste is a renewable resource.

3.3.38 The White Paper at paragraphs 5.3.64 to 5.3.70 highlights concerns over the planning process stifling the deployment of renewables, stating: "applicants will no longer have to demonstrate either the overall need for renewable energy or for their particular proposals to be sited in a particular location."

3.3.39 The White Paper (at paragraph 5.3.69) states that the PPS on Climate Change will provide key policies on renewables including steering local authority decision makers not to question the national need for renewables and other low carbon technologies, or to question the need for a specific project to be sited in a particular location. This is carried through to the PPS1 Supplement.

3.3.40 Paragraph 8.2 sets out that there is a significant challenge in delivering new energy infrastructure. In terms of electricity the UK will need between 30-35GW of new generating capacity over the next two decades with two-thirds of this by 2020. In terms of gas, given our increasing reliance on imports, if developers cannot secure permission for electricity generation projects and gas supply infrastructure the UK could be exposed to rising security of supply risk with the potential for energy price increases.

The UK Biomass Strategy, May 2007.

- 3.3.41 This Strategy was published to complement the Energy White Paper 2007. It sets out that Biomass is a renewable energy source that has the potential to make a valuable contribution to heat and electricity generation as a low carbon, sustainable replacement for fossil fuels. As such the government intends a major expansion in the supply and use of Biomass in the UK, and to maximise the potential of Biomass to contribute to the delivery of the UK's climate change and energy policy goals, and achieve a secure, competitive and affordable supply of fuel.
- 3.3.42 Paragraph 2.1 confirms that Biomass means any biological material derived from plant or animal matter which can be used for producing heat and/or power. Paragraph 2.3 confirms that Biomass is renewable. Paragraph 2.5 sets out that the use of biomass and other renewables, in place of fossil fuels, offers the prospect of a more diversified energy mix, and that energy security continues to be of increasing importance. It continues that at present 90% of the UK's energy needs are met by fossil fuels and that as the UK's production of Oil, Gas and coal declines it will become increasingly reliant on imports.
- 3.3.43 Paragraph 3.4 sets out that as part of the strategy to help secure a sustainable increase in UK biomass production there is a need to promote measures to divert waste from landfill including increased energy generation from biodegradable wastes that cannot be sustainably reused or recycled, and from SRF.
- 3.3.44 Paragraph 3.9 confirms that Biomass has an important role to play in achieving the Government's target of 10% renewable energy by 2010 and 20% by 2020.

The UK Renewable Energy Strategy, July 2009

- 3.3.45 This strategy sets out how the UK intends to meet its legally binding target to ensure that 15% of our energy comes from renewable sources "almost a seven-fold increase in the share of renewables in scarcely more than an decade". It also sets out that the strategy will tackle climate change by reducing the UK's emissions of carbon dioxide by over 750 million tonnes by 2030. It also promotes the security of energy supply by reducing the overall fossil fuel demand by around 10% and gas imports by 20-30% against what they would have been in 2020. It also sets out to achieve 30% of electricity being generated by renewable including biomass and 12% of heat from renewable including biomass.
- 3.3.46 Paragraph 1.1 of the Executive Summary sets out that the UK needs to radically increase its use of renewable energy. The reasons for this are:

- The impending threat of dangerous climate change and the need to reduce carbon dioxide and other greenhouse gasses.
- The growth in global demand for energy over the next few decades and the depletion of the North Sea oil and gas resources, mean that there needs to be a rethink on sourcing and using energy. This dictates a need to move towards energy self sufficiency
- To ensure the UK has thriving and robust renewable energy sector in a global low carbon economy

3.3.47 Paragraph 3.6 of the Executive Summary states that: “We will ramp up the supply and use of biomass for heat, power and transport...we will do this by making better use of biomass waste...”

3.3.48 Paragraph 1.1 sets out that the UK needs a radical increase in the use of renewable energy and that this an integral part of the strategy to decarbonise energy production in the UK, to ensure secure and safe energy supplies, spread the costs fairly and to exploit the significant opportunities of the move to a low carbon economy. It sets out in Box1.1 that The Climate Change Act brings with at a binding target to reduce greenhouse gas emissions to 80% below 1990 levels by 2050, and that this requires the Government to set five year carbon budgets which place binding limits on greenhouse gas emissions. The first three carbon budgets require a 34% reduction in greenhouse gas relative to 1990 levels by 2022.

3.3.49 In order to ensure secure and safe energy supplies, this will be realised by achieving the 15% renewable energy target by 2020. It estimates that this will lead to a 10% reduction in overall fossil fuels demand and a 20-30% decrease in demand for gas. It also identifies that the EU Climate and Energy package requires a 20% reduction in greenhouse gas emissions by 2020.

3.3.50 Paragraph 4.121 identifies that that around 30% of the UK renewable energy target could come from bio energy for heat and power and that there is sufficient biomass resource potential in the UK to meet the EU renewable energy target in 2020.

3.3.51 Paragraph 4.130 identifies Waste Biomass as an underused resource which could provide a significant contribution to renewable target and reduce the amount of waste that is landfilled.

The UK Low Carbon Transition Plan: National Strategy for Climate and Energy, July 2009.

- 3.3.52 This White Paper sets out the UK's transition plan for building a low carbon UK: cutting emissions, maintaining secure energy supplies, maximising economic opportunities and protecting the most vulnerable. It sets out the Government's plan for achieving its 15% renewable target by 2020.
- 3.3.53 It sets out that in terms of energy security global energy demand is forecast to increase by 45% between 2006 and 2030 with almost 80% of the increase coming from fossil fuels. In 2008 the UK imported 25% of the gas it used and by 2020 this is predicted to rise to 60%, but that the measures in this plan not only will help to decarbonise electricity supplies and increase heat efficiency but will reduce the predicted energy importation to 45%.
- 3.3.54 The Transition Plan seeks to ensure that around 40% of our electricity comes from low carbon sources by 2020. As part of this plan England's annual waste emissions will be cut by the equivalent of one million tonnes of carbon dioxide by 2020 reducing them by 13% of the 2009 level. The Government will do this by amongst other measures, by putting less waste into landfill and by encouraging greater production of bio energy, particularly from combustion, and may even ban certain types of waste from landfill.

3.4 Planning Policy

Planning Policy Statement 1 (PPS1): Delivering Sustainable Development (2005)

- 3.4.1 Whereas much of the guidance offered by PPS1 is of general or background relevance to the current proposals, the following specific points are noteworthy:
- Paragraph 3 of PPS1 identifies sustainable development as 'the core principle underpinning planning'.
 - Paragraph 12 highlights pre-application discussions between developers and local planning authorities as being 'critically important'. Paragraph 8 reinforces the importance of the development plan in making decisions about development proposals.
 - Paragraph 13(ii) requires LPA's to ensure that " development plans contribute to global sustainability by addressing the causes and potential impacts of climate change – through policies which reduce energy use, reduce emissions....., promote

the development of renewable energy and take climate change impacts into account in the location and design of development”

- Paragraph 20 sets out that development plan policies should take account of environmental issues such as “the mitigation of the effects of, and adaptation to, climate change through the reduction of greenhouse gas emissions and the use of renewable energy; ...”
- Paragraph 22 sets out that development plan policies should: “seek to minimise the need to consume new resources over the lifetime of the development by making more efficient use or reuse of existing resources, rather than making new demands on the environment; and should seek to promote and encourage, rather than restrict, the use of renewable resources (for example, by the development of renewable energy).” It also sets out that LPA’s should encourage the use of Combined Heat and Power.
- Paragraphs 40-44 outline the importance of effective community involvement.
- The PPS1 Supplement presents guidance relating to climate change. This addresses, amongst other things, design for environmental performance, including energy consumption, renewable or low carbon energy supply.

Planning Policy Statement: Planning and Climate Change Supplement to Planning Policy Statement 1

- 3.4.2 PPS1 sets out the overarching planning policies on the delivery of sustainable development through the planning system. This PPS on climate change supplements PPS1 by setting out how planning should contribute to reducing emissions and stabilising climate change, whilst taking into account the unavoidable consequences. The policies in this PPS take precedence over any policies relating to climate change in other PPS’s. Tackling climate change is a key Government priority for the planning system. It sets out how applicants for planning permission should consider how well their proposals for development contribute to the Government’s ambition of a low-carbon economy and how well adapted they are for the expected effects of climate change.
- 3.4.3 Paragraph 9 sets out the Key planning objectives to deliver sustainable development and an appropriate response to climate change. Amongst others, the Key objectives are:
- Make a full contribution to delivering the Government’s Climate Change Programme and energy policies and in so doing global sustainability
 - Reflect the development needs and interests of communities and enable them to contribute effectively to tackling climate change

- Respond to the concerns of business and encourage competitiveness and technological innovation in mitigating and adapting to climate change

3.4.4 Paragraph 10 sets out that new development should be planned to make good use of opportunities for decentralised and renewable or low carbon energy.

3.4.5 Paragraph 19 sets out that in developing development plan documents LPA's should encourage and not restrict renewable and low carbon energy generation. Paragraph 20 sets out that planning authorities should not require applicants for energy development to demonstrate either the overall need for renewable energy and its distribution, nor question the energy justification for why proposals for such development must be sited in a particular location.

Planning Policy Statement 22 (PPS22): Renewable Energy

3.4.6 PPS22 sets out that for its purposes renewable energy covers biomass including the biodegradable fraction of industrial and municipal waste, and energy from waste.

3.4.7 It sets out a number of Key Principles, including:

- Renewable energy developments should be capable of being accommodated throughout England in locations where technology is viable and environmental, economic, and social impacts can be addressed satisfactorily.
- Regional Spatial Strategies and Local development documents should contain policies designed to promote and encourage, rather than restrict, the development of renewable energy resources...
- The wider environmental and economic benefits of all proposals for renewable energy projects, whatever their scale, are material considerations that should be given significant weight in determining whether proposals should be granted planning permission.

3.4.8 Paragraph 3 sets out that targets should be expressed for regional renewable energy targets for 2010 and 2020. These targets should be reviewed regularly and revised upwards if met. Reaching the renewable energy target is not in itself a reason for refusing planning permission.

3.4.9 Paragraph 24 identifies that in determining planning applications for biomass authorities should recognise that in addition to minimising the impact of traffic by ensuring that developments are located in as close a proximity to the sources of fuel, there are other

considerations (such as connections to the Grid and the potential use of heat generated from the project) which may influence the most suitable locations for such projects.

Draft National Policy Statement for Renewable Energy Infrastructure, November 2009

- 3.4.10 Although primarily intended to inform decisions by the Infrastructure Planning Commission from March 2010 paragraph 1.2.4 makes it clear that:

“In England and Wales, this NPS may also be a material consideration in decision making on applications that fall under the Town and Country Planning Act 1990. where relevant, those making decisions on such applications in England should apply the policy and guidance in this NPS as far as practicable”

- 3.4.11 Paragraph 2.5.1 sets out that the combustion of biomass for electricity generation is likely to play an increasingly important role in meeting the UK’s renewable energy targets. Paragraph 2.5.2 clarifies that the recovery of energy from the combustion of waste, where in accordance with the waste hierarchy, will play an increasingly important role in meeting the UK’s energy needs, and that where the waste burned is deemed renewable, this can also contribute to meeting the UK’s renewable energy targets. Further, the recovery of energy from the combustion of waste forms an important element of waste management strategies.

- 3.4.12 In terms of fuels, paragraph 2.5.7 confirms that Biomass is material of recent biological origin derived from plant or animal matter, and that biomass used for heat and power usually falls within one of three categories. One such category is:

“biomass from biodegradable waste and other similar materials; including sewage sludge, animal manure, waste wood from construction, and food waste that would otherwise be disposed of in landfill.”

- 3.4.13 Paragraph 2.5.8 confirms that Energy from Waste plants take fuel that would otherwise be sent to landfill, and that waste can come from municipal or commercial and industrial sources, and that some of this waste may comprise biodegradable waste including Solid Recovered Fuel (SRF).

- 3.4.14 Paragraph 2.5.18 confirms that waste combustion plants are unlike other electricity power stations in that they have two roles: treatment of waste and recovery of energy.

3.4.15 Paragraph 2.2.53 confirms that waste combustion plants need not disadvantage reuse or recycling initiatives where the proposed development accords with the waste hierarchy. An assessment of the waste combustion plant's conformity with the waste hierarchy and the effect on the relevant regional waste plan should be made. It should set out that extent which the plant and capacity proposed contributes to recovery targets set out in strategies and plans taking into account existing capacity.

3.4.16 Paragraph 2.5.26 identifies that the government's strategy for CHP is set in Section 4.6 of EN1. This states that:

"To be viable as a CHP plant, a generating station needs to be located close to industrial or domestic customers with heat demands."

3.4.17 It also acknowledges that for industrial purposes customers are likely to intensive heat uses including paper mills.

Planning Policy Statement 9 (PPS9): Biodiversity and Geological Conservation

3.4.18 Planning Policy Statement 9 (PPS9) sets out planning policies on protection of biodiversity and geological conservation through the planning system. Published in August 2005. It is accompanied by Government Circular 06/05: Biodiversity and Geological Conservation which covers relevant legislative provisions at the international and national level that can impact on planning decisions affecting biodiversity and geological conservation issues and Good Practice Guidance.

3.4.19 The PPS sets out the Government's broad policy objectives in relation to the protection of biodiversity and geological conservation in England through the planning system and its planning policies that will help deliver these objectives. These policies reflect statutory obligations for nature conservation and are firmly based on the principles set out in 'Working with the grain of nature – a biodiversity strategy for England' (DEFRA 2002).

Planning Policy Statement 10 (PPS10): Planning for Sustainable Waste Management PPS10, July 2005

3.4.20 Planning Policy Statement 10: Planning for Sustainable Waste Management (PPS10) was published in July 2005. PPS 10 sets out guidance for all those involved in making decisions about the management of waste and sets out the principles of sustainable waste management driven by the waste hierarchy.

3.4.21 Para. 1 of PPS10 states in this respect:-

“Through more sustainable waste management, moving the management of waste up the ‘waste hierarchy’ of reduction, reuse, recycling and composting, using waste as a source of energy, and only disposing as a last resort the Government aims to break the link between economic growth and the environmental impact of waste.”

3.4.22 It goes on to explain that the planning system is pivotal to the adequate and timely provision of the new facilities that will be needed.

3.4.23 Para 3 of the document sets out the key planning objectives that regional planning authorities should prepare and deliver through their strategies. These are:

- Help deliver sustainable waste management through driving waste management up the waste hierarchy, addressing waste as a resource and looking to disposal as the last option, but one which must be adequately catered for;
- Provide a framework in which communities take more responsibility for their own waste, and enable sufficient and timely provision of waste management facilities to meet the needs of their communities;
- Help implement the national waste strategy, and supporting targets, are consistent with obligations required under European legislation and support and complement other guidance and legal controls such as those set out in the Waste Management Licensing Regulations 1994;
- Help secure the recovery or disposal of waste without endangering human health and without harming the environment, and ensure waste is disposed of in one of the nearest appropriate installations;
- Reflect the concerns and interests of local communities, the needs of waste collection authorities, waste disposal authorities and businesses, and encourage competitiveness.

3.4.24 Paragraph 20 sets out that in searching for suitable sites for waste management facilities planning authorities should consider for opportunities for on site management where waste arises and a broad range of locations including industrial sites, looking for opportunities to co-locate facilities together and with complementary activities.

3.4.25 Annex E of PPS10 sets out locational criteria to test the suitability of sites for waste management activities. These are listed below:-

- Protection of water resources;

- Land instability;
- Visual intrusion;
- Nature conservation;
- Historic environment and built heritage;
- Traffic and access;
- Air emissions, including dust;
- Odours;
- Vermin and birds;
- Noise and vibration;
- Litter; and
- Potential land use conflict.

3.4.26 The evolution of the current scheme in accordance with social, economic and employment considerations has taken place at a time where the planning system is in a period of transition. Section 19 of the Planning and Compulsory Purchase Act 2004 requires local planning authorities to carry out Sustainability Appraisals of proposals within each of their local development documents. PPS 12 states that:

“sustainability appraisal is a systematic and iterative appraisal process, incorporating the requirements of the Strategic Environmental Assessment Directive”, where “The purpose of sustainability appraisal is to appraise the social, environmental, and economic effects of the strategies and policies in a local development document from the outset of the preparation process”.

PPS10 advises that Regional planning bodies and all planning authorities should, to the extent appropriate to their responsibilities, adhere to the principles in preparing planning strategies including sustainability appraisal (incorporating strategic environmental assessment)”.

3.4.27 Sustainability appraisal should be applied so as to shape planning strategies that support the Government’s planning objectives. PPS10 further states that *“in considering planning applications for waste management facilities before development plans can be reviewed to reflect this PPS, [waste planning authorities should] have regard to the policies in this PPS as material considerations which may supersede the policies in their development plan. Any refusal of planning permission on grounds of being premature will not be justified unless it accords with the policy in “The Planning System: General Principles”.*

3.4.28 The Planning and Compulsory Purchase Act 2004 requires that the Minerals and Waste Development documents be prepared with a view to contributing to sustainable development.

Local Development Frameworks as set out above are to be subject to a process of Sustainability Appraisals and Strategic Environmental Assessment. The first stage in the sustainability appraisal process is the preparation of a Generic Scoping Report, which sets out how the appraisal of documents is to be carried out. The original Scoping Report was published for comment in August 2005. This has now been updated to be in line with Government guidance, new information and the consultation responses.

3.4.29 Paragraph 26 of PPS10 sets out that planning authorities should not concern themselves with the control of processes which are a matter for the pollution control authorities. Paragraph 27 sets out that pollution control is concerned with preventing pollution through the use of measures to prohibit or limit the release of substances to the environment to the lowest practicable. Additionally, it seeks to ensure that air and water quality meets standards that prevent human and environmental impact. Further, planning authorities should work on the assumption that the pollution control regime will be properly applied and enforced.

Planning For Sustainable Waste Management: Companion Guide To Planning Policy Statement 10, June 2006

3.4.30 This guide, published in June 2006, supports the implementation of Planning Policy Statement 10 (PPS10) Planning for Sustainable Waste Management. The Guide provides advice, ideas, examples of current practice and signposts to further information in support of the implementation of Planning Policy Statement 10: Planning for Sustainable Waste Management (PPS10).

Planning Policy Guidance 13 (PPG13): Transport, 2001

3.4.31 PPG13 has the objectives of integrating planning and transport at the national, regional, strategic and local level to promote more sustainable transport choices for both people and for moving freight, promoting accessibility and reducing the need to travel, especially by car.

Planning Policy Guidance 15 (PPG15): Planning and the Historic Environment

3.4.32 PPG15 provides guidance on the role of the planning system in the protection of the historic environment. Early consultation with the local planning authority and English Heritage is identified as important where development proposals may affect historic sites and structures such as listed buildings and conservation

Planning Policy Guidance 16 (PPG16): Archaeology and Planning

3.4.33 This guidance advises on how to preserve and record archaeological remains in the urban and rural environment. The statutory frameworks for protecting remains are outlined and the development control procedure is clearly identified.

Planning Policy Statement 23 - Planning and Pollution Control (PPS23)

3.4.34 PPS23 offers guidance to local authorities on the relationship between controls over development under planning law, and under pollution control legislation. PPS 23 advises that:

- any consideration of the quality of land, air or water and potential impacts arising from development, possibly leading to impacts on health, is capable of being a material planning consideration, in so far as it arises or may arise from or may affect any land use;
- the planning system plays a key role in determining the location of development which may give rise to pollution, either directly or indirectly, and in ensuring that other uses and developments are not, as far as possible, affected by major existing or potential sources of pollution;
- the controls under the planning and pollution control regimes should complement rather than duplicate each other.

3.4.35 It also takes into account the Air Quality Strategy, the system of local air quality management under Part IV of the Environment Act 1995 and climate change.

Planning Policy Guidance Note 24 (PPG24): Planning and Noise, 1994

3.4.36 PPG24 provides guidance to planning authorities on the use of their planning powers to minimise the adverse impacts on noise. PPG24 recognises however that the impact of noise must be balanced against other impacts of development, and states in para. 10:

“Much of the development which is necessary for the creation of jobs and the construction and improvement of essential infrastructure will generate noise. The planning system should not place unjustifiable obstacles in the way of such development.”

3.4.37 Paragraph 3 sets out that mitigation measures can be introduced to control the source of, or limit exposure to noise. These include:

*“(i) **engineering:** reduction of noise at point of generation (e.g. by using quiet machines and/or quiet methods of working); containment of noise generated (e.g. by insulating buildings which house machinery and/or providing purpose-built barriers around the site); and protection of surrounding noise-sensitive buildings (e.g. by improving sound insulation in these buildings and/or screening them by purpose built barriers);*

*“(ii) **lay-out:** adequate distance between source and noise-sensitive building or area; screening by natural barriers, other buildings, or non-critical rooms in a building;*

*“(iii) **administrative:** limiting operating time of source; restricting activities allowed on the site; specifying an acceptable noise limit.”*

Planning Policy Statement Note 25 (PPS25): Development and Flood Risk

3.4.38 PPS25 which was published in December 2006 explains how positive planning has an important role in helping to deliver sustainable development and applying the Government's policy on flood risk management. Positive planning avoids and reduces and manages flood risk by taking full account in decisions on plans and applications of present and future flood risk and the wider implications for flood risk of development located outside flood risk areas. The statement sets out the aims of planning policy on development and flood risk are to ensure that flood risk is taken into account at all stages in the planning process to avoid inappropriate development in areas at risk of flooding, and to direct development away from the areas at highest risk.

3.4.39 With respect to Risk Based approach and the Sequential Test, paragraph 16 of PPS25 states:

“Local Planning Authorities allocating land in Local development Documents for development should apply the Sequential Test to demonstrate that there are no reasonably available sites in areas with a lower probability of flooding that would be appropriate to the type of development or land use proposed. A sequential approach should be used in areas known to be at a risk from other forms of flooding.”

3.4.40 Paragraph 17 states ‘In areas at risk of river or sea flooding, preference should be given to locating new development in Flood Zone 1. If there is no reasonably available site in Flood Zone 1, the flood vulnerability of the proposed development can be taken into account in

locating development in Flood Zone 2 and then Flood Zone 3. Within each Flood Zone new development should be directed to sites at the lowest probability of flooding from all sources as indicated by the Strategic Flood Risk Assessment.

3.5 The Statutory Development Plan

3.5.1 Of particular importance in the policy framework is the development plan, which is produced in accordance with statutory procedures to guide the development and use of land and provide a framework for the determination of individual planning applications.

3.5.2 According to PPS12: Local Development Frameworks (2008):

“3.1 The development plan is made up of the Regional Spatial Strategy (RSS), and Development Plan Documents (DPD) produced by local planning authorities within the local development framework.

i) The Local Development Framework is the collection of local development documents produced by the local planning authority which collectively delivers the spatial planning strategy for its area . The Core Strategy is the key plan within the Local Development Framework.”

3.5.3 Kent County Council is the Waste Planning Authority responsible for the production of all planning policy including waste planning policy and determination of planning applications for wholly or mainly for waste management proposals including energy recovery. In this context, the statutory development plan thus comprises:

- The South East Plan: Regional Spatial Strategy for the South East of England (May 2009)
- The ‘saved’ policies of the Kent Waste Local Plan (March 1998)
- The Swale Borough Local Plan (February 2008).

3.5.4 The policies and supporting context of the development plan are set out within Appendix 3.1