

**Public Consultation on Proposed Modifications to the Joint Merseyside & Halton Waste
Local Plan**

**Report on Representations Received
January 2013**

1. Statistical Summary of visitors and visits to Consultation Websites

An easily estimated measure of participation in the consultation is provided by visitor statistics on relevant websites. Key statistics are provided in the Table 1 for two websites:

- the consultation portal (where all documents are available and where the on-line questionnaire can be used) and
- the “waste planning Merseyside” site which acts as a focus for news on the WLP process and is the major “feeder” site for the consultation portal.

Measured parameter	Consultation Portal	Waste Planning Merseyside site
Number of consultation days	58	58
Number of user visits recorded	468	269
Number of unique visitors recorded	355	240
Number of web pages viewed	1867	829
Average number of pages per visit	3.3	2.5
Average time spent on site	4.3 mins	2.4

Table 1. Participation through web consultation portal

The consultation was held over the period 14th November 2012 to 10th January 2013. This included the Christmas holiday period and consequently the time allowed for responses was increased from the usual six weeks to just over 8 weeks.

The total number of visits and visitors suggests a reasonable level of participation for what was essentially a technical issue (detailed modifications to the Plan following public hearings in June 2012) but at somewhat lower levels than consultation stages earlier in the plan preparation process. However from the number of pages viewed per visit and amount of time spent on the site, it would appear that few visitors looked in detail at the consultation questions and it is not surprising that there were relatively few consultation representations received.

It should also be noted that most of the responses received were not directly via the on-line consultation portal but by email and paper correspondence. The website traffic analysis therefore underestimates participation, although there are no reliable methods of augmenting the data in the table above with estimates of participation through other means.

Many users of the consultation portal would also have used it as a source of documents, while making their responses via alternative channels.

2. Summary of Representations Received

23 representations have been received in total from 15 organisations and two individuals. We have classified all of the representations as “positive”, “negative” or “neutral” with respect to the Modifications which were the subject of consultation. “Neutral” responses are mainly those which stated that the representor had no comment to make in response to the consultation. The classification of all representations received is shown in Table 2 below.

Classification of Representation	Received from	Number received
Neutral	Mr Michael Coles	11
	Cory Environmental Ltd	
	Cheshire West and Chester Council	
	GMGU - Environment Team	
	Maritime Management Organisation	
	National Trust	
	Network Rail	
	Sanderson Weatherall	
	The Coal Authority	
	United Utilities	
	Wirral Wildlife	
Positive	Ms Paula Keaveney	7
	Associated British Ports (2)	
	Lancashire County Council	
	Peel Holdings (2)	
	Sanderson Wetherall (RBS)	
Negative	Cory Environmental Ltd	5
	Countryside Council for Wales	
	Cheshire West and Chester Council	
	Lancashire County Council	
	Natural England	

Table 2. Representations received

Note that the same representor may appear in more than one classification since an organization or individual may have made positive comments about some of the proposed modifications but expressed reservations with respect to others.

The majority of representations were either neutral or positive with regard to the proposed modifications to the WLP. No representations were rejected as inadmissible, although some “negative” representations did not address themselves strictly to the modifications and therefore carry little weight (this is noted in our responses below – Section 3).

Detailed responses to representations classified as “negative” are provided below (Section 3). No further comments are made here on the representations which have been classified as either “neutral” or “positive”. The details of all representations received can be viewed on the Consultation portal (see Section 4 below for links).

3. Responses to representations which were classified as “negative”.

3.1 Response by Merseyside EAS and the Merseyside Districts to the Representation from Cory Environmental (see <http://merseysideeas-consult.limehouse.co.uk/file/2066964>).

The comments made by Cory Environmental refer to the proposed modifications to policy WM7 in the WLP and the proposed main modification MM-005, which addresses the safeguarding of operational waste management capacity, and which includes four bullet points which define the evidence that must be provided to support a future application to extend the operational life of a landfill site. Cory’s representation does not raise matters of soundness in our view.

Merseyside EAS and the Districts maintain that landfill policy within the WLP must be set in the context of the broad future requirements for inert and non-inert facilities in the Plan area, and that it should be applicable to existing sites and to any others that may come forward. We recognise that reports of landfill closures in 2012 suggest that new sites may not materialise. However, the WLP must be capable of dealing with such an eventuality arising during its lifetime.

We do not concur with Cory’s most recent contention that bullet point 4 (which refers to evidence to justify a realistic and achievable completion rate) is ambiguous (paragraph 3.8 of Cory representation and other paragraphs refer). Cory also contend (see para 3.5) that bullet point 4 duplicates bullet point 2 (demonstration of need). We believe that bullet 4 addresses matters that are distinct and separately justified from those addressed by bullet point 2. In our opinion if bullet point 4 were deleted, it would be necessary to add the requirement for realistic completion dates explicitly into bullet point 2. Cory suggest that they would anyway provide the type of information required under bullet point 4 under bullet point 2 so there seems to be no problem with the principle of providing this type of information.

Bullet point 2 requires applicants for planning permission to show there to be a “demonstrable need for landfill capacity in the Plan area”. With the exception of sites in the more distant parts of

Cumbria, landfills in the North West of England take material from a number of authorities, not just locally arising wastes. This additional contribution to the fill rate is not taken into account in the WLP needs assessment which assumes the continued operation of the site will result in maximum disposal of local wastes into a local site. This is not necessarily what will happen, but it is not possible to predict with any certainty what will be the proportions of local and non-local waste deposited at a given site in the future.

The response attached to our second progress report to the Inspector (Examination Library document EXAM-074B) acknowledges that extended operation of an existing landfill site might be justified if taking wastes from other planning authorities will allow infilling to be completed on time. Bullet point 4 seeks to secure evidence on this point and for the avoidance of doubt to make explicit the evidence which would be required in circumstances such as the following:

- If there is too little local waste to complete infilling, based on evidence in the Waste Local Plan needs assessment; or
- If there is evidence that local waste is being disposed to landfills in other authorities for reasons that the local authority and landfill operator cannot control, but that the quantity of non-local waste deposited at a site could still allow timely completion and therefore that the proposed infill rate is realistic and achievable.

Note that 'realistic' is judged both in terms of an assumed infill rate that is consistent with the deposit history at the site, but also reflects the operation of the commercial waste market which often results in inter-authority movement of wastes into landfill sites.

We believe this approach provides an acceptable balance between needing to protect the interests of the local community, and allowing the operator to continue an economically viable business based on a realistic understanding of how the commercial waste management sector operates.

Therefore we contend that retention of bullet point 4 is justified and necessary to provide reassurance for the Planning Authority that the proposals under consideration are realistic.

Cory's representation also presents a concern that the current policy wording might give scope for one individual or party to refuse to agree to an extension. The representation refers repeatedly to insistence that the evidence must be *wholly* satisfactory. The text of WM7 makes no reference to how the quality of evidence will be assessed; the policy addresses only the evidence to be provided, not the means of reaching a determination. That decision will continue to follow normal planning procedure and will be informed by the policy tests set out in policy WM7. Provided the required information is made available, then the additional evidence sought by bullet point 4 should make it more difficult, not easier, for an individual or party to mount a case for refusal. In these circumstances (having a realistic timetable for completion), granting of an extension would be reasonable and consistent with the National Planning Policy Framework and Planning Policy Statement 10 (until such time as it is rescinded) whereas opposition to extension would not be compliant.

We note also, that neither the 2009 nor the 2012 determinations (of proposals put forward by Cory in respect of Lyme and Wood landfill site) by St Helens Council turned on the issue of capacity or

justification of need. In the first instance, refusal was based principally on perceived and actual amenity impacts. This matter is addressed by bullet point 3 of policy WM7, which Cory does not contest.

In conclusion, we reiterate our position that we consider it essential that the policy be flexible enough to deal with all reasonable future outcomes with regard to existing landfill sites and any others that may come forward during the lifetime of the WLP and not just the specific concerns of a single operator of a single site. The WLP must provide safeguards to limit the impact (actual or perceived) of continued operation of a site on the local community that might otherwise result in an open-ended consent. Bullet points 2 and 4, taken together, require the operator to provide sufficient evidence to demonstrate there is a reasonable (not “wholly sufficient”) case to indicate that extension of the site permission will allow timely completion. This assessment should recognise that the site will be expected to meet continuing local waste disposal needs, while providing the operator with scope to demonstrate that timely completion may (for example) depend on accepting wastes from a wider area.

Cory also requested a clarification with regard to proposed additional modification AM-086 which pertains to criteria listed in Monitoring & Implementation Table 6.1 where the proposed text reads: *“Through assessment of planning applications to ensure that use of an unallocated site has been assessed against the criteria for landfill shown in table 5.2 and all relevant criteria are met.”*

The query raised by Cory is: *What is meant by “all relevant criteria” which need to be met?*

The relevant criteria referred to are those set out in policy WM15, alongside those in WM12 and Box 1. The relevant criteria will be determined on a site-specific basis. For example, Habitats Regulations Assessment Screening may be required for all sites but full HRA will only be required where significant effects are likely.

Background for the Inspector

Additional Modifications AM-085 and AM-086 were made to Table 6.1 purely to reflect the modifications made to policies WM13 and WM15 respectively. The modification to policy WM15 (MM-08) was made to provide clarity particularly in terms of assessment (rather than justification) of unallocated sites against the same site scoring criteria that were used for sites allocated within the plan. For consistency and to reflect the proposed modification to policy WM15, which was discussed as part of the Hearing process, similar amendments were proposed for policy WM13.

However, the converse is true for the implementation framework. It should be noted that reference to ‘relevant criteria’ was part of the original implementation framework for policy WM13 (see additional modification AM-085), and was not added to reflect the modification to the bullet point referring to Table 5.1 (for policy WM13) or Table 5.2 (for policy WM15). Additional Modification AM-086 was made partly to reflect changes to the WM15 but also to be consistent with the implementation requirements for policy WM13, hence the introduction of the wording ‘relevant criteria’.

3.2 Response by Merseyside EAS and the Merseyside Districts to the Representation from the Countryside Council for Wales (CCW) (see <http://merseysideeas-consult.limehouse.co.uk/file/2407712>)

CCW previously submitted (by letter on June 16th 2011 at Preferred Options 2 stage) a representation stating that they had no comment to make on the Waste Local Plan. **The representation that has now been received does not address any of the proposed modifications and as such we believe it is not strictly relevant to this consultation. Nonetheless we provide a response below to clarify the WLP position.**

CCW's representation contends that the WLP fails to acknowledge the potential that development on site allocations L2 (Regent Road/Bankhall Street, North Liverpool) and W1 (Campbeltown Road, Birkenhead) might have an adverse impact on water quality in the Dee Estuary SAC and SPA which are both designated as Natura 2000 sites. CCW request that such an acknowledgement should be provided and that the requirement to consider impact on these designations in later project-level HRA and EIA is stated.

We consider that this matter is already addressed appropriately through the WLP and its supporting assessments. Paragraph 2.5.4 of the Habitats Regulations Assessment (HRA) report (Examination document PS-005) makes clear that the assessment included evaluation of the likely significant impact of development and policies on the Dee Estuary SAC, SPA and Ramsar sites. The two sites that CCW refer to within their representation were included in the original allocations proposed at the Spatial Strategy & Sites consultation stage and therefore have been included in the HRA and their potential impact on these sites was assessed and integrated into Plan preparation from an early stage.

We note that CCW concede that the available information implies no potential impact is likely and therefore their representation aims to 'future proof' protection of the Dee Estuary designated sites. However policies WM1, WM12, WM13 and WM15 all provide explicit reference to the need for project-level HRA for any development which presents a risk of likely significant impacts to any of the many Natura 2000 designated sites within and near to the Waste Local Plan area. Furthermore, CCW's focus on W1 and L2 is not justified since the same considerations apply in principle to other site allocations within the Waste Local Plan. As stated these issues have already been addressed through the HRA process and the policies referred to above.

Therefore we contend that no changes are necessary or justified and that this is not a soundness matter.

3.3 Response by Merseyside EAS and the Merseyside Districts to the Representations from Cheshire West and Chester Council and Lancashire County Council (see <http://merseysideeas-consult.limehouse.co.uk/file/2409297> and <http://merseysideeas-consult.limehouse.co.uk/file/2409294>)

Near identical representations were received from Lancashire County Council (Lancashire CC) and Cheshire West and Chester Council (CWAC). They are addressed together here. Both authorities

support modifications that address matters they raised previously (MM-005 and MM-006) and which were discussed at length during the Hearing sessions. However both contend that text referring to the intention to balance any waste exports from Merseyside & Halton with import of an equivalent quantity of waste from elsewhere (“The Strategy for meeting Merseyside and Halton's Waste Management needs”, Section 3 of the WLP covered by Main Modification MM-002) is not a valid form of self-sufficiency.

Lancashire CC propose that any soundness implication is addressed by removing the relevant bullet point from the Strategic Objectives in Section 3 of the Plan. CWAC make no positive suggestion to resolve their concern but contend that retaining it would flaw the soundness of the WLP with respect to its overarching strategic direction. Both Authorities contend that the wording proposed is “inappropriate”.

We are surprised to see these objections raised at this stage since:

- This wording was discussed in one of the Examination Hearing sessions at which representatives from both authorities were present;
- The practical constraints of the WLP area were discussed in detail with respect to the practical deliverability of a wholly self-sufficient solution to all the waste management needs;
- The wording reflects what was agreed between the parties who were present. (No subsequent informal negotiation about the precise wording occurred).

We understand that both authorities have plans adopted or in preparation which aim to achieve full self-sufficiency. Demographic, land-use, hydro-geological and other factors constrain the ability of Merseyside and Halton to do the same in Merseyside & Halton and the Waste Local Plan would be deemed unsound if it proposed a solution that was undeliverable. These constraints are well documented within the WLP and its supporting evidence base. The revised bullet point provides a clear statement that the authorities within the WLP area will make an appropriate contribution to meeting the collective regional waste management challenge within the constraints referred to above.

Removing the relevant bullet point altogether, as suggested by Lancashire CC, would have the effect of reducing the policy commitment in the WLP to attaining as high a degree of self-sufficiency as can be realistically achieved. Retaining the wording proposed in the MM-002 modification on the other hand, ensures that the WLP is compliant with PPS10 which requires the delivery of policies which “provide a framework in which communities take more responsibility for their own waste...” (PPS 10 para 3). There is no suggestion in PPS10 that complete self-sufficiency is the only acceptable goal. **We therefore maintain that this bullet point should be retained within Section 3 of the Waste Local Plan as modified by Main Modification MM-002.**

3.4 Response by Merseyside EAS and the Mersyeside Districts to the Representation from Natural England (see <http://merseysideeas-consult.limehouse.co.uk/file/2405620>).

The Natural England (NE) response welcomes the modifications made to policy WM12 (Box1) to conform to the legal requirements of the Habitats Regulations. However the NE response then re-iterates certain representations made by NE at the Publication Stage. **These comments from NE do not address any of the proposed modifications and as such are not relevant to this consultation neither do they raise any soundness concerns. Nonetheless we provide a response to them below to clarify the WLP position.**

We provided a response to the earlier NE representations which NE now state they disagree with. However, NE chose not to be present at the Hearing Sessions for the Waste Local Plan and did not provide any written representations at that time. We consider that the additional representations received are not valid as they do not respond to the modifications that were the subject of the consultation. The previous comments made by NE are already part of the Examination process as they were made at the Publication stage and will have been considered by the Inspector.

NE wish to see included policies in the WLP that recognise the importance of soils, landscape quality, green infrastructure, sustainable design and for the plan to refer to the need to conserve and enhance the natural environment. We have cross-checked the points made by NE regarding their previous representations, particularly the importance of soils, landscape quality, green infrastructure, sustainable design and the need to enhance and conserve the natural environment. These issues are, in our view, fully covered by the following policy areas within the Waste Local Plan:

- Vision and strategic objectives
- Policy WM0 (Presumption in Favour of Sustainable Development)
- Policy WM8 (Waste Prevention and Resource Management)
- Policy WM10 (High Quality Design and Operation of Waste Management Facilities)
- Policy WM12 (Criteria for Waste Management Development) and associated Box 1
- Policy WM13 (Planning Applications for New Waste Management Facilities on Unallocated Sites)
- Policy WM15 (Landfill on Unallocated Sites)

In addition, all allocated sites take into account these issues as part of the site selection criteria, particularly considering nature conservation designations at local, national and international levels and public open space. Unallocated sites will be assessed against policies WM13 and WM15 which clearly reference tables 5.1 and 5.2 respectively covering the same site selection criteria as allocated sites.

NE raise the point that plans should not be dealt with in isolation. The WLP has been written to be read in conjunction with other district Local Plan documents where specific policy on these issues is to be defined. Paragraph 5.1 of the WLP refers. The six districts are progressing their Local Plans in differing ways but each will be able to cover the issues raised by NE. Relevant policies also exist

in pre-existing "saved" Unitary Development Plans in those authorities which have yet to adopt a Local Plan. Only one district (Sefton) has yet to reach at least publication stage for a Local Plan document and it is reasonable to anticipate that Sefton will address these policy matters within the emerging Local Plan. Details of the relevant policies are included in Table 3 below.

District/Document	Relevant Planning Policy
St Helens Core Strategy Local Plan (ADOPTED)	CP1 – Ensuring Quality Development in St Helens CQL1 - Green Infrastructure CQL2 – Trees & Woodlands CQL3 - Biological and Geological Conservation CQL4 - Heritage and Landscape CR2 – Waste
St Helens Sustainable Development SPD (Under development)	
Halton Core Strategy Local Plan (ADOPTED)	CS2 Sustainable Development Principles CS18 – High Quality Design CS20 – Natural and Historic Environment CS21 – Green Infrastructure CS24 – Waste
Knowsley Core Strategy Local Plan (Proposed Submission Stage)	SD1 Presumption in Favour of Sustainable Development CS1 – Spatial Strategy CS2 – Development Principles CS8 – Green Infrastructure CS19 – Design Quality and Accessibility in New Development CS21 – Greenspaces and trees CS22 – Sustainability and Low Carbon Development CS23 – Renewable and Low Carbon Infrastructure CS24 – Waste Management
Knowsley Local Plan: Site Allocations and Development Policies (anticipated adoption 2015)	Will include more detailed policy.
Wirral Core Strategy Local Plan (Proposed Submission Stage)	CS1 – Presumption in Favour of Sustainable Development CS2 – Broad Spatial Strategy CS3 – Green Belt CS11 – Priorities for Rural Areas CS30 – Requirements for Green Infrastructure CS33 – Biodiversity and Geodiversity CS36 – Pollution and Risk CS42 – Development Management CS43 – Design, Heritage and Amenity
Wirral Site Allocations DPD (to follow Core Strategy)	Will include more detailed policy
Liverpool Local Plan (Core Strategy Publication Stage Policies)	SP1 – Sustainable Development Principles SP23 – Key Place Making and Design Principles SP24 – Historic Environment SP26 – Protecting and Enhancing Green Infrastructure SP27 – Supporting Green Infrastructure Initiatives SP28 – Green Infrastructure in the City Centre SP29 - Green Infrastructure in the Urban Core SP30 - Green Infrastructure in the Suburban Areas SP31 – Sustainable Growth

	SP33 – Environmental Impacts
Sefton Unitary Development Plan (ADOPTED 2006)	CS3 – EMW1 – Prudent Use of Resources GBC1 – Development in the Green Belt GBC6 – Landscape Character GBC7 – Agricultural Land Quality GBC9 – Landscape Renewal Areas NC1 – Site Protection NC2 – Protection of Species NC3 – Habitat Protection, Creation and Management CPZ1 – Coastal Landscape, Conservation and Management G1 – Protection of Urban Green Space DQ1 – Design DQ2 – Trees and Development DQ3 – Public Green Space and Development. EP1 – Managing Environmental Risk EP2 – Pollution

Table 3. Identification of Relevant District Policies Covering Issues Relating to the Importance of Soils, Landscape Quality, Green Infrastructure, Sustainable Design and the Need to Enhance and Conserve the Natural Environment.

3.5 Response by Merseyside EAS and the Merseyside Districts to the Representation Ms Paula Keaveney (see http://merseysideeas-consult.limehouse.co.uk/portal/consult-on-mods/wlp_mods_cons?tab=list).

Ms Keaveney, although supporting main modification MM-003, also went on to question the need to allocate the Liverpool sub-regional site (L1 - Garston) in view of the modification allowing the landowner, ABP, to pursue other port-related uses. In response, we would simply note that a WLP allocation implies strong support for the use of a site for waste management purposes on the part of the Waste Planning Authorities but does not provide a guarantee that it will be used for the purpose allocated. This applies to all allocated sites. In the case of the Liverpool (Garston) and Wirral (Campletown Rd) sites this has been stated explicitly because of the flexibility required by the landowners within the dock estate.

4. Representations which were classified as “neutral” or “positive”.

Although no further comment is required here on representations which were classed as neutral or favourable, readers may wish to review these representations.

Please use the following link to browse and search all of the representations received:
http://merseysideeas-consult.limehouse.co.uk/portal/consult-on-mods/wlp_mods_cons?tab=list