

Chapter 10 – Waste and Minerals

10.1 Policy WS (D W1) – Waste management and disposal strategy

10.1.1 Objections

<i>RD/7652/0001/10125/WS/*</i>	-	<i>Government Office for the South West</i>
<i>RD/2838/0003/9950/WS/*</i>	-	<i>The Environment Agency</i>
<i>RD/2838/0003/9951/WS/*</i>	-	<i>The Environment Agency</i>
<i>RD/2849/0124/222/WS/*</i>	-	<i>Haul Waste/Viridor Waste Management</i>
<i>RD/2849/0125/223/WS/*</i>	-	<i>Haul Waste/Viridor Waste Management</i>
<i>RD/2849/0126/224/WS/*</i>	-	<i>Haul Waste/Viridor Waste Management</i>
<i>RD/2849/0127/165/WS/*</i>	-	<i>Haul Waste/Viridor Waste Management</i>
<i>D/7652/4048/9378/W1/0</i>	-	<i>Government Office for the South West</i>
<i>D/2808/5000/6756/W1/0</i>	-	<i>Friends of the Earth, Torbay</i>
<i>D/2808/5000/6746/W1/0</i>	-	<i>Friends of the Earth, Torbay</i>
<i>D/2808/5000/6747/W1/0</i>	-	<i>Friends of the Earth, Torbay</i>
<i>D/2808/5000/6755/W1/0</i>	-	<i>Friends of the Earth, Torbay</i>
<i>D/2849/4152/7581/W1/0</i>	-	<i>Haul Waste/Viridor Waste Management</i>
<i>D/2908/4312/8247/W1/0</i>	-	<i>Mrs RE Simmonds</i>
<i>D/2847/4142/7564/W1/0</i>	-	<i>South West Water</i>
<i>D/2847/4149/7573/W1/0</i>	-	<i>South West Water</i>
<i>D/2910/4314/8254/W1/0</i>	-	<i>Mrs BJ Walton Bouda</i>
<i>D/2909/4313/8250/W1/0</i>	-	<i>Mr C Woodward</i>

10.1.2 Issues

- a) Whether the policy satisfactorily reflects Government guidance regarding waste management;
- b) the appropriateness of including a specific proposal for a sewage pumping station in Ilsham Valley;
- c) minor textual amendments.

10.1.3 Conclusions

Issue a

1. This policy and the introductory and explanatory text have been the subject of substantial constructive criticism at DV stage, with further objections being lodged against the RDV version which has prompted the Council to put forward a number of Proposed Further Changes. Several of these amendments have been made necessary by the relatively recent publication of updated Government guidance in the form of PPG 10 (CD/8/8), which has replaced those parts of PPG 23 (CD/8/19) which dealt specifically with waste management issues. As a result the policy, as proposed to be amended by PFC 10/5, makes specific reference to sustainability principles and the Best Practicable Environmental Option (BPEO) for waste management. The other principles of waste management detailed in PPG 10 and the Waste Strategy 2000 (CD/18/3), namely Regional Self-Sufficiency, the Proximity Principle and the Waste Hierarchy, are all now specifically referred to within policy WS. In my opinion these amendments satisfactorily address many of the objections made by GOSW (7652), Haul Waste/Viridor Waste Management (2849), Friends of the Earth (FotE - 2808) and South West Water (2849).

2. A further objection raised by Haul Waste/Viridor Waste Management, that statistics regarding the quantities of waste that arise and are managed within the Plan area should be detailed in the Plan, have also been addressed by changes to the introductory text. In particular, details of Government waste recovery targets now appear in RD paragraph 10.8, whilst Torbay's waste production and recycling rate is described in paragraph 10.11. In addition PFC 10/3 indicates that these figures will be updated as an editorial matter prior to publication of the Adopted Plan.

3. Notwithstanding the above points, it seems to me that some of the sense of the policy has been lost by the deletion of the words 'waste management and disposal' in the first line. The policy is self-evidently dealing with such matters, as clearly indicated by its title, but policies are not always referred to by their titles and the reference to 'all development proposals' is ambiguous. I shall therefore recommend an amendment which re-introduces these words. At the same time I shall therefore recommend amended wording to address the general GOSW concern about the use of the term 'will be supported', already referred to several times in this report (*see paragraph 1.1.3.6 and Recommendation 1.02*).

4. FotE also contended that the Local Plan strategy should aim for an under-supply of disposal capacity and an increase in recovery facilities, in order to bring about a radical change in attitudes to the management of waste and the value of resources. However, whilst I sympathise with the underlying objectives of such an approach, I agree with the Council that planning for an under-supply of waste disposal capacity would not accord with Government Policy. In any case I consider that measures are being taken through the amended policy WS, and other policies such as W7 (discussed below) and BE2 (*Re-use of materials - detailed in Chapter 14*), to seek to ensure a greater emphasis on reduction, reuse and recovery of waste, before disposal. This is in line with the waste management hierarchy contained in the National Waste Strategy (*CD/18/3*).

Issue b

5. Three individuals (2908, 2909, 2910) lodged objections to what they described as proposals by South West Water to site a sewage pumping station at the Meadfoot beach end of the Ilsham Valley. This matter was not, however, included as a proposal in the Deposit Version of the Plan, nor does it appear in the RDV. Moreover, the Council have made it clear in paragraph 6.2.4 of Topic Paper 10 (*TP/10 Waste and Minerals*) that they consider it would be inappropriate to identify a pumping station at Ilsham Valley as there are still issues to be addressed regarding the availability of this site for development. Because of this I share the Council's view that any sewage pumping station proposals for the Ilsham Valley, or other locations, can be satisfactorily considered against the criteria contained in policy W6. No changes to policy WS are therefore required to address these objections.

Issue c

6. Haul Waste/Viridor Waste Management points out that RD paragraph 10.2 refers to Regional Technical Advisory Bodies (RTAB) in error, as there is only one such body for the South West. Moreover, it points out that the RTAB will not provide the Strategic Policy Framework, as paragraph 10.2 indicates, but will simply inform and advise. It considers that the text should be amended to refer to 'Regional Planning Guidance and the Regional Waste Strategy as informed by the work of the RTAB.' Although the Council have indicated that they consider this to be a minor editorial matter which will be corrected through PFC 10/2, this PFC does not make specific reference to the RTAB. I will therefore recommend amended wording to ensure that this point is covered.

7. GOSW and others pointed out that textual changes are need to introductory paragraph 10.6, in order to reflect the publication of the final version of the national waste strategy (*Waste Strategy 2000*) which has replaced 'Making Waste Work' and 'A Way With Waste'. PFC 10/1, which I recommend, satisfactorily addresses this point. In a similar way, both the DV and RDV have wrongly used the phrase 'Best Practical Environmental Option' on occasions. This should, of course, be 'Best Practicable Environmental Option', a point recognised and addressed through PFC 10/2.

8. The Environment Agency (2838) recommended that additional wording be added to the end of RD paragraph 10.4. However, this paragraph deals specifically with the EC Framework Directive on Waste (*contained in CD/6/16*), and the suggested wording does not appear to relate directly to this Directive. In these circumstances I consider that it would be inappropriate to agree to the EA's suggestion on this matter. However, as the proposed wording refers to circumstances when a full hydrological assessment and impact statement will be required, the Council may well wish to address this matter elsewhere in this Chapter.

9. GOSW have also pointed out that paragraph 10.22 needs updating to recognise the fact that guidance on the proximity principle in paragraph 2.3 of PPG 23 has been replaced by that in paragraphs 6-7 of PPG 10. The Council have taken this point on board in PFC 10/6, which I recommend.

10.1.4 Recommendations

10.01 Modify paragraph 10.2 so that the second sentence reads as follows:

'Both waste and mineral developments can have a wider than local significance and it is therefore particularly important that these detailed policies should stem from and be in conformity with not only the strategic policy framework (contained in Regional Planning Guidance and the Devon Structure Plan First Review, as informed by the work of the Regional Technical Advisory Body) but also the local plan framework of neighbouring authorities.'

10.02 Modify paragraph 10.6, in line with PFC 10/1, such that the first 2 sentences read as follows:

'These basic objectives have been embraced by the Government and are outlined in the national Waste Strategy 2000, giving advice to which Local Plans should have regard.'

10.03 Modify policy WS, broadly in accordance with PFC 10/5, so that it reads as follows:

'Waste management and disposal proposals should adopt the sustainable principles of the 'Best Practicable Environmental Option', regional self-sufficiency, the proximity principle and the waste hierarchy. The granting of planning permission for waste management proposals will be subject to satisfactory resolution of any transport issues and protection of public amenity, and the need to protect the landscape character, nature conservation, historic environment and surface and groundwater of those areas. Where appropriate, provision should be made for the restoration of the site for a beneficial after-use.'

10.04 Modify paragraph 10.22 (and any other relevant paragraph), such that it refers to the 'Best Practicable Environmental Option' and not the 'Best Practical Environmental Option'

10.2 Policy W1 (D W2) – Location of waste management sites

The objection preceded by an asterisk appears to be an objection to DV policy M2, not DV policy W2. I have therefore not considered it here, but in the M2 section later in this report.

10.2.1 Objections

<i>RD/7652/0001/10126/W1/*</i>	-	<i>Government Office for the South West</i>
<i>D/7652/4048/9470/W2/0</i>	-	<i>Government Office for the South West</i>
<i>D/7652/4048/9471/W2/0</i>	-	<i>Government Office for the South West</i>
<i>D/2828/4128/7127/W2/0</i>	-	<i>RSPB</i>
<i>D/2808/5000/6750/W2/0</i>	-	<i>Friends of the Earth, Torbay</i>
<i>D/2808/5000/6748/W2/0</i>	-	<i>Friends of the Earth, Torbay</i>
<i>D/2888/4267/8108/W2/0</i>	-	<i>Mr G Oliver</i>
<i>D/2849/4153/7582/W2/0</i>	-	<i>Haul Waste/Viridor Waste Management</i>
<i>* D/2849/4155/7586/W2/0</i>	-	<i>Haul Waste/Viridor Waste Management</i>

10.2.2 Background

1. This policy attracted a number of objections at DV stage, covering such matters as the need to refer to waste management facilities rather than just waste disposal (7652, 2849, 2808); the need for a comprehensive set of criteria against which all waste management proposals should be tested (2849); a request to strengthen the policy by seeking to ensure there is no adverse impact upon the environment (2828); and clarification of what is meant by an 'appropriate range of facilities' (7652). Although the policy was amended at RDV stage, GOSW drew attention to the overlap between this policy and W2, which deals with waste management facilities. Following further consideration of this matter the Council proposed, through PFCs 10/9 and 10/10 to delete policy W1 and amend policy W2, to address this overlap. In my opinion this is an appropriate course of action as it simplifies and clarifies the Plan. Accordingly I recommend that policy W1 be deleted. As the points raised in objection to this policy are relevant to the amended policy W2, I consider them in more detail in the following section.

10.2.3 Recommendation

10.05 Delete policy W1, and incorporate its objectives into an amended policy W2.

Note – the explanatory text for policy W1 should be amended and incorporated into the explanation for policy W2. PFC 10/11 refers.

10.3 Policy W2 (W3) – Waste management facilities

10.3.1 Objections

<i>D/7652/4048/9473/W3/0</i>	-	<i>Government Office for the South West</i>
<i>D/2808/5000/6749/W3/0</i>	-	<i>Friends of the Earth, Torbay</i>
<i>D/2808/5000/6751/W3/0</i>	-	<i>Friends of the Earth, Torbay</i>
<i>D/2849/4153/7583/W3/0</i>	-	<i>Haul Waste/Viridor Waste Management</i>

10.3.2 Background

1. In the previous section I recommended the deletion of policy W1 and the incorporation of its essential elements into policy W2, to avoid unnecessary repetition and in the interests of clarity. As noted above, this is in line with PFCs 10/9 and 10/10. In these circumstances I consider it is appropriate to deal with those objections made to policy W1 in this section.

10.3.3 Issue

Whether the policy adequately reflects Government guidance and provides a satisfactory basis for the assessment of proposals for waste management facilities.

10.3.4 Conclusions

1. The amended version of this policy, which the Council are proposing under PFC 10/10, no longer refers simply to waste disposal facilities as did former policy D W2. This change satisfies many of the objections made to policy D W1 referred to above. In addition, the fact that proposals for waste management facilities will have to be assessed against a comprehensive set of criteria, under this policy, addresses points made by Haul Waste/Viridor Waste Management at DV stage. GOSW's comments that BPEO is the key principle of waste management has been reflected in a re-ordering of the elements within criterion 1, and changes proposed to the explanatory text by PFC 10/11 also satisfactorily address GOSW's objection regarding clarity of the term 'waste management facilities'. The Council's stated intention to provide further clarification of this term in the glossary will also assist in this matter.

2. Despite the various PFCs relevant to this policy, GOSW appear to have maintained an objection that the Plan does not explain how proposals which may involve the management of a proportion of waste from outside the Plan area would be treated. However, I consider that the reference to regional self-sufficiency in the first criterion demonstrates that facilities should not simply cater for waste generated within the Plan area. It therefore addresses this objection. I also consider that the objection made by Haul Waste/Viridor Waste Management that criterion 3 duplicates licensing authority responsibilities has been satisfactorily dealt with by wording changes to this criterion, and by additional clarification to the explanatory text through PFC 10/11.

3. The RSPB's objection to DV policy W1, in which it expressed a wish to see a strengthening of the intent to avoid adverse impact upon the environment, has not been entirely satisfied by the RD changes and the PFCs. Nevertheless I consider that the new 6th criterion of policy W2, which seeks to ensure that all environmental impacts are reduced to an acceptable level, is the appropriate way to achieve the balance which is invariably necessary when planning decisions need to be made.

4. Finally, I have had regard to the concerns raised at DV stage by FotE, that the policy requires radical restructuring in the light of the Landfill Directive and Waste Framework Directive. In my opinion these concerns have been met by the substantial re-write of policy W2 and the additional references to the legislative framework affecting waste management, inserted by PFC 10/11. Taking all the above points into account I am satisfied that with the PFCs, policy W2 and its explanatory text now adequately reflect Government guidance and provide a satisfactory basis for the assessment of proposals for waste management facilities.

5. The only outstanding point is the view expressed by GOSW, that provision for management of construction and demolition wastes should come within the scope of this policy. The Council have, however, introduced policy W7 (*New development and the minimisation of waste*) at RDV stage, and I share their view that this new policy is the more appropriate place to deal with this matter.

10.3.5 Recommendations

10.06 Modify policy W2 in line with PFC 10/10 to read:

‘W2 Waste management facilities (former Deposit Version W3 amended)

Waste management proposals will be permitted provided that:-

1. the development is operated on the basis of the sustainable development principles of the ‘Best Practicable Environmental Option’, regional self-sufficiency, the proximity principle and the waste hierarchy;□
2. schemes are located on brownfield sites close to where wastes arise or located with similar waste management facilities. Outside the main urban areas, including greenfield sites, development may be permitted where it can be shown that brownfield sites are unsuitable or unavailable, and that there will be no unacceptable environmental impacts;
3. transport, traffic and accessibility are acceptable to the scale and use of the proposal;
4. the development should not be in conflict with users of land and buildings in the surrounding area;
5. relevant details of the waste to be managed and a method and programme of site operation including hours of operation is provided;
6. all environmental impacts are assessed and reduced to an acceptable level, including impacts of noise, odour, litter, dust, vermin and birds and other disturbances on users and occupiers of adjacent sites; and
7. where appropriate, the proposal includes design and landscaping measures to ensure that the development is not visually intrusive.’

10.07 Delete paragraphs 10.25, 10.26 and 10.27 and replace them with the following, as the explanatory text to policy W2:

10.25 As previously noted in WS above, waste management facilities vary greatly in size, characteristics, potential environmental impacts and the length of time these facilities will operate and any environmental effects may be experienced. PPG 10, Annex A lists the sort of proposals to which this policy relates. It is appropriate to provide a range of waste management facilities accessible to the urban areas. The provision of facilities will,

however, accord with the principles set out in Policy WS above. Increased recycling of waste will be supported (especially commercial /industrial waste e.g. construction) at appropriate facilities. The recycling of household materials needs to be close to or within urban areas, within easy reach of the majority of the population. However, the environment should be protected and schemes which have an unacceptably detrimental effect on their surroundings will not be permitted. In many cases a waste management licence may be required from the Environment Agency (section 36(2) of the Environmental Protection Act 1990 refers) who are likely to be consulted on all such development. It is therefore essential that full details of the type of waste to be managed and site operations are submitted to the Council.

10.26 The use of brownfield sites within employment land or built up areas for waste management facilities will be supported in principle. Facilities which are used locally by the public (such as scrap stores, recycling centres etc) should be located so that they are accessible by a choice of means of transport. It is accepted that this is not always appropriate and may depend upon the size and scale of development, the character of the area, site surroundings and the range of waste management facilities involved. The impact of a recycling collection point on residential amenity would differ, for example, from that of a Materials Recycling Facility (MRF).

10.27 The operation will have to minimise any environmental or amenity conflict with the existing locality, or possible impacts on transport, by using rail or water transport instead of road vehicles as far as possible, and by making use of the major road network where transport by other modes is not practicable.

10.28 Waste management facilities are likely to have planning considerations which relate to pollution or contamination. The need to consider land instability or the protection of surface and ground water for example are referred to in the Environmental Protection Chapter. Policies EPS, EP3, EP4, EP5, EP6, EP7, EP8 and EP9 are particularly relevant.

NOTE – As a result of these changes policy W2 will need to be re-numbered as W1, with consequent changes required to the following policies.

10.4 Policy W3 (D W4) – Civic amenity sites

10.4.1 Objection

D/2849/4153/7584/W4/0 - Haul Waste/Viridor Waste Management

10.4.2 Issue

The need for the Plan to consider a wider range of waste management facilities.

10.4.3 Conclusions

1. Haul Waste/Viridor Waste Management objected at DV stage that there is a need to address the allocation of waste management facilities other than civic amenity sites referred to

in W4, and to show how the Plan will make an appropriate contribution towards dealing with Torbay's and others' waste. This objection has not been withdrawn, but in my opinion the changes made to policies WS and W2 satisfactorily address these matters.

10.4.4 Recommendation

10.08 Make no modifications to policy W3.

10.5 Policy W5 (D W7) – Waste water treatment works

10.5.1 Objections

<i>RD/2838/0003/9955/W5/*</i>	-	<i>The Environment Agency</i>
<i>D/3078/4603/9118/W7/0</i>	-	<i>Mr & Mrs D Bromley</i>
<i>D/2885/4219/7970/W7/0</i>	-	<i>The Conservative Group on Torbay Council</i>
<i>D/2951/4371/8496/W7/0</i>	-	<i>Sir G Eyre</i>
<i>D/2951/4371/8494/W7/0</i>	-	<i>Sir G Eyre</i>
<i>D/2828/4128/7135/W7/0</i>	-	<i>RSPB</i>
<i>D/65/4620/9140/W7/0</i>	-	<i>Miss JE Knock</i>
<i>D/2830/4135/7396/W7/0</i>	-	<i>National Playing Fields Association</i>

10.5.2 Issue

Whether there is a need for the policy and, if so, whether the proposed criteria would adequately serve to safeguard the amenities of the surrounding area.

10.5.3 Conclusions

1. The bulk of the representations to this policy were made at DV stage, and included objections on the grounds that the proposal would have a significant effect on traffic and trade both during construction and after completion (2885); that the location is in a residential area, close to a school, and the proposal would have an adverse impact on the amenity of nearby land users (2855, 2830, 2951); that the location is unsuitable, being at a designated Wildlife Site in protected countryside, in close proximity to an AONB and adjacent to an AGLV (2951); and that that the waste water treatment works should be located in the Long Road or Yalberton Quarry areas, which would be more suitable for the purpose (2951). In addition, two individual objectors (65, 3078), who were primarily opposed to a proposed housing development at Broadsands under DV policy H1.17, made passing reference to the proposal at 'Brokenbury Quarry', which they saw as destroying the very special attraction this area of Torbay has for residents and visitors alike.

2. However, despite these objections I understand that events have moved on significantly, and that planning permission has now been granted for this proposal, together with planning conditions and a Section 106 legal agreement. Amongst other matters these seek to mitigate the loss of habitat which has nature conservation value by providing a new habitat on adjacent land. In these circumstances I shall not address those objections which seek to dispute the principle of a waste water treatment works at this location, as this matter has evidently been addressed separately, outside the Local Plan forum.

3. Although planning permission for this project has already been granted, paragraph 10.34 makes it clear that the proposal will be carried out as a phased development, initially screening all Paignton and Brixham sewage flows, but with later phases leading to tertiary and UV treatment of all of Torbay's sewage flows. Because of this I consider it appropriate to retain the policy within the Local Plan, so that these later phases can be assessed against its criteria.

4. The Environment Agency objection, that the criteria should include 'impact on the natural environment', has been addressed by PFC 10/12, which I recommend. A similar point is raised by RSPB, who support the policy but request a reference to nature conservation in DV paragraph 10.29 (*now RD paragraph 10.35*), as one of the items to be monitored as part of any relevant legal agreements and planning conditions. No evidence has been placed before me to indicate whether these concerns have been taken on board in the planning permission already granted and nature conservation interests, generally, are catered for by policy WS. However, in the light of PFC 10/12, I consider that such a request is reasonable, to safeguard the area during any future development phases.

5. This is particularly relevant as the policy explains that the peripheral areas to the north-west and to the south-east (*shown as W5.2 and W5.3 respectively on the Proposals Map*), are designated solely as landscape and wildlife areas. Reference is also made to the need to accommodate the satisfactory creation of a habitat for the cirl bunting on land adjoining the quarry, although the wording in the last sentence of the policy could be made clearer. I shall recommend amended wording for both this last sentence and for paragraph 10.35.

10.5.4 Recommendations

10.09 Modify criterion 3 of policy W5, along the lines of PFC 10/12, so that it reads:

'biodiversity and the natural environment;'

10.10 Modify the last sentence of policy W5 so that it reads:

'The peripheral areas to the north-west (W5.2) and to the south-east (W5.3) are designated solely as landscape and wildlife areas, including for the satisfactory creation of a habitat for the cirl bunting.'

10.11 Modify paragraph 10.35 by adding the words 'and nature conservation impacts' after 'traffic generation' in the last line, and replacing the word 'and' between 'lighting' and 'traffic' by a comma in the 6th line.

10.6 Policy W6 (D W8) – Waste water and sewage sludge treatment

10.6.1 Objections

<i>D/2828/4128/7134/W8/0</i>	- <i>RSPB</i>
<i>D/2828/4128/7136/W8/0</i>	- <i>RSPB</i>
<i>D/2908/4312/8246/W8/0</i>	- <i>Mrs RE Simmonds</i>
<i>D/2908/4312/8248/W8/0</i>	- <i>Mrs RE Simmonds</i>
<i>D/2847/4148/7571/W8/0</i>	- <i>South West Water</i>
<i>D/2910/4314/8255/W8/0</i>	- <i>Mrs BJ Walton Bouda</i>
<i>D/2910/4314/8256/W8/0</i>	- <i>Mrs BJ Walton Bouda</i>
<i>D/2909/4313/8249/W8/0</i>	- <i>Mr C Woodward</i>
<i>D/2909/4313/8251/W8/0</i>	- <i>Mr C Woodward</i>

10.6.2 Issues

- Whether there should be a presumption in favour of such development proposals;
- whether reference should be made to other duties and responsibilities of the Council;
- whether criterion 2 complies with Government planning guidance;
- the appropriateness of including a specific reference to nature conservation;
- the appropriateness of including specific proposals within the policy.

10.6.3 Conclusions

Issue a

1. South West Water (SWW – 2847) contended that in view of the local and national need to provide sewage treatment there should be an overriding case in favour of permitting development involving the treatment, processing and disposal of waste water, including sewage and sewage sludge on sites not allocated in the Local Plan. Although the Council does not appear to have responded directly either to this or the other points raised by SWW, it is my view that such a ‘presumption in favour’ would not be appropriate. I consider that the correct approach to such matters is through an assessment of the planning merits of particular proposals, and other material considerations, on a case by case basis. This is what policy W6 would allow to take place and I shall therefore recommend no modifications in response to this objection.

Issue b

2. I have had regard to SWW’s request that reference should be made to the Council’s obligations and the guidance contained within Circular 17/91 (*Water Industry Investment: Planning Considerations*). In my opinion there is, however, no need to make specific reference to other Council responsibilities. To do so would simply add to the length of the Plan, and would serve no real purpose as the absence of a reference in no way absolves the Council of any other duties or responsibilities.

Issue c

3. SWW has also objected to criterion 2, which seeks to prevent development being carried out if it could practicably and reasonably be achieved at a more environmentally acceptable site. I am unclear how this criterion would work in practice, as it appears to place the onus on the prospective developer to investigate alternative sites, even though he may have no control

over such locations. Paragraph 40 of PPG 1 makes it clear that those deciding planning applications should always take into account whether the proposed development would cause demonstrable harm to interests of acknowledged importance, but it seems to me that this criterion goes beyond this requirement. What is important is that a development proposal has an acceptable overall impact, not that there might, in fact be an alternative which has a lesser impact. These matters are covered by the 3rd criterion, so I consider the 2nd criterion to be unnecessary. I shall therefore recommend that it be deleted. However, whilst I agree with this objector that the extent of the information required under the other criteria will depend on the scale and likely or anticipated impacts of the scheme in question, in my opinion this is self-evident and does not require to be explicitly written into the policy.

Issue d

4. The RSPB requested that the policy make specific reference to the need to avoid adverse effects on nature conservation, particularly sites protected by policies NC2 and NC3. It contended that the factors to be considered under 'environmental impacts', detailed in criterion 3, do not appear to extend to nature conservation and that a further criterion is therefore necessary. However, policy WS makes a clear reference to the need to protect nature conservation interests when waste management and disposal facilities are being considered. Moreover, sites of specific nature conservation importance are already protected by policies in the Nature Conservation chapter, and a specific cross-reference is unnecessary.

Issue e

5. The Council have commented in Topic Paper 10 (*TP/10: Waste and Minerals*) that the identification of all minor waste water treatment infrastructure would lead to an over-elaborate Plan. I agree, and share the Council's view that the criteria-based policy now proposed provides an adequate land-use planning framework against which to consider the range of development proposals which are likely to arise. As with policy WS (*see paragraph 10.1.3.5 above*), three individuals (2908, 2909, 2910) lodged objections to a proposal by South West Water to site a sewage pumping station at the Meadfoot beach end of the Ilsham Valley. I have already noted, however, that this matter was not included as a proposal in the Deposit Version of the Plan, nor does it appear in the RDV. In my opinion the criteria contained within policy W6 allow for a rigorous assessment of any such proposals, in order to achieve the balance between meeting the future needs of the wider community and minimising any adverse impacts upon the environment, as explained in RD paragraph 10.36. I therefore see no need to recommend any modifications to the policy to address these objections.

10.6.4 Recommendation

10.12 Modify policy W6 by deleting criterion 2.

10.7 Policy W8 (D W9) – Development and waste recycling facilities

10.7.1 Objection

D/7674/3349/4820/W9/0 - The House Builders Federation

10.7.2 Issue

Whether the policy goes beyond Government guidance in PPG 3 and Circular 1/97.

10.7.3 Conclusions

1. Although the House Builders Federation (HBF) considered that increasing the level of recycling within the Plan area was a worthy objective, they objected to this policy on the grounds that the provision of recycling facilities should not become a requirement on all new development. They contended that to do so would run counter to Government advice in the then current PPG 3, which stated that functional requirements within a development are, for the most part, matters for the marketing judgements of the developers. In their view the policy should be re-worded, to merely encourage the provision of such facilities.

2. However this advice in the previous version of PPG 3 (*CD/8/2*) has not been carried forward into the more recent version, which places an increased emphasis on the need for local planning authorities to create more sustainable patterns of development with layouts which have a high quality attractive design. Moreover, paragraph 5 of PPG 10 (*CD/8/8*) makes it clear that the land-use planning system has an important role to play in achieving sustainable waste management. Amongst other matters it should ensure that opportunities for incorporating re-use and/or recycling facilities in new developments are properly considered. In my opinion this is what policy W8 seeks to achieve. By stating that such facilities will need to be both appropriate and necessary, and that any such works are likely to be sought through appropriate planning obligations, the policy accords with national guidance in Circular 1/97 (*CD/6/6*) and also with policy CF6 (*see section 7.7*).

3. I have noted that the reasoned justification has been substantially amended, and consider that this helps to explain how the policy will be applied, particularly in relation to housing developments, which presumably are the HBF's principal concern. In view of this, and the other points outlined above, I shall recommend that no modifications are made to this policy.

10.7.4 Recommendation

10.13 Make no modifications to policy W8.

10.8 Policy MS – Mineral development strategy

10.8.1 Objection

RD/7652/0001/10128/MS/ - Government Office for the South West*

10.8.2 Issue

Whether the policy adequately reflects Government advice and provides strategic guidance for minerals development.

10.8.3 Conclusions

1. This is a new policy, introduced at RDV stage. GOSW have pointed out that the reference to the Best Practicable Environmental Option is not a requirement flowing from national policy guidance for minerals development, and has advised that this reference should therefore be deleted. The Council have made this amendment in PFC 10/14, which also adds further detail regarding the quality of surface and groundwater, in response to comments from the Environment Agency. I broadly agree with the changes proposed by this PFC. However, by re-wording the opening sentence the PFC appears to have widened the scope of the policy to cover all development, in a way which is somewhat unclear. This point has also been made by GOSW. In my opinion this can be remedied by a further re-wording, which I shall recommend.

10.8.4 Recommendation

10.14 Modify policy MS, broadly in line with PFC 10/12, so that it reads:

‘All proposals for minerals development should accord with the principles of sustainability. Development should not conflict with policies relating to landscape, nature conservation, agricultural land, geology and the level and quality of surface and groundwater. The granting of planning permission will be subject to the satisfactory resolution of any adverse impact of the proposal in respect of public amenity, the built environment, transport and, where appropriate, accessibility, reclamation of the site and after-use.’

10.9 Policy M1 (D M1) – Recycling, storage and processing of minerals

10.9.1 Objections

D/2808/5000/6762/M1/0 - Friends of the Earth, Torbay
D/2808/5000/6764/M1/0 - Friends of the Earth, Torbay
D/2808/5000/6761/M1/0 - Friends of the Earth, Torbay
D/2808/5000/6759/M1/0 - Friends of the Earth, Torbay
D/2808/5000/6765/M1/0 - Friends of the Earth, Torbay

10.9.2 Background

1. All the objections made by FotE were against the DV version of this policy and covered much wider issues than simply the recycling of minerals. These included the question of

whether it is possible to have sustainable development involving minerals; the need for policies to conserve raw materials; the need to regulate the cumulative impact of minerals extraction; the encouragement of efficient and effective use of raw materials; the need to focus on wider environmental issues, not just amenity concerns; and the need to phase land bank releases and limit new land take. In my opinion these have now been satisfactorily addressed by the introduction of the minerals development strategy (*policy MS*), and by textual changes to the introductory section of this chapter and to policy M1 and its Explanation. There are, however, a further couple of issues raised which are best dealt with under policy M1.

10.9.3 Issues

- a) Whether the policy provides adequate encouragement of recycling and the use of secondary materials;
- b) the appropriateness of introducing fiscal measures to regulate minerals extraction.

10.9.4 Conclusions

Issue a

1. FotE expressed the view that in order to accord with the EC's Fifth Environmental Action Programme (agreed in 1992), the Council's mineral policies need to encourage recycling and the use of secondary materials. The DV policy sought to achieve this, subject to all environmental impacts being reduced to acceptable levels, and this has been further amended at RDV stage and also by means of PFC 10/16 (*prompted by an objection from the Environment Agency, now withdrawn*). As a result the policy wording has been clarified and simplified, and significant additions have been made to the explanatory text, to explain more thoroughly the issues relating to the recycling and processing of minerals. In my opinion these amendments make the policy more robust, and address the concerns expressed by FotE. I shall therefore recommend that policy M1 be amended in line with PFC 10/16.

Issue b

2. With regard to the suggestion that consideration should be given to fiscal measures such as aggregate taxes and increased landfill taxes, the Council acknowledge that these may have merit. However such matters are not within the Local Authority's control and cannot, therefore, be part of the land-use planning framework provided by this Plan.

10.9.5 Recommendation

10.15 Modify policy M1 in line with PFC 10/16, to read:

'M1 Recycling, storage and processing of minerals

Proposals involving the storage and recycling of mineral waste will be permitted provided that they do not unacceptably extend the life of a site and they do not create unacceptable environmental harm.'

10.10 Policy M2 (D M2) – New mineral working

The objection preceded by an asterisk was coded by the Council as relating to DV policy W2, whereas it clearly relates to DV policy M2.

10.10.1 Objections

<i>D/7652/4048/9479/M2/0</i>	-	<i>Government Office for the South West</i>
<i>D/7652/4048/9480/M2/0</i>	-	<i>Government Office for the South West</i>
<i>D/2828/4128/7137/M2/0</i>	-	<i>RSPB</i>
<i>D/2808/5000/6760/M2/0</i>	-	<i>Friends of the Earth, Torbay</i>
<i>D/2808/5000/6763/M2/0</i>	-	<i>Friends of the Earth, Torbay</i>
<i>* D/2849/4155/7586/W2/0</i>	-	<i>Haul Waste/Viridor Waste Management</i>

10.10.2 Issues

- a) Whether the policy reflects Government guidance regarding the supply of minerals;
- b) the appropriateness of making specific reference to nature conservation policies;
- c) whether the scope of the policy should be widened.

10.10.3 Conclusions

Issue a

1. The outstanding objection from GOSW is that the policy does not accord fully with the guidance in paragraph 40 of MPG1 (CD/9/1). This explains that applicants do not usually have to prove the need for a proposed development except where an Environmental Statement is required, although need may be a consideration where material planning objections are not outweighed by other planning benefits. The specific reference to need was deleted from the policy at RDV stage, but 2 new criteria were introduced, together with new explanatory text as paragraph 10.51. However, GOSW maintained their objection and I share their view that this new paragraph goes beyond the MPG1 guidance already referred to, by setting out an example unrelated to the Environmental Impact Regulations 1999. I shall therefore recommend a modification to address this point. Furthermore, I consider that the first of the new criteria is unnecessary, as it adds nothing to the decision making process. Indeed such a criterion could be applied to almost any proposal within the Plan, but would simply increase the length of the Plan without adding anything meaningful to it.

2. I acknowledge that the Council put forward PFC 10/18 in response to GOSW's objection, and I recommend this further change which usefully clarifies Torbay's contribution to the region's supply of aggregates. This also partly addresses the objection made by Haul Waste/Viridor Waste Management. However, it is my view that the tenor of this policy does not satisfactorily reflect the requirements of the opening sentence of MPG1's paragraph 40, which makes it clear that Plans should make appropriate provision for the supply of minerals and provide an effective framework within which the industry can make applications. In these circumstances it seems to me that the inclusion of the word 'only' in the 4th line of the policy is inappropriate as it provides an unnecessary, negative emphasis. I shall recommend its deletion.

Issue b

3. RSPB objected because they considered that the policy does not follow the advice in paragraph 25 of PPG 9 (CD/8/7) which states that minerals and waste local plans should also take account of nature conservation interests, especially in respect of designated sites. However, I consider that such advice does not need to be rigorously adhered to in the case of a comprehensive Local Plan such as this, which contains a specific Nature Conservation chapter. Furthermore, nature conservation policies are explicitly referred to in policy MS as one of the areas of interest which proposals for mineral planning should not conflict with.

Issue c

4. FotE objected on the grounds that the policy should focus on wider issues than just amenity, and that it should address conservation of raw materials, resource management, environmental protection and re-use of minerals. In my opinion these objections, which were made against the DV policy, have been largely addressed by the introduction of new policy MS and the substantial changes to policy M1. In addition, the expanded text of paragraph 10.50 gives further clarification about the range of environmental considerations which will need to be considered when proposals for new or the extension of existing mineral workings are being assessed.

5. In addition to requesting that there should be reference to national, regional and local minerals requirements (*now covered by PFC 10/18*), Haul Waste/Viridor Waste Management considered that the DV policy should also detail the role of mitigation and compensation. However, in my opinion this matter has now been satisfactorily covered by the introduction of policy MS and its explanatory text.

10.10.4 Recommendation

10.16 Modify policy M2 by deleting the word 'only' in line 4 and by deleting criterion 1.

10.17 Modify paragraph 10.50 in line with PFC 10/18 by adding the following as a new second sentence:

'The region's supply of aggregates is noted in paragraph 10.19 of the introduction to this chapter.'

10.11 Policy D W6 – Difficult and special waste (Deleted)

10.11.1 Objections

D/2808/5000/6753/W6/0 - *Friends of the Earth, Torbay*
D/2808/5000/6752/W6/0 - *Friends of the Earth, Torbay*

10.11.2 Issue

Whether there is a need for the policy.

10.11.3 Conclusions

1. FotE contended that this policy would be difficult to apply in practice. They took the view that it should be more restrictive and cover the harmful effects of all waste. However, as already noted above the Council substantially revised many of its waste policies at RDV stage and, as part of this process, took the view that DV policy W6 was unlikely to be required to provide guidance for any specific facilities during the Plan period. They therefore deleted it from the RDV and I consider that this is an appropriate course of action, as the provision of smaller local facilities can be satisfactorily addressed by Policy WS. In my opinion these changes adequately address the concerns of FotE and I see no reason to re-instate DV policy W6 either in its original or some amended form.

10.11.4 Recommendation

10.18 Make no modification to the Plan in terms of the re-instatement of DV policy W6, dealing specifically with difficult and special waste.

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