

Report to Safer Cleaner Greener Standing Scrutiny Panel



SCRUTINY



Date of meeting: 29 April 2010

Subject: Defra consultation on the introduction of restrictions on the landfilling of certain wastes

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Committee Secretary: A Hendry

Recommendation:

- (1) To note the attached Government consultation on possible landfill bans on specified wastes; and**
- (2) To consider the response to that consultation as outlined in paragraph 15 of the report.**

Background

1. The Government commissioned research on the steps which might be taken to further reduce the emissions of greenhouse gases (GHG) arising from the landfilling of waste. The research looked at what waste types might be banned from landfill altogether and the degree to which pre-sorting of waste would also provide GHG reductions as well as financial benefits.
2. The Government is now consulting upon a number of options as set out below:
 - (a) do nothing;
 - (b) landfill bans with or without pre-sorting;
 - (c) pre-sorting but without a landfill ban; and
 - (d) introduce producer responsibilities linked to recycling targets

This is a stage 1 consultation and it is anticipated that a further detailed consultation will be undertaken on the outcomes at some point in the future. The consultation paper also asks a number of set questions and seeks a response by the 10th of June 2010.

3. This consultation is running in parallel with a consultation on the current definitions of waste and in particular how municipal waste is defined. This consultation is considered elsewhere on this agenda.

Landfill bans

4. There are currently two key drivers which have resulted in a significant reduction of waste going to landfill:
 - (i) the landfill tax escalator – this has driven the cost per tonne from £7.00 in 1996 to £40.00 in 2009/10. This will continue to rise by £8.00 per tonne until at least 2013 by which time it will stand at £72.00 per tonne; and
 - (ii) landfill allowances scheme (LATS) – the EU has set targets for reductions in biodegradable municipal waste (BMW) going to landfill, based upon a 1995 baseline. The targets are:

- 75% of 1995 by 2010
- 50% of 1995 by 2015
- 35% of 1995 by 2020

These are very challenging and are the key driver behind the Essex Joint Municipal Waste Management Strategy, adopted by the Council in 200x. There are financial penalties imposed by the EU of around £150 per tonne if the above targets are not met. The parallel consultation referred to earlier, which looks at how BMW and other wastes are defined could have a major impact on Council's abilities to meet these targets.

(iii) The Climate Change Act 2008 – introduced legally binding reductions in GHG emissions of 34% by 2010, 80% by 2050 measured against 1990 levels. Landfill gas emissions, primarily methane, are a significant contributor to GHG, accounting for 40% of all methane emissions and 3% of overall GHG emissions.

The EU Landfill Directive requires that all landfill gas be captured and treated. This can be achieved through conversion into electricity or just flaring off. However, many closed sites are not managed in this way. Although landfill gases have reduced by 59% since 1990, Defra considers that more needs to be done to reduce landfill gases further.

5. The landfilling of waste is clearly a waste of a resource where it is possible to otherwise reuse, recycle or even generate electricity. The revised EU Waste Framework Directive (WFD) sets out the following waste hierarchy, which members will already be familiar with:

- prevention;
- preparation for re-use;
- recycling;
- other recovery (e.g. energy generation); and
- disposal

6. The WFD sets targets for member states to achieve:

- by 2020 a minimum of 50% by weight of materials such as paper, metals, plastics and glass from households shall be prepared for re-use or recycled; and
- by 2020 a minimum of 70% by weight of non hazardous construction waste shall be prepared for re-use, recycled or recovered.

7. Defra commissioned research on the effectiveness of landfill bans which was published in September 2009. The research conclusions indicated that landfill bans would only be effective if other measures sat alongside. These were:

- economic measures such as landfill tax, LATS penalties etc;
- upstream measures such as mandatory separation and producer responsibility; and
- quality standards for recycled materials with marketing support to ease the effect of a landfill ban

8. Further research was then commissioned to consider how landfill bans might operate within the UK. The outcome of this research was that certain types of waste were more likely to produce overall benefits if banned from landfill and that these benefits increased further if mandatory sorting was introduced. These materials were:

- paper/card
- food
- textiles
- metals
- wood
- green waste

- glass

Of the above some were more beneficial than others, and were dependant upon the degree to which they were already separated prior to treatment/disposal. If Members refer to page 33 of the appended consultation the graph sets out the relative benefits of the various materials, with paper /card providing the best outcome and waste electrical equipment the least. The research makes it clear that banning such materials will only work if the other measures are included alongside, these to include enforcement.

9. Chapter 6 in the consultation document goes on to set out each potential category of waste in turn and whether it would provide a financial and environmental benefit if banned from landfill. This section concludes that there is a case which can be made for banning the following waste types:

- biodegradable wastes: food, green waste, paper/card, textiles
- metals

Glass and plastics have been excluded, at this time, since there are net costs to society of doing so even though, in the case of plastics, there is a significant GHG saving from a ban.

Policy options

10. The consultation document sets out the following policy options:

Option 0: do nothing

In effect a continuation of the existing fiscal controls of landfill tax and LATS penalties;

Option 1a: landfill bans with no requirement to pre-sort

A ban on landfilling prescribed materials at some point in the future without any supporting measures alongside

Option 1b: landfill bans with a requirement to pre-sort

A ban on landfilling with a requirement placed upon the local authority (**not the householder**) and/or the producers to pre-sort. This sorting requirement would apply even to waste which was **not** destined for landfill. The nature of the sorting would need to be defined and consistent with the WFD referred to earlier in the report, which means that:

- the WFD hierarchy is complied with;
- waste should be collected separately if technically, environmentally and economically practicable; and
- there should be separate collections for at least paper, metal, plastic and glass by 2015

Option 3: Producer responsibility

This follows the long established “polluter pays” principle. In effect this would require the producers to establish schemes for the recovery and recycling of certain types of waste, as exist now for waste such as WEEE and end of life vehicles. This only lends itself to waste such as paper/card, textiles, plastics etc and not to garden or food waste.

Alternatives to landfill

11. Government wishes to ensure that wastes restricted from landfill are used to their best environmental advantage and not just to the next cheapest solution. Work is being undertaken by WRAP to develop a waste matrix of preferred uses which will comply with the WFD waste hierarchy. Local waste plans and strategies will also have to be reviewed.

Lead-in times

12. Government recognises that time would be required to meet the requirements of the WFD and any restriction on materials going to landfill. The time allowed is almost entirely dependant upon the availability of systems and facilities to accept and treat the separated waste. Time periods of between 2 years and 12 years have been put forward, with 7 to 10 years if bio-degradable waste is taken as a whole.

Enforcement

13. Some form of enforcement will be required so that those who invest in treatment facilities can be reasonably assured that the material they need is being diverted from landfill. It is envisaged that there would be a mix of new hard enforcement powers alongside existing inspection and Duty of Care provisions.

Consultation response

14. The consultation paper poses six detailed questions which can be found on page 53 of the consultation paper. In addition, within the body of the main text other questions are posed. This Council does not have the professional expertise to deal with all of the questions posed, and some of these will have to rest with Essex County Council to deal with utilising its disposal authority expertise.

15. Since there is nothing in the document to suggest that a more generalised response would not be acceptable, the following paragraphs set out some suggested responses / comments to the document in general whilst dealing with some of the specific questions where practical.

1. *Epping Forest District Council is a firm supporter of the waste hierarchy and has, through changes to its waste services, made available to its residents a wide range of recycling services, namely:*

- *fortnightly kerbside source separated collection of glass*
- *weekly kerbside co-mingled collection of food & garden waste*
- *fortnightly kerbside co-mingled collection of dry recyclables (paper, card, plastic bottles and some rigid food containers, ferrous and non ferrous cans/tins)*

These changes have seen recycling levels exceed 50% and the Council aspires to a target of 60%.

2. *Therefore, the Council also firmly believes that wherever possible, waste materials which can be recovered, re-used or recycled should be, and that as far as practicable no waste which is capable of being otherwise treated should be sent for landfill, irrespective of whether it is bio-degradable and therefore a producer of landfill gases or other landfill pollutants*

3. *However, the Council has concerns regarding the outright ban of any particular waste material given the difficulties which exist now in ensuring that waste is not contaminated at the point of collection and/or that residents comply with the Council's reasonable requests to separate materials into their different streams. It is noted that the duty to pre-sort will rest with the Council in terms of the municipal waste stream and not with the householder; notwithstanding that Councils already have the power to require householders to separate waste using existing legislation. For Councils such as us who collect the majority of their dry recyclables co-mingled, the requirement to sort has two significant consequences:*

(a) *we either have to change our collection process and provide separate containers for each waste type household for source segregated collection or continue to collect co-mingled but then sort at kerbside using specialist vehicles; or*

(b) *we continue to collect as co-mingled but then require access to sophisticated sorting facilities (MRFs) where we can be satisfied that the quality of the final sorted material is such that it can go forward for marketing and not be rejected for landfill.*

However, despite the document indicating that Defra still sees a role for co-mingled collections, if the WFD is strictly interpreted as it appears, then some form of waste segregation will be required for paper, metals, plastic and glass by 2015. Clarification will be required as to whether the WFD effectively prevents a co-mingled collection or whether it can be continued provided the materials are sorted at a MRF (or similar) before onward transmission and the quality of the sorted material is satisfactory and none is rejected for landfill. Any such requirement will have a significant impact on the way in which any future waste management contract is structured and procured. It is likely that the costs of collection would rise although these additional costs may be offset, at least in part, from either recycling credits or the sale of high grade recyclable materials into the market place.

4. This Council has consistently taken the view that Government should do more to require businesses to recycle its waste. On that basis it would welcome the introduction of further producer responsibility requiring businesses to establish schemes for the recovery and recycling of specified waste types in addition to those already in place.

5. The consultation seeks comments on lead time for any ban on landfilling certain waste types, and time periods ranging from 2 to 12 years are mentioned. The ability for waste collection authorities to remove specified materials from the waste stream will depend upon:

- (i) their existing collection methodologies;
- (ii) if contracted out, the arrangements within those contracts for significant changes to collection processes or the time which needs to elapse before contracts can be re-tendered;
- (iii) access to appropriate waste handling facilities
- (iv) the time required to consult and inform residents on proposed changes in collection systems and to gain a strong consensus such that those changes will be successful; and
- (iv) cost increases at a period in the economic cycle when councils will be under intense pressure to constrain costs

Given the above it is difficult to be precise around lead in times, especially since waste collection authorities will all be at different stages in the development of their systems and many, despite a willingness to implement changes to collection processes, will have to await access to appropriate disposal facilities. It seems to the Council that the 2015 deadline under the WFD appears feasible in respect of paper, metals and glass given the infrastructure already in place. The situation with plastics is less certain. As to bio-degradable waste (i.e. food & garden waste) the ability to achieve a ban will depend entirely upon access to IVC or AD technology and therefore a longer lead in period may be appropriate.

With respect to producer responsibility, the Council is of the view that measures could be introduced over a short time frame, since collection arrangements exist for the recycling of business based waste should businesses wish to avail themselves of those services. It is recognised that the costs of waste collection for small businesses is disproportionate and that therefore some form of de minimis may be required.