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Sandra Carey
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Dear Ms Carey

CONSULTATION ON DRAFT SPP10: PLANNING FOR WASTE MANAGEMENT

SHREWS Ltd is a Scottish company involved in the development of energy from waste projects across Scotland based on advanced thermal treatment technology, and biomass projects based on gasification. We very much welcome the opportunity to comment on the Draft SPP.

Policy Context – paragraphs 1-4

The Draft starts by attempting to (i) set the waste management policy context and (ii) explain the purpose of the SPP which is to guide planning authorities in the furtherance of national waste management objectives. Sadly the Draft fails in both these attempts.

The Policy Framework Table in the Annex details a number of Directives, Regulations, Strategies and Policies which it claims sets the policy context for waste management. But as far as European policy is concerned the Table makes no mention of the Council Directive 91/157/EEC (as amended by Commission Directive 93/86/EEC and Commission Directive 98/101/EC) on batteries and accumulators and the Proposed Directive on Battery Recycling, the Regulation on Substances that Deplete the Ozone Layer EC 2037/2000, the Waste Incineration Directive 2000/76/EC, the End-of-Life Vehicles Directive 2000/53/EC, the Animal By-Products Regulation (EC) 1774/2002, and the Directive 2002/96/EC on Waste Electrical and Electronic Equipment.

At UK level there is a legislative framework to which no reference is made in the Table viz; the Environment Protection Act 1990, the Environment Act 1995, the Finance Act 1996 and Landfill Tax Regulations, the Special Waste Regulations 1996, the Producer Responsibility Obligations (Packaging Waste) Regulations 1997 (as amended) and the Waste Minimisation Act 1998.

At Scottish level, no reference is made in the Table to The Renewables Obligation (Scotland) Order 2006 S.S.I. 2006/173, NPPG 6: Renewable Energy (Revised 2000), Draft SPP6: Renewable Energy, PAN 63: Waste Management Planning (2002), PAN 45: Renewable Energy Technologies (Revised 2002) or SEPA Guidelines for Thermal Treatment of Municipal Waste.

All these statutes, directives, regulations and policies affect all waste streams and encourage the development of waste management facilities, especially for recycling and energy recovery, which may change the nature of waste stream flows. Some of these facilities may be very specialised and many of them will have particular planning implications.

The National Planning Framework and the Scottish Sustainable Development Strategy are listed in the Table. The first refers to energy from waste plants and the second to renewable energy but neither is cross-referenced to renewable energy policy or to the regulations that govern these types of development.

- **We recommend that the Policy Context is expanded to take into account the full range of measures that (i) underpin and define national waste management strategy, (ii) cross reference waste management to renewable energy from waste and (iii) allow planners to understand the legislative context under which the waste management industry is currently required to operate.**

Not only is the Draft deficient in describing the policy context, but by setting planning policy within the context of the National Waste Plan, it has failed to take account of the 75% of waste produced in Scotland that is not handled by local authorities – non-municipal solid waste (non-MSW). A planning policy that is expected to guide planning authorities in their determination of planning applications for waste management facilities, some of which may be quite specialised, and yet deals with only one particular waste stream cannot possibly have any credible application.

The policies laid out in National Waste Strategy 1999 (NWS) were developed principally with the need to divert MSW from landfill as a requirement of the Landfill Directive. Other wastes were to be the subject of further study at national level. The Area Waste Plans (AWPs) that flowed from the NWS were therefore exclusively designed to deal with MSW and the National Waste Plan 2003 (NWP), that was the cumulative manifestation of all the AWP's, could therefore only develop a strategy for MSW. Reference is made in the AWP's and NWP to non-MSW where the actions proposed involve data gathering and publishing technical advice neither of which has any relevance for land use planning.

Some of the studies on priority wastes identified by NWS have already been completed – those into construction and demolition waste, fish waste, used cooking oils and mineral oils, used tyres, newsprint and waste electrical and electronic equipment, for example. But because the Draft focuses solely on MSW none of the results of these studies is given the chance of informing the Draft.

- **If planning authorities are to be given adequate guidance with the kind of precision that is required of it we recommend that the Draft looks beyond the restricted context of the NWP to take account of all wastes and not just the small fraction of waste that comprises MSW.**

Waste Infrastructure – paragraph 5

The Draft recognises that a new generation of installations and technologies is going to be needed but is disappointingly shy when it comes to describing these in any detail. Instead it refers to the Waste Technology Data Centre and to an ODPM publication *Planning for Waste Management Facilities 2004*. The Draft proposes to direct developers, planners and the public to these, albeit excellent, sources of information except that the ODPM publication is now out of print. This is most unsatisfactory.

- **If all the guidance does is to refer to other sources of information on waste infrastructure we recommend that PAN 63: Waste Management is used for this purpose. However, in the light of rapid technology change there is an urgent need to update it. This must be done to reflect the up-to-date position, with each technology being described in detail along with the environmental impacts associated with it and the measures expected of developers to mitigate these impacts. The ODPM publication referred to above would be an excellent source of information with which to update the PAN.**

SEPA's Planning Role – paragraphs 6-7

Again, the emphasis of NWS, AWP and the NWP is on MSW which is only a fraction of the total waste stream and therefore cannot be relied on to put all wastes into a strategic policy context.

- **We recommend that this section of the Draft is expanded to take into account the extent to which SEPA is involved in the development of strategies for non-MSW.**

Sustainable Waste Management – paragraphs 8-17

Paragraph 8 attempts to define the 'polluter pays' principle but nowhere in NWS or NWP, where the principle is defined, does it say that the principle applies to business waste producers. The principle applies to all producers of waste – as much therefore to the individual who drops litter in the street to the householder who discards domestic refuse to the industrial processor who emits pollutants to the atmosphere. Planning policy documents need not only to be precise in their guidance but in their definitions.

There is imprecision too in paragraph 9 where the proximity principle (referred to later in paragraph 11) is imported into the definition of 'sustainable location'. Both NWS and NWP define the proximity principle as treating waste as close as possible to the source of waste arising. This allows some difficult wastes to be treated at specialist facilities that may be some distance away.

There is further confusion in paragraph 11 with reference to the transport of waste. Paragraph 2.1.2 of NWP is cited which makes no mention of transport. The Draft should have used the discussion on page 13 of NWS where the arguments for and against waste transport are much more explicit and informative. It is also important to recognise the extent to which transport impacts increase as waste is moved higher up the waste hierarchy.

The confusion is compounded in paragraph 16 in relation to the proximity of waste treatment facilities to settlements. These may well be best located in towns and cities where the majority of MSW is produced. But waste strategy is not just about MSW, so where do you locate waste facilities that treat agricultural wastes, or fishery waste, or shipping wastes, or wastes derived from the offshore oil industry?

- **We recommend that NWS is referred to for all the appropriate definitions as this will give much greater precision and avoid confusion and ambiguity. These definitions apply to all wastes as much as they do to MSW. The guidance contained in this Draft must move away from the narrow focus on MSW promoted in NWP and encompass the development of facilities for every type of waste.**
- **We agree with the guidance given in paragraph 10 on the impact of waste management facilities on health and the environment, and in paragraphs 12, 13 and 15 on the need to work with communities. However we believe it is premature to refer to Good Neighbour Agreements whilst the Planning Bill is still progressing through Parliament.**

Development Plans and Waste Management – paragraphs 18-32

Here, again, the Draft focuses on MSW with reference solely to the strategic context for waste management resting with AWP. This is nonsense – MSW is not the only waste stream, nor indeed is it the largest or most important, requiring treatment facilities for which planning permission is needed. So when, in paragraph 22, the Draft states that AWP set out the capacities to be identified as future requirements in local plans this is clearly just not the case for it has taken no account of the need for facilities to treat the 75% of wastes that comprise non-MSW. Later in paragraph 22 there is recognition of SEPA’s work on other wastes but, to date, this work is still quite limited. What does a planning authority do if confronted by an application to treat a waste on which SEPA has done no work? In all cases it should be for the developer to demonstrate need, not the local authority. In some cases the developer, operating in the commercial world, will know more about need than either SEPA or the local authority.

- **We recommend that the guidance contained in this Draft moves away from the narrow focus on MSW promoted in AWP and encompasses the development of facilities for every type of waste.**

There is a recognition in paragraph 24 that PAN 63 needs to be up-dated and that *Planning for Waste Management Facilities* is the best source of information.

- **We support this approach and recommend that PAN 63 is updated as a matter of urgency.**

Model policies are a means of ensuring that development plans comply with national guidance and so avoid the need for changes to draft plans at a later date.

- **We approve of the model policies outlined in paragraphs 28-30**

The incorporation of waste management facilities into new developments, whether they be of a commercial or residential nature, present an opportunity not only to move waste up the hierarchy but also enable, with the installation of small scale energy from waste facilities, the provision of renewable energy particularly in the form of heat.

- **We recommend that this SPP gives guidance to planning authorities on the development of Supplementary Planning Guidance to ensure that it fully recognises the dual role that energy from waste can play in the safe and effective treatment of waste whilst, at the same time, generating renewable heat and electricity.**

Assessing Development Proposals – paragraphs 33-47

The focus on MSW needs, once again, to shift. There is a perception that energy from waste facilities only take MSW, are necessarily large scale and may therefore have to be shared by neighbouring local authorities. This is a myth. Small scale advanced thermal treatment plants (treating typically 30,000 – 90,000 tonnes per annum) are not only capable of taking MSW but can also treat a wide range of non-MSW waste streams as well as biomass. If the Draft’s focus was widened it would recognise this.

- **We recommend that the guidance contained in this Draft moves away from the narrow focus on MSW promoted in NWP and encompasses the development of facilities for every type of waste. This would recognise the role that can be played by the new generation of small scale advanced thermal treatment technologies in dealing with both MSW and non-MSW waste streams.**

In addition there is a further need for more robust definition. For example in paragraph 35 what is 'urban' waste? There is also a need for a definition of biomass when regarding thermal treatment. PAN 45 is not particularly helpful, indeed it is seriously deficient in the information and advice it gives with respect to energy from waste and cannot be relied upon to give the kind of precise guidance which is required of a SPP. The Renewables Obligation (Scotland) Order 2006 defines 'biomass' as "fuel of which 90 per cent of the energy content ... is derived from plant or animal matter or substances derived directly or indirectly therefrom (whether or not such matter or substances are waste) and includes agricultural, forestry or wood wastes or residues, sewage, and energy crops (provided that such plant or animal matter is not or is not derived directly or indirectly from fossil fuel)."

- **We recommend that the definition of 'biomass' given in the Renewables Obligation (Scotland) Order 2006 is imported into the Draft and that PAN 45 is re-written as a matter of urgency.**
- **Paragraph 46 describes the opportunities to design waste management facilities into new developments. We recommend that regard should be taken of the further opportunity for district heating and combined heat and power that using small scale advanced thermal treatment plants can bring to such developments.**

Development Management – paragraphs 48-52

Strategic Outline Cases (with support from the Strategic Waste Fund), AWP's and the EU Landfill Directive are all focused on MSW. What use therefore is the guidance contained in this Draft if it effectively ignores 75% of waste arisings?

- **We recommend that the guidance contained in this Draft moves away from the narrow focus on MSW promoted in AWP's and encompasses the development of facilities for every type of waste.**

CONCLUDING REMARKS

The waste management industry is bringing forward proposals for the treatment of the whole range of wastes, some involving the use of new and emerging technologies. Some, such as energy from waste, perform a dual role in waste management and renewable energy production. It is incumbent on the Executive to produce precise guidance for planning authorities, charged with consenting such proposals, that is based on the most up-to-date and accurate information and to set that guidance within a strategic context for all wastes as well as in the context of other Executive priorities such as renewable energy. The Draft, focusing as it does on MSW, is only half a draft and therefore needs completing.

Yours sincerely

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