

INSPECTORS REPORT – STATEMENT OF DECISIONS
UDP – POLICY FRAMEWORK CHAPTER 16 POLLUTION, HAZARDS AND WASTE

SD Ref UDP – Case Ref IR – Page No.	Inspector's Recommendation	CBMDC Decision and Reasons	Mod Ref
<p>SD - SD/PF/P/1</p> <p>UDP - Policy P4 Contaminated Land</p> <p>IR – Policy Framework paragraphs 16.1-16.5, Page 205 & 206</p>	<p>I recommend that the RDDP be modified as follows:</p> <p>Policy P4 – delete and replace with</p> <p>PLANNING PERMISSION FOR DEVELOPMENT ON LAND WHERE CONTAMINATION IS SUSPECTED WILL BE GRANTED SUBJECT TO CONDITIONS REQUIRING</p> <p>(1) A SITE INVESTIGATION BEFORE DEVELOPMENT IS COMMENCED, AND</p> <p>(2) A PROGRAMME OF IMPLEMENTATION OF ANY REMEDIAL MEASURES SHOWN BY THE SITE INVESTIGATION TO BE NECESSARY.</p> <p>WHERE THERE IS A STRONG SUSPICION OF SUBSTANTIAL CONTAMINATION, PLANNING PERMISSION WILL BE GRANTED ONLY FOLLOWING A SITE INVESTIGATION AND RISK ASSESSMENT, AND THE SUBMISSION TO THE COUNCIL OF ANY PROGRAMME OF MEASURES WHICH THE SITE INVESTIGATION AND RISK ASSESSMENT SHOW TO BE NECESSARY TO PREVENT HARM FROM CONTAMINATION.</p>	<p>Decision: Accepted in Part Reasons: The Council declines to accept all of the Inspector's recommendation because the proposed replacement wording is not in line with Government guidance.</p> <p>The Inspector's revised wording of the Policy is accepted, except for the use of the word "substantial".</p> <p>PPG23 Annex 10 section 5-629 para 8 (Determining planning applications) does not refer to, or use, the word "substantial". Suggested alternative wording in line with PPG23 (lifted directly out of Annex 10 section 5-629 para 8) is proposed.</p> <p>It is inaccurate to believe that substantial contamination will always require a site investigation. Substantial contamination may <i>not</i> adversely affect the proposed development (e.g. for such matters as industrial development). The contamination levels may be high, but the proposed development may be such that there will be little risk and the land is suitable for that type of development. On the other hand contamination at low levels (which could be argued is not substantial) may cause high risk to the end users, adversely affecting the proposed development and making the land unsuitable for the proposed end use, e.g. housing with gardens.</p> <p>The proposed wording allows an assessment of the contamination based on the type of development, rather than the level of contamination, analysing whether the contamination is such that it may affect the proposed development. This is the 'suitable for use' approach outlined in PPG23 and the Environmental Protection Act 1990: Part IIA Contaminated Land, inserted by the Environment Act 1995. The modification of the policy in line with PPG23 will permit the request for appropriate site investigation reports and make sure the site is suitable for the proposed end use.</p> <p>It is also proposed to amend paragraph 16.22 of the RUDP revised Deposit July 2002, to ensure the Inspector's recommended policy can be complied with, to take into account legislative developments in relation to contaminated land and to ensure it is clear what the Council requires. The proposed amendment requires the submission of a desktop study at the application stage. The desktop (Phase I) report should appraise the previous uses of the site, assessing various factors and providing a conclusion on the status of the site, determining the level of suspicion in relation to contamination and whether it is likely to adversely affect the development.</p> <p>PPG23 section 5-601 para 4.5 states that contamination should be identified at the earliest stage of planning. It states that the history of the site or nearby sites is the principal factor in determining whether a site is likely to be contaminated or not.</p>	<p>Mod/P F/P/2</p>

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		<p>Additionally, there have been developments on the study of contaminated land, in particular the development of desktop (Phase I) reports and site investigation (Phase II) reports. PPG23 does not refer to two stage reports, only to site investigation (phase II), however the reference to the history of the site and nearby sites, in PPG23, is a crucial factor that links into desktop (Phase I) reports. Furthermore, the proposed changes to PPG23 refer to the omission of contaminated land from PPG23 and its inclusion in a technical advice note "Development on land affected by contamination". This technical advice note was issued for consultation in February 2002 and states that a desktop study should be part of the formal application process where the current or previous use of the land, or other information, suggest there is a potential for contamination in relation to the proposed development.</p>	
<p>SD - SD/PF/P/2</p> <p>UDP - Para 16.36</p> <p>IR – Policy Framework paragraphs 16.6-16.9, Page 206 & 207</p>	<p>I recommend that no modification be made to the RDDP.</p>	<p>Decision: Accepted Reasons: For the reasons set out in the Inspector's Report.</p>	
<p>SD - SD/PF/P/3</p> <p>UDP - Policy P10: Green Waste Composting</p> <p>IR – Policy Framework paragraphs 16.10-16.12, Page 207</p>	<p>I recommend that no modification be made to the RDDP.</p>	<p>Decision: Accepted Reasons: For the reasons set out in the Inspector's Report.</p>	

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<p>SD - SD/PF/P/4</p> <p>UDP - Policy P11: Waste Incineration & Para. 16.50-52</p> <p>IR – Policy Framework paragraphs 16.13-16.20, Page 207 - 209</p>	<p>I recommend that the RDDP be modified as follows:</p> <p>[a] expand the reasoned justification under the heading “land use waste strategy” to explain the waste hierarchy and the factors to be taken into account in deciding BPEO.</p> <p>[b] delete from the first sentence of paragraph 16.50 the words “and pollution from” and substitute the word “of”.</p>	<p>Decision: Accepted in Part Reasons: The Council accepts the Inspector's recommendation except for part (a), where it requires an explanation under “Land use waste strategy” of factors to be taken into account in deciding BPEO.</p> <p>It is considered that this is inappropriate in the Policy Framework of a UDP. Government guidance in PPG12 states that Part I of the UDP should avoid over-elaborate or detailed policies. The inclusion of the factors to be taken into account in deciding BPEO would be substantial, as each waste stream and each waste management option would have to be assessed.</p> <p>Furthermore PPG11 states that the RPG should address regional or sub-regional matters; and BPEO is a regional matter. PPG10 states that the Regional Technical Advisory Body (RTAB) should determine the BPEO. Consequently it is for the RTAB to determine the factors to be taken into account in deciding BPEO. The RTAB for the Yorkshire and Humber Region's current agenda includes an examination and the scope of BPEO assessments.</p>	Mod/P F/P/4
<p>SD - SD/PF/P/5</p> <p>UDP - Policy P12: Waste management – Operational Matters</p> <p>IR – Policy Framework paragraphs 16.21-16.22, Page 209</p>	<p>I recommend that no modification be made to the RDDP.</p>	<p>Decision: Accepted Reasons: For the reasons set out in the Inspector's Report.</p>	
<p>SD - SD/PF/P/6</p> <p>UDP - Policy P13: Inert Waste – Landfill</p>	<p>I recommend that the RDDP be modified as follows:</p> <p>[a] POLICY P13 INSERT AT THE END OF THE POLICY “THE FOLLOWING SITES ARE ALLOCATED FOR THE DISPOSAL OF INERT WASTE AND ARE SHOWN ON THE PROPOSALS MAP:</p>	<p>Decision: Accepted Reasons: For the reasons set out in the Inspector's Report.</p>	Mod/P F/P/5

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IR – Policy Framework paragraphs 16.23-16.27, Page 210	[LIST SITES] IN CRITERION (8) REPLACE THE REFERENCE TO POLICY P14 WITH REFERENCE TO POLICY P15. [b] PROPOSALS MAP SHOW THE SITES LISTED IN POLICY P13 AS A RESULT OF [a] ABOVE.		
SD - SD/PF/P/7 UDP - Para. 16.60 IR – Policy Framework paragraphs 16.28-16.29, Page 211	I recommend that no modification be made to the RDDP.	Decision: Accepted Reasons: For the reasons set out in the Inspector's Report.	
SD - SD/PF/P/8 UDP – Policy P14: Biodegradable Waste - Landfill IR – Policy Framework paragraphs 16.30-16.34, pages 211 & 212	I recommend that the RDDP be modified as follows: Policy P14 INSERT AT THE END OF THE POLICY THE WORDS "BUCK PARK QUARRY, DENHOLME, IS ALLOCATED FOR THE DISPOSAL OF BIODEGRADABLE WASTE AND IS SHOWN ON THE PROPOSALS MAP".	Decision: Accepted Reasons: The Council accepts that Policy P14 should be amended to include a reference to Buck Park Quarry as it has been identified as a landfill site capable of taking household waste and is considered to provide sufficient capacity for the plan period. Any proposals for landfilling will have to prove that they meet all the criteria as set out within the other relevant policies of the plan for the protection of people and the environment.	Mod/P F/P/6
SD - SD/PF/P/9 UDP - Policy P15:	I recommend that the RDDP be modified as follows: PARAGRAPH 16.35 – delete and replace with	Decision: Accept in Part Reason: The wording of Paragraph 16.35 is now out of date. The Council's Municipal Waste Strategy and the Regional Waste Management Strategy have now	Mod/P F/P/7

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<p>Landfill Operational Matters</p> <p>IR – Policy Framework paragraphs 16.35-16.41, Page 212 & 213</p>	<p>16.35 When drafting policies for waste development it is necessary for the planning authority to plan for current and future waste management requirements. The UDP must deal with municipal and non-municipal waste, in other words ALL waste that is generated in the district. Until the Council's Municipal Waste Strategy and the Regional Waste Management Strategy are available the planning authority is not in a position to provide new site specific allocations for large scale waste treatment facilities. Buck Park Quarry, Denholme, has been identified as a landfill site capable of taking household waste and is considered to provide sufficient capacity for the plan period. Further, existing sites for the disposal of inert waste, containing additional capacity, are listed in Policy P13 and identified on the Proposals Map.</p>	<p>been adopted. However, these documents do not identify the number of facilities needed for all types of waste treatment as expected. The regional strategy focuses on municipal waste and work on the regional BPEO has still not been completed.</p>	
<p>SD- SD/PF/P/10</p> <p>UDP – POM39 polluter Pays</p> <p>IR – Policy Framework paragraphs 16.42-16.43, Pages 213 - 214</p>	<p>I recommend that no modification be made to the RDDP.</p>	<p>Decision: Accepted Reasons: For the reasons set out in the Inspector's Report.</p>	
<p>SD - SD/PF/P/11</p> <p>UDP – POM 51 Development Close to Waste Water Treatment Works</p>	<p>I recommend that no modification be made to the RDDP.</p>	<p>Decision: Accepted Reasons: For the reasons set out in the Inspector's Report.</p>	

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IR – Policy Framework paragraphs 16.43-16.45, Page 214			