

# **Report to Nottinghamshire County Council and Nottingham City Council**

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Inspector appointed by the Secretary of State

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Planning and Compulsory Purchase Act 2004 (as amended)

Section 20

## **Report on the Examination of the Nottinghamshire and Nottingham Waste Local Plan**

The Plan was submitted for examination on 5 March 2024

The examination hearings were held on 15 and 16 October 2024

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## Abbreviations Used in this Report

AMR	Annual Monitoring Report
CCUS	Carbon Capture Utilisation and Storage
CD&E	Construction, Demolition and Excavation
C&I	Commercial and Industrial
DPD	Development Plan Document
EA	Environment Agency
EMRTAB	East Midlands Resource Technical Advisory Body
ESA	Environmental Services association
EqIA	Equalities Impact Assessment
HRA	Habitats Regulations Assessment
LACW	Local Authority Collected Waste
MM	Main Modification
NPPF	National Planning Policy Framework September 2023
NPPW	National Planning Policy for Waste
PPG	Planning Practice Guidance
SA	Sustainability Assessment
SoCG	Statement of Common Ground
tpa	tonnes per annum
WNA	Waste Needs Assessment
WPA	Waste Planning Authority

## Non-Technical Summary

This report concludes that the Nottinghamshire and Nottingham Waste Local Plan (the Plan) provides an appropriate basis for the planning of waste development in Nottinghamshire and Nottingham, provided that a number of main modifications (MMs) are made to it. Nottinghamshire County Council and Nottingham City Council, as Waste Planning Authorities (WPAs), have specifically requested that I recommend any MMs necessary to enable the Plan to be adopted.

Following the hearings, the WPAs prepared schedules of the proposed modifications and carried out sustainability appraisal (SA) and habitats regulations assessment (HRA) on them. The MMs were subject to public consultation over a six-week period. I have recommended their inclusion in the Plan after considering the SA appraisal and HRA and all the representations made in response to consultation on them.

The MMs can be summarised as follows:

- Adequately explaining how the Plan will meet the waste management capacity needs within the Plan area over the Plan period.
- Ensuring that the Vision and Strategic Objectives adequately explain the Plan's approach to net self-sufficiency and how it will assist in ensuring that the future management of waste reflects the principles of the waste hierarchy.
- Ensuring that local environmental constraints and heritage assets are appropriately taken into account in the consideration of waste management development proposals.
- Ensuring that the Plan is adequately flexible to support opportunities for the co-location of complimentary waste management facilities.
- Ensuring that the Plan makes appropriate provision for the use of inert waste to support the restoration of mineral working sites where necessary.
- Ensuring adequate consideration is given to the 'agent of change' principle in the consideration of proposals for waste management development.
- Ensuring that the Plan is explicit in requiring the impact of traffic movements to be demonstrated in the submission of a planning application and that adequate consideration is given to sustainable travel opportunities in waste management development proposals.
- Modifications to ensure that the policies for waste management development are clearly written without ambiguity so that decision makers and developers can understand how to react to them.

- A range of modifications to the monitoring framework to ensure the continued capacity to manage waste arisings in the Plan area over the Plan period and identify associated action necessary if the Plan is not delivering outcomes as expected.
- A number of other modifications to ensure that the Plan is positively prepared, justified, effective and consistent with national policy.

## Introduction

1. This report contains my assessment of the Plan in terms of Section 20(5) of the Planning and Compulsory Purchase Act 2004 (as amended). It considers first whether the Plan's preparation has complied with the duty to co-operate. It then considers whether the Plan is compliant with the legal requirements and whether it is sound.
2. The National Planning Policy Framework (NPPF) explains that in order to be sound, a Local Plan should be positively prepared, justified, effective and consistent with national policy. The starting point for the examination is the assumption that the Councils have submitted what they consider to be a sound and legally compliant Plan. The Plan submitted in March 2024 (CD1) is the basis for my examination. It is the same document as was published for consultation in August to October 2023.

## Main Modifications

3. In accordance with section 20(7C) of the 2004 Act the Councils have requested that I should recommend any MMs necessary to rectify matters that make the Plan unsound and /or not legally compliant and thus incapable of being adopted. My report explains why the recommended MMs are necessary. The MMs are referenced in bold in the report in the form **MM1**, **MM2** etc, and are set out in full in the Appendix.
4. Following the examination hearings, the Councils prepared a schedule of proposed MMs and carried out SA and HRA of them. The MM schedule was subject to public consultation for six weeks from 8 January 2025 to 19 February 2025. I have taken account of the consultation responses in coming to my conclusions in this report and, in this light, I have made some amendments to the detailed wording of the main modifications. None of the amendments significantly alters the content of the modifications as published for consultation or undermines the participatory processes and SA or HRA that has been undertaken. Where necessary I have highlighted these amendments in the report.
5. This report does not explain the detailed content and precise wording of every MM. This can be found in the Appendix to this report. However, it does refer to the most salient matters in explaining why a MM is necessary in order for the Plan to meet the tests of soundness or to be legally compliant.

## Policies Map

6. When submitting a Local Plan for examination, the Councils are usually required to provide a submission Policies Map showing the changes to the adopted

Policies Map that would result from the proposals in the submitted Local Plan. However, the Plan does not propose to allocate any sites for waste development, nor allocate land for other strategic matters. As such, the Councils do not propose to prepare a specific Policies Map for the Plan.

7. In any event, the Policies Map is not defined in statute as a development plan document (DPD) and so I do not have the power to recommend MMs to it. However, a number of the published MMs to the Plan's policies may require further corresponding changes to be made to the Policies Maps of constituent District and Borough Councils within Nottinghamshire, including Nottingham City Council.
8. When the Plan is adopted, in order to comply with the legislation and give effect to the Plan's policies, the Councils, including the constituent District and Borough Councils, may need to update the adopted Policies Map to include any necessary changes as a consequence of the MMs contained within the Schedule of Proposed Main Modifications appended to this report.

## **Context and scope of the Plan**

9. Within the County of Nottinghamshire the two-tier administrative system includes seven Borough/District Council areas, each of which is a Local Planning Authority. The northern boundary of the County adjoins South Yorkshire and has significant housing and economic links with Sheffield. The more urbanised west of the County is closely linked to neighbouring Derbyshire, with the more rural eastern area having similar character to the neighbouring parts of Lincolnshire. Nottingham is the major regional centre and approximately two thirds of the population within the Plan area live in, or close to, the city.
10. The Plan sets out the vision, strategic objectives and policies for guiding waste management development in Nottingham and the County of Nottinghamshire to the end of 2038. When adopted, the Plan will replace the following existing Waste DPDs with one Local Plan:
  - The Nottinghamshire and Nottingham Waste Local Plan (adopted in January 2002).
  - The Nottinghamshire and Nottingham Replacement Waste Local Plan: Part 1 – Waste Core Strategy DPD (adopted in December 2013).
11. The Plan includes a forecast of future waste arisings in the Plan area up to 2038 and assesses the amount of waste management capacity that is already available within the Plan area. The 'capacity gap analysis' identifies that there is sufficient capacity within the Plan area to manage Local Authority Collected Waste (LACW), Commercial and Industrial Waste (C&I) and Construction,

Demolition and Excavation Waste (CD&E) up to 2038. Although landfill capacity for LACW and C&I waste is nearing exhaustion, the Plan promotes increased recycling and recovery for these waste streams, particularly as opportunities for future non-hazardous landfill sites are limited due to underlying geology and groundwater constraints.

12. Therefore, the Plan does not allocate any specific sites for waste management facilities. However, planning applications for new waste management facilities are still expected to come forward during the Plan period. Therefore, the Plan contains criteria-based policies to determine those planning applications and includes policies that identify the land uses considered to be potentially suitable for waste management facilities.

## **Revised National Planning Policy Framework**

13. The Plan was submitted on 5 March 2024 when the December 2023 version of the NPPF was in place.
14. On the 12 December 2024 the Government published a revised version of the NPPF. Paragraph 234 of that document sets out that for the purposes of preparing local plans, the policies in this version will apply from 12 March 2025 other than in a number of circumstances. Part 'e' of paragraph 234, and the provisions of paragraph 235, set out that where the plan deals only with minerals and/or waste matters and has been submitted for examination on or before 12 March 2025, the plan will be examined under the relevant previous version of the NPPF.
15. Annex 1 of the December 2023 version of the NPPF, paragraph 230, states that the policies in this Framework will apply for the purpose of examining plans, where those plans reach regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012 (pre-submission) stage after 19 March 2024. Plans that reach pre-submission consultation on or before this date will be examined under the relevant previous version of the NPPF.
16. The Councils published the Pre-submission Draft Waste Local Plan for consultation in August 2023. Therefore, the Plan will be examined against the version of the NPPF published on 5 September 2023. Paragraph numbers of the NPPF quoted from here on in this Report are relevant to the September 2023 NPPF version.

## **Public Sector Equality Duty**

17. Throughout the examination, I have had due regard to the aims expressed in S149(1) of the Equality Act 2010. The Equality Impact Assessment (May 2023)



(EqIA) (IA2), identifies that there is no clear link between the Plan's Strategic Policies and any potential impact on protected characteristics. Out of the twelve Development Management Policies in the Plan, five policies were identified as having a Neutral/Negligible impact on equality. For the other five policies, no clear link could be established to the matters of equality.

18. The EqIA concludes that the proposed policies in the Plan would not have a negative impact or cause discrimination to any individuals or particular groups with protected characteristics within the Plan area. Overall, I am satisfied that the EqIA demonstrates that the Plan is not expected to discriminate against any sections of the community.

## **Assessment of Duty to Co-operate**

19. Section 20(5)(c) of the 2004 Act requires that I consider whether the Councils have complied with any duty imposed on it by section 33A in respect of the Plan's preparation. When preparing the Plan, the Councils are required to engage constructively, actively and on an on-going basis with a range of local authorities and a variety of prescribed bodies in order to maximise the effectiveness of plan preparation with regard to strategic, cross-boundary matters.
20. Details of how the Councils have met this duty are set out in the Duty to Co-operate Report (CD10). This sets out that there has been engagement with the bodies prescribed in section 4 of the Town and Country Planning (Local Planning) (England) Regulations 2012. In addition, the Report includes a number of Statements of Common Ground (SoCGs) with constituent District and Borough Councils within the County and several neighbouring WPA's who have a strategic relationship with Nottinghamshire and Nottingham regarding the management of some waste streams. A SoCG was also agreed with Historic England (EXAM 3). A 'Joint Regional' SoCG with Council's located within the former Sheffield City Region was also agreed (EXAM 5). These SoCGs set out a number of strategic matters on which agreement was sought, including existing patterns of waste movements and strategic matters or constraints that might affect waste movements in the future.
21. The above documents, and the Councils' written responses to pre-hearing questions, set out where, when, with whom and on what basis co-operation has taken place over all relevant strategic matters. The evidence demonstrates that throughout the plan-making process the Councils have worked closely with all prescribed bodies, including neighbouring WPAs as well as some further afield where a strategic relationship was identified.
22. The Councils also participate in meetings of the East Midlands Resource Technical Advisory Body (EMRTAB) in planning for waste. This group

comprises WPAs within the East Midlands Region, the Environment Agency (EA) and the Environmental Services Association (ESA). The overall aim of EMRTAB is to ensure that meaningful, collaborative joint working between WPAs, the EA and periodically the waste industry (represented by the ESA) within the East Midlands on strategic waste management issues.

23. It is evident that the Councils have established and maintained an effective relationship with all of the relevant bodies listed in Part 2 of the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended). In addition, consultation has taken place with a wide range of organisations and bodies as part of the formal consultation process. It is clear that many of the pre-submission changes to the Plan that were brought forward by the Councils were as a result of consultation with relevant parties to address their concerns in a constructive and active manner.
24. Overall, I am satisfied that, where necessary, the Councils have engaged constructively, actively and on an on-going basis in the preparation of the Plan and that the Duty to Co-operate has therefore been met.

## **Assessment of Other Aspects of Legal Compliance**

### **Local Development Scheme**

25. The Plan has been prepared in accordance with the Local Development Schemes for Nottinghamshire County Council and Nottingham City Council (CD11 and CD12 respectively).

### **Public Consultation and Engagement**

26. Consultation on the Plan and the MMs was carried out in compliance with the Councils' Statements of Community Involvement (SD3 and SD4) and the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended). In addition, the Regulation 22 Consultation Statement (CD7) describes the consultation stages that have occurred during the Plans preparation, detailing how each stage has been undertaken in accordance with Regulations 18 and 19 of the 2012 Regulations. This summarises the consultation and engagement undertaken and explains how the responses have informed the Plan.

### **Sustainability Appraisal**

27. The Councils carried out a SA of the Plan (CD2). In addition, each of the MMs were subject to further SA review as set out in the 'Sustainability Appraisal of Main Modifications (December 2024)' (EXAM 14) which was published for consultation along with the schedule of MMs. This identified that further SA

appraisal was required for the Vision, two of the Strategic Objectives and four of the Policies.

28. The re-appraisal findings identified a number of MMs relating to the Vision, Strategic Objectives and policy wording as requiring reassessment which was then undertaken. The updated assessment findings were broadly in line with the original SA. No additional significant effects were identified and therefore no additional mitigation measures are recommended. The main conclusions of the original SA are identified as remaining unaltered.
29. Overall, I am satisfied that the SA was proportionate, objective, underpinned by relevant and up to date evidence, and is compliant with legal requirements and national guidance.

## **Habitats Regulations Assessment**

30. The Plan was subject to a HRA during its preparation as required by the Conservation of Habitats and Species Regulations 2017 (as amended). The 'Habitats Regulation Assessment Screening Report (June 2023)' (CD3) sets out the screening exercise undertaken on the Plan. The report includes a screening assessment of all policies and an assessment of the impacts of other plans in the area to assess "in combination" effects. The assessment concludes that the policies of the Plan and in combination with the impacts of other plans are unlikely to generate potential likely significant effects on European sites. Therefore, there was no need for Appropriate Assessments to be undertaken.
31. The MMs have also been subject to a further assessment. The 'Proposed Main Modification Habitats Regulations Assessment Screening Report (December 2024)' (EXAM 15) was published for consultation together with the schedule of MMs. This concludes that the proposed MMs will not lead to any likely significant effects on European sites, alone or in combination with other plans and projects, and that the MMs do not significantly alter the broad thrust of submitted Local Plan policies against which future applications will be judged. Consequently, no changes to the conclusions of the original 2023 assessment (CD3) were identified.
32. In response to the above consultation, Natural England confirmed that they agree with the conclusions of the 'Proposed Main Modification Habitat Regulations Assessment Screening Report (December 2024)' that there is unlikely to be any significant effects on European sites arising from the proposed MMs of the Plan.
33. Taking into account the submitted evidence, and the comments made by Natural England, I am satisfied that the HRA is compliant with the legal requirements.

## **Climate Change**

34. Section 19(1A) of the 2004 Act requires that development plan documents must (taken as a whole) include policies designed to secure that the development and use of land in the Plan area contribute to the mitigation of, and adaptation to, climate change.
35. The Plan's Vision promotes the adaptability of waste management facilities to climate change by adopting sustainable building techniques and energy efficiency at new and existing waste management facilities. Strategic Objective 2 of the Plan specifically considers climate change and seeks to encourage the generation of less waste and promotes the use of waste as a resource. Furthermore, strategic and non-strategic policies also seek to ensure that waste development and the use of land for such purposes within the Plan area contributes to the mitigation of, and adaptation to, climate change and considers the movement of waste by sustainable transport means (SP3, SP5, SP6, DM3, DM7 and DM12).
36. I am satisfied that the Plan, taken as a whole, includes policies designed to secure that the development and use of land contribute to the mitigation of, and adaptation to, climate change as required by Section 19(1A) of the 2004 Act.

## **Superseded Policies**

37. Regulation 8(5) of the 2012 Regulations sets out that where plans contain certain policies that are intended to supersede other policies in the adopted Development Plan, this fact should be stated, and the superseded policies must be identified. Paragraph 2.2 of the Plan identifies the relevant existing DPDs that will be replaced by the Plan upon adoption. The paragraph identifies that the Plan will replace the existing saved policies of the Waste Local Plan (January 2002) and the Nottinghamshire and Nottingham Replacement Waste Local Plan: Part 1- Waste Core Strategy (December 2013). This requirement has therefore been met.

## **Strategic priorities**

38. The Vision and Strategic Objectives of the Plan provide for sustainable waste management by supporting the delivery of the waste hierarchy and achieving the aims of a circular economy within the Plan area. The Strategic Objectives seek to ensure that there is a mix of facilities to meet current and future waste recycling targets and that such facilities are located in suitable sustainable locations. Overall, the Plan adequately addresses the strategic priorities for waste management development and use of land for such purposes in the Plan area.

## **Other Legal Requirements**

39. The Plan complies with all other relevant legal requirements, including the 2004 Act (as amended) and the 2012 Regulations.

## **Assessment of Soundness**

### **Main Issues**

40. Taking account of all the representations, the written evidence and the discussions that took place at the examination hearings, I have identified five main issues upon which the soundness of the Plan depends. This report deals with these main issues. It does not respond to every point or issue raised by representors. Nor does it refer to every policy criterion or designation in the Plan.

### **Issue 1 – Whether the identification of future waste needs is sufficiently evidenced based and robust.**

41. The overall objective of the Plan is to deliver net self-sufficiency in waste management capacity within the Plan area and move the treatment of waste up the waste hierarchy. The Waste Needs Assessment: 2022-2023 (WNA) (WNA1) provides an appropriate and robust evidence base to identify future waste management needs in the Plan area. This assesses existing waste management capacity at facilities, considers the movements of waste to and from the Plan area, forecasts recycling scenarios, identifies the waste quantities likely to arise during the Plan period and provides a capacity gap analysis.
42. Based on the evidence provided in the WNA, Section 5 of the Plan sets out the approach to forecasting future waste arisings and considers three growth scenarios for LACW, C&I waste and CD&E waste. Amongst other things, this takes into account housing and population growth, economic output to predict future waste generation per employee and planned regeneration and infrastructure projects over the Plan period.
43. For LACW, the Plan concludes that 'Scenario B', a low rate of decline in the amount of waste per household, is an appropriate basis on which to calculate future waste arisings. Taking into account the projected increase in the number of households, the Plan predicts that there would be an increase of around 51,000 tonnes per annum (tpa) of LACW by 2038.
44. A medium growth scenario is identified as being most appropriate for C&I waste. This scenario would result in an increase of 69,000tpa of C&I waste by 2038. No overall change would occur in the amount of CD&E waste generated in the Plan area over the Plan period. The amount of CD&E waste generated in

the Plan area has been broadly consistent since 2013 and it is estimated that 1,172 million tpa of this waste would be generated throughout the Plan period.

45. Section 5 then identifies existing capacity for various waste management facility types and considers likely future recycling scenarios based on assessment contained within the WNA of current national policy and legislation regarding recycling initiatives and targets. The Plan identifies a 'high recycling rate' as being the preferred scenario and provides a calculation of the predicted waste arisings in 2038 for each of the above waste streams.
46. The Plan, supported by the evidence in the WNA, concludes that there is sufficient recycling/composting capacity within existing facilities to manage the predicted waste arisings for the above waste streams over the Plan period. There is forecasted deficit within the Plan area for the management of residual waste (waste that cannot be re-used or recycled) over the Plan period. However, the amount of this waste would decrease over the Plan period due to an increase in recycling rates.
47. Residual waste is currently transported outside of the Plan area to energy recovery facilities. However, there is permitted energy recovery capacity within the Plan area which has yet to be implemented. The forecast energy recovery gap can therefore be managed by the implementation of the permitted capacity and/or the continuation of existing movements.
48. The Plan also considers Hazardous Waste arisings. Although the amount of this waste is anticipated to increase over the Plan period to 108,000 tonnes by 2038, there is sufficient capacity at existing facilities within the Plan area to manage 180,000tpa of this waste. For other waste streams, such as agricultural and mining waste, which are produced in small quantities, the Plan identifies that these are capable of being managed within existing facilities.
49. Taking into account the capacity gap analysis, the Plan does not identify any sites or areas of search for waste management facilities. Consequently, a criteria-based approach for the consideration of new waste management facilities is therefore set out.
50. The Plan's approach to the identification of future waste needs is robust and justified by the evidence provided in the WNA. The Plan adequately identifies the numeric approach to the identification of the capacity surplus/deficit for the relevant waste streams. However, the explanatory text provided in paragraphs 5.48 to 5.52 is not sufficiently clear in setting out the approach taken to explain how the Plan will meet the capacity requirements in the Plan area over the Plan period. **MM1** addresses this matter and provides new explanatory paragraphs to replace paragraphs 5.48 to 5.52. This MM is necessary for the Plan to be justified and effective.

## **Conclusion on Issue 1**

51. Subject to the identified MM, I am satisfied that the identification of future waste needs is sufficiently evidenced based and is robust. The Plan is soundly based in this respect.

**Issue 2 – Whether the Vision and Strategic Objectives of the Plan are the most appropriate, are soundly based and provide an appropriate basis for meeting the future waste management needs sustainably.**

52. The Plan's 'Vision' and 'Strategic Objectives' set out the aspirations for sustainable waste management over the Plan period. Although the Plan was prepared on the basis of a 15-year Plan period, on adoption the Plan period will be less and therefore does not accord with the guidance provided in paragraph 22 of the NPPF.
53. In addition, the Councils recognise that the prospect of an early review of the Plan cannot be ruled out. This would be informed by the consideration of any relevant changes to national policy and local circumstances and the information provided in annual monitoring through the Annual Monitoring Reports (AMRs). The Plan will need to be reviewed in 5 years in any event. Although the strategic policies of the Plan would not look ahead over a minimum of 15 years from adoption, as per paragraph 22 of the NPPF, I consider it pragmatic that an otherwise sound Plan should progress to adoption.
54. The 'Vision' identifies that by 2038 households and businesses will produce less waste by minimising the use of resources and re-using these as far as possible as part of a circular economy. It also seeks to meet, and preferably exceed, existing and future waste recycling targets and recover maximum value from residual waste. This would be achieved by enabling sufficient waste management infrastructure to be provided to meet the forecasted waste arisings over the Plan period.
55. However, the Vision does not adequately reflect the need to manage waste higher up the waste hierarchy and the aspiration to achieve net self-sufficiency for all waste streams. Also, it does not adequately reflect the application of the proximity principle to enable, where possible, waste to be managed close to the source of the waste arisings. Furthermore, it does not adequately consider the need to protect the living conditions of residents from the potential effect of nearby waste management development. **MM2** addresses these matters and is necessary for the Plan to be effective and consistent with the guidance provided in the National Planning Policy for Waste (NPPW).
56. The Strategic Objectives provide a number of objectives to help deliver the Vision. Strategic Objective 1 (Meet our future needs) sets out the need to ensure that there is a mix of waste management site types, sizes and locations to manage waste sustainably and meet current and future recycling targets. However, the objective does not identify the need to provide sufficient capacity to manage the equivalent of the waste arisings within the Plan area to achieve net self-sufficiency. In addition, it does not consider the benefits of the

co-location of waste management facilities. **MM3** provides further text to address these matters and ensure consistency with the changes made to the Vision as a consequence of **MM2**. This MM is also necessary for the Plan to be effective and consistent with national policy.

57. Strategic Objective 4 (The environment) seeks to ensure that new waste facilities avoid unacceptable impacts on the natural and historic environment. However, with regard to the historic environment, the Objective fails to recognise that waste management development proposals should be designed to avoid harm to the significance of heritage assets and their setting in the first instance. In addition, the Objective does not consider the need to minimise the loss of best and most versatile agricultural land and the need for waste management development to deliver biodiversity net gains. **MM4** provides additional text to address these matters and is necessary for the Plan to be effective and consistent with national policy and legislation.
58. Strategic Objective 6 (Sustainable transport) encourages alternatives to road transport and promotes the location of new waste management facilities close to the sources of waste arisings and end markets to reduce transport distances. Whilst the text of this Objective is sound without modification, the title does not adequately reflect the full extent of the content of the Objective. **MM5** provides an amended title and is necessary for the Plan to be positively prepared.

## **Conclusion on Issue 2**

59. Subject to the identified MMs, I am satisfied that the Vision and Strategic Objectives of the Plan are appropriate, positively prepared and soundly based and provide an appropriate basis for meeting the future waste management needs within the Plan area sustainably.

## **Issue 3 – Whether the Strategic Policies reflect the Vision of the Plan and deliver the Strategic Objectives; and are they justified and consistent with national policy?**

60. As a consequence of the healthy position on waste management capacity, the Plan does not allocate any new sites for the management of waste. However, it recognises that development proposals for waste management facilities may still come forward during the Plan period which would likely contribute to moving waste management up the waste hierarchy and help meet any market demand. Consequently, the Plan includes a number of strategic policies (SP1 – SP8) and a number of criteria-based waste management policies (DM1 – DM12) for the consideration of new waste management proposals. These seek to ensure that new waste management development delivers the Vision and Strategic Objectives of the Plan.



61. Apart from Policy SP1 which is sound without modification, the remaining Strategic Policies are considered below.

*Policy SP2 - Future Waste Management Provision*

62. This policy seeks to ensure that there is sufficient waste management capacity to meet the identified needs over the Plan period to move waste management up the waste hierarchy. The policy sets out that priority will be given to the development of new or extended recycling, composting and anaerobic digestion facilities. New or extended energy recovery facilities will be permitted where it can be shown that they would not prejudice the movement of waste up the waste hierarchy, the power generated can be fed into the national grid and the heat generated can be used by existing or future potential heat users. The policy further identifies that new or extended disposal capacity will be permitted where it can be demonstrated that this is necessary to manage residual waste that cannot be recycled or recovered.
63. However, the policy does not refer to the Plan's approach to achieve net self-sufficiency and thus does not reflect the provisions of Strategic Objective 1, as modified by **MM3**. Additional text is provided by **MM6** to address this matter. A corresponding change to the supporting text set out in paragraph 7.14 is also necessary and is provided by **MM7**. These MMs are necessary for the Plan to be effective and positively prepared.
64. Paragraph 7.16 also provides supporting text to Policy SP2 and sets out the Plan's approach to the recovery of energy from waste. The paragraph refers to the 'Waste Management Plan for England 2021' and 'Our Waste, Our Resources: A Strategy for England (2018)' which set out that the aim is to get the most energy out of waste and not to get the most waste into energy recovery. **MM8** provides additional text to the paragraph to reflect the foregoing guidance documents. This MM also sets out that proposals for energy recovery facilities should detail the anticipated sources and availability of waste feedstock to demonstrate that the proposal would not prejudice the management of waste further up the hierarchy. This MM is necessary for effectiveness and to ensure consistency with national policy.

*Policy SP3 - Broad Locations for Waste Treatment Facilities*

65. This policy sets out, amongst other things, that new waste management facilities should be well related to the main urban areas and settlements in Nottinghamshire and Nottingham. However, the policy does not consider the co-location of waste management facilities. Consequently, the policy does not reflect the provisions of Strategic Objective 1, as modified by **MM3**. An additional part to the policy (Part 3) is provided by **MM10** to address this matter. This MM also provides modifications to the text of the policy which identifies that

development which would meet the requirements of the policy would be permitted. This MM is necessary for effectiveness, consistency with Strategic Objective 1 and to ensure that the Plan is positively prepared. Corresponding changes to the supporting text provided in paragraphs 7.20 and 7.25 are also necessary for effectiveness and are provided by **MM9** and **MM11** respectively.

*Policy SP4 - Managing Residual Waste*

66. This policy sets out the Plan's approach to the management of waste that cannot be recovered or recycled and includes, amongst other things, the use of such waste for the restoration of mineral workings and landfill sites. The policy does not adequately set out that the recovery of waste materials to land will be permitted where it can be demonstrated that it is not practical to re-use or recycle the waste. In addition, the policy does not identify that the resulting final landform should, where appropriate, enhance the historic environment. **MM12** addresses these matters and is necessary for the Plan to be effective.

*Policy SP5 – Climate Change*

67. Although the policy is sound without modification, the supporting text provided in paragraph 7.47 does not adequately identify that waste management proposals should demonstrate that consideration has been given to the use of low or zero emission equipment, plant and vehicles. In addition, the text does not consider the use of new technology provided by Carbon Capture and Utilisation and Storage (CCUS) to reduce greenhouse gas emissions at energy from waste facilities.
68. Furthermore, the supporting text does not identify that where development proposals are required to be accompanied by an Environmental Impact Assessment such assessment should consider the associated direct and indirect emissions, and the impact that these may have on climate change. **MM13** addresses these matters and is necessary for effectiveness.

*SP6 – Sustainable movement of waste*

69. This policy seeks to minimise waste movements and encourage alternatives to road-based transport for waste streams generated within the Plan area and for waste that is imported and exported into Nottinghamshire and Nottingham. The implementation of the requirements of the policy is reliant on the provisions of Policy DM12 which is considered later in this report. **MM14** provides additional text to Part 1 of Policy SP6 to set out the interrelationship with Policy DM12 and is necessary for the Plan to be effective.

70. Paragraph 7.52 provides part of the supporting text to the policy and sets out, amongst other things, that all waste management proposals should consider transporting waste by more sustainable means, other than by road, where appropriate. However, the paragraph does not explain that such proposals should demonstrate that alternative modes of transport have been considered and, in circumstances where road transport is proposed to be used, explain why alternative transport modes are not practical, viable or are unavailable. **MM15** provides additional text to paragraph 7.52 to address this matter and also provides corresponding changes to reflect the modifications made to the policy as a consequence of **MM14**. This MM is necessary for effectiveness in order to ensure conformity with the policy.
71. Paragraph 7.53 also provides supporting text to the policy and considers, amongst other things, cross boundary waste movements. The paragraph does not adequately explain that 'economies of scale' may result in some waste having to travel further to appropriate waste management facilities and that such facilities may be located outside of the Plan area. **MM16** is necessary for effectiveness and provides additional text to the paragraph to address this matter and explain the pragmatic approach taken in the aim for net self-sufficiency which may involve waste movements out of, and into, the Plan area. The MM also seeks to ensure that facilities, wherever they are located, support the management of waste higher up the waste hierarchy.

#### *SP7 – Green Belt*

72. This policy explains the Plan's approach to the consideration of waste management development proposals within the Green Belt. The policy is not positively prepared as it does not set out that proposals which meet the requirements of the policy will be permitted, subject to meeting the requirements of other policies of the Plan. **MM17** provides modifications to the text of the policy to address this matter and ensure that the wording of the policy is consistent with that provided in other policies, as amended by MMs where necessary.

#### *SP8 – Safeguarding of Waste Management Sites*

73. This policy sets out the Plan's approach to the safeguarding of waste management facilities from other forms of development that may restrict existing operations or their ability to expand in the future. Parts 1 – 3 of the Policy are sound without modification. Part 4 considers non waste management development proposals that may be located within the 'Cordon Sanitaire' of a wastewater treatment facility. This requires applicants to discuss their proposals with the water company which operates the wastewater treatment facility. However, the policy does not set out that, following such discussions, applicants will need to identify that the relevant water company has no

objections to the proposal or to any necessary mitigation measures. **MM18** addresses this matter and is necessary for effectiveness.

### **Conclusion on Issue 3**

74. When considered with the recommended MMs, I am satisfied that the Strategic Policies reflect the Vision of the Plan and deliver the Strategic Objectives and are justified and consistent with national policy. The Plan is therefore sound in this regard.

### **Issue 4 - Whether the development management policies strike an appropriate balance between seeking to provide sustainable development and protecting people and the environment and are they justified, effective and consistent with national policy?**

75. The Plan contains a number of development management policies (Policies DM1 to DM12) that collectively seek to provide a framework for the consideration of proposals for new waste management development and control potential impacts arising from such development. Apart from Policy DM9 (Planning Obligations), which is sound without modification, the remaining policies are considered below.

#### *Policy DM1 - General Site Criteria*

76. This is the general development management locational criteria policy which sets out that waste management development will be acceptable in locations identified in the policy, subject to consideration of environmental impacts. The policy considers a range of waste management facilities, such as combined centres, recycling, composting, energy recovery and waste transfer facilities, and identifies whether these facilities would be suitable to be located on community sites (local shopping centres, leisure centres, supermarkets), employment land, previously developed land, open countryside and Green Belt, including mineral working sites.
77. The policy does not adequately state that proposals which meet the locational requirements would be permitted, subject to consideration of environmental impacts that are set out in other development management policies of the Plan. In addition, the policy does not explain that waste management proposals on employment sites would need to be compatible with existing development. It also does not adequately explain that where provision has been made for the restoration of former mineral working sites then these would be considered green field sites. **MM19** addresses these matters and is necessary for the Plan to be positively prepared and effective.

78. Corresponding changes to the supporting text of Policy DM1 are necessary to ensure that the 'agent of change principle', as set out in paragraph 193 of the NPPF, is taken into account in the consideration of waste management development proposals on employment sites. In addition, the supporting text does not identify the benefits of the co-location of waste management facilities and the opportunities for integrated waste management that would result. **MM20** and **MM21**, respectively, addresses these matters which are necessary for the Plan to be effective and consistent with national policy.

*Policy DM2 - Health, Wellbeing and Amenity*

79. This policy sets out a range of potential environmental impacts that would need to be taken into account in the consideration of proposals for waste management development and requires that such proposals will need to demonstrate that the impacts are avoided or mitigated to an acceptable level having regard to sensitive receptors.
80. The policy does not adequately state that proposals which demonstrate that any potential adverse impacts on health, wellbeing or amenity are avoided or adequately mitigated would be permitted. **MM22** addresses this matter and is necessary for the Plan to be positively prepared.

*Policy DM3 - Design of Waste Management Facilities*

81. Part 1 of this policy sets out a range of design criteria that will be taken into account in the consideration of proposals for waste management development. Part 2 requires development proposals to take a proactive approach to the incorporation of sustainable features.
82. Criterion 'b' of Part 1 of the policy relates to the provision of boundary treatment and landscaping. However, this criterion is not clear in identifying that appropriate landscape treatment should be provided to mitigate the visual impact of waste management development.
83. Criterion 'c' of Part 1 of the policy requires the effect of waste management development proposals on the historic and natural environment to be taken into account. Although the criterion identifies that such impacts should be minimised, it does not explain that, in the consideration of the impact on the historic environment, the starting point should be to avoid any harmful impacts.
84. Whilst the policy refers to the need to minimise the loss of best and most versatile agricultural land, this is incorrectly placed within Part 2 of the policy which relates to the incorporation of sustainable features. To ensure that the policy is clear, this consideration should be placed within Part 1 of the policy.

85. Criterion 'f' of Part 2 of the policy relates to the encouragement of sustainable modes of transport. However, this criterion does not identify that a travel plan will be necessary to demonstrate how the use of sustainable transport has been taken into account in the design of waste management development proposals that would generate significant vehicular movements.
86. In the interests of effectiveness and to be consistent with national policy, **MM23** addresses all of the above matters. Corresponding changes to the supporting text of Policy DM3 are also necessary in order to be consistent with the changes made as a consequence of **MM23**. These are provided by **MM24**, **MM25**, **MM27** and **MM28** which are necessary for the Plan to be effective.

*Policy DM4 - Landscape Protection and Policy DM5: Protecting and Enhancing Biodiversity and Geodiversity*

87. Although Parts 2 and 3 of these policies are sound without any modification, the wording of Part 1 of both policies is inconsistent with that used in other policies. In particular, the wording used in other modified policies refers to development being "permitted" where it can be demonstrated that the requirements of the policy can be met. **MM29** and **MM30** amends the text of Part 1 of Policy DM4 and DM5 respectively to be consistent with that used in other policies and are necessary for the Plan to be positively prepared.

*Policy DM6 - Historic Environment*

88. As currently worded, the policy fails to recognise that waste management development proposals should be designed to avoid harm to the significance of heritage assets and their setting. If harm may occur, then this should be mitigated to protect the significance of heritage assets and their setting and where harm cannot be mitigated then consideration of the public benefits of the proposal is necessary in accordance with the NPPF.
89. Furthermore, the policy does not make provision for the submission of archaeological assessments and field evaluation as an integral component of Heritage Statements in circumstances where development may affect the significance of heritage assets that have archaeological interest.
90. **MM31** addresses the above matters by the provision of modified text. A corresponding change to the supporting text of Policy DM6, as set out in paragraph 8.87, is also necessary to explain the requirement for the submission of information to record the significance of heritage assets to support development proposals where total or part loss of a heritage asset may occur. This is addressed by **MM32**. These MMs are necessary for the Plan to be effective and consistent with national policy and legislation.

*Policy DM7 - Flood Risk and Water Resources, Policy DM8: Public Access, Policy DM10: The Cumulative Impact of Development and Policy DM11: Airfield Safeguarding*

91. The wording of Part 1 of these policies is inconsistent with that used in other policies. As similarly considered above, the wording used in other modified policies refers to development being “permitted” where it can be demonstrated that the requirements of the policy can be met. **MM33, MM34, MM35 and MM36** addresses this matter for each of these policies. These MMs are necessary for these policies to be consistent with the wording used in other policies and are necessary for the Plan to be positively prepared.

*DM12 - Highway Safety and Vehicle Movements/Routeing*

92. This policy sets out a number of measures that need to be demonstrated in the submission of proposals for waste management development. Amongst other things, the policy requires the consideration of any necessary improvements to the highway network to accommodate vehicular movements, arrangements for safe vehicle movements within the site, consideration of the environmental and amenity impacts of vehicle movements, and safe routeing arrangements to minimise the effect of vehicle movements on local communities. However, the policy does not explicitly state that such measures should be identified by the submission of a Transport Assessment or Statement. **MM37** addresses this matter and is necessary for the Plan to be effective.
93. The policy refers to the provision of Electric Vehicle Charging Points in new development. However, the supporting text does not explain that these should be made available for use by off-site and on-site mobile plant and vehicles associated with the development in order to encourage the use of low emission vehicles and thus assist in the delivery of the requirements of policy SP5 in relation to climate change. **MM38** provides the necessary amendments to the supporting text in paragraph 8.148 to address this matter and is necessary for the Plan to be effective.

#### **Conclusion on Issue 4**

94. Subject to the identified MMs, the development management policies strike an appropriate balance between seeking to provide sustainable development and protecting people and the environment. They are justified, effective and consistent with national policy.

**Issue 5 - Whether the implementation and monitoring of the Plan will be effective.**

95. The 'Monitoring and Implementation' section of the Plan comprises the monitoring framework that lists the key performance indicators, targets and information sources to be used to monitor the effectiveness of the Plan. It also identifies the relevance of each performance indicator to the Strategic Objectives of the Plan.
96. The Plan provides for Annual Monitoring Reports to be prepared to enable assessments to be made of the impacts of the policies and for reviews to take place should any parts of the Plan be found to need adjustment or replacement. Paragraph 9.3 of the Plan explains the legislative background requiring the production of an Annual Monitoring Report but the paragraph does not explain the content of such reports. **MM39** provides additional explanatory text to paragraph 9.3. This identifies that the Annual Monitoring Report will contain the latest published data on waste arisings for LACW, C&I waste, and CD&E waste; the percentage of arisings recycled, recovered and disposed for these waste streams; the operational facilities in the Plan area and their capacity; new permitted waste facilities and their capacity. This MM is necessary for the Plan to be effective.
97. Although the monitoring framework sets out corrective actions and mitigation measures, it does not identify that such actions and measures may require engagement with District and Borough Councils, neighbouring Waste Planning Authorities and other relevant bodies to ensure that any identified actions give adequate consideration to strategic waste management matters and waste movements. In addition, the Plan does not set out that the Annual Monitoring Report will also need to consider how the results of the monitoring may impact on the delivery of the Vision and Strategic Objective of the Plan. **MM40** and **MM41** addresses these matters by the provision of additional supporting text after paragraph 9.3. These MMs are necessary for the Plan to be justified and effective.
98. The monitoring framework provides details of the monitoring methods and corrective actions with regard to every policy within the Plan. The corrective actions in respect of the monitoring of Policy SP2 (Future Waste Management Provision) do not explain that if recycling levels within the Plan area fall below the aspiration levels identified in the Plan, then this will necessitate revisions to the waste management forecasts contained within Section 5. Furthermore, the corrective actions do not explain that this may require consideration of the allocation of specific sites or areas of search for new waste management facilities to ensure continued sufficient capacity to handle waste arisings.
99. Similarly, the corrective actions in respect of Policy SP4 (Managing Residual Waste) also do not explain that the allocation of specific sites or areas of search for new waste management facilities may be necessary if the monitoring demonstrates that there is insufficient capacity to manage residual waste



arising. **MM42** and **MM43** addresses these matters and are necessary for effectiveness.

### **Conclusion on Issue 5**

100. Subject to the recommended MMs, the Monitoring and Implementation section of the Plan is effective and therefore the Plan is sound in this regard.

## **Overall Conclusion and Recommendation**

101. The Plan has a number of deficiencies in respect of soundness for the reasons set out above, which mean that I recommend that it not be adopted as submitted, in accordance with Section 20(7A) of the 2004 Act. These deficiencies have been explained in the issues set out above.

102. The Councils have requested that I recommend MMs to make the Plan sound and capable of adoption. I conclude that the Duty to Cooperate has been met and that, with the recommended MMs set out in the Schedule of Main Modifications in the Appendix, the Nottinghamshire and Nottingham Waste Local Plan satisfies the requirements referred to in Section 20(5)(a) of the 2004 Act and is sound.

*Stephen Normington*

Inspector

This report is accompanied by an Appendix containing the Main Modifications.