

Review of the Modifications Stage WCS Against the Habitats Regulations


Report

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For and on behalf of Environmental Resources Management
Approved by: Andy Coates _____
Signed:  _____
Position: Partner _____
Date: 04 April 2012 _____

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In accordance with Council Directive 92/43/EEC) Article 6(3) and Article 6(4) transposed into UK law by the Conservation of Habitats Species Regulations ⁽¹⁾, it is necessary for Gloucestershire County Council in preparing and finalising the Waste Core Strategy (WCS) to consider any potential impacts that might arise on Natura 2000 sites ⁽²⁾ and Ramsar sites ⁽³⁾, referred to as 'European sites' in this report. This is required to ensure that the strategy is not likely to result in significant effects on the European sites and the overall Natura network.

The WCS Final HRA report (ERM, 2010) was produced to review all the WCS policies before the publication of the WCS and to address Natural England's request for GCC to explore waste management facilities that might come forward at the planning application stage. The WCS Final HRA report concluded for certain facility types at certain allocated strategic sites that there was a possibility that the test of likely significant effect on a European Site at Regulation 61(1a) might not be passed at the planning application stage such that an Appropriate Assessment would be triggered. However in terms of the WCS stage it was concluded that no likely significant effect on a European Site would occur if safeguarding wording in the form of modifications was confirmed in the WCS.

The purpose of this report is to review the proposed final modifications of the WCS to see if they might change the conclusion that the WCS is compliant with the Habitats Regulations/Directive.

The following sections document the review of relevant policies, supporting text and appendices of the Modification Version of the WCS (March 2012) and include necessary comment on if legal compliance is maintained.

1.1

CONSIDERATION OF RELEVANT POLICIES WITHIN THE WCS

Table 1.1 includes a summary of the WCS considered in terms of the Habitats Regulations/Directive. Policies relating to specific Site Options are considered to be the most relevant.

(1) The 2010 Habitats Regulations are a consolidation of previous amendments to the legislation. A further minor amendment of the Regulations was made in 2011 but does not affect the HRA already carried out.

(2) In May 1992 European Union governments adopted legislation designed to protect the most seriously threatened habitats and species across Europe. This legislation is called the Habitats Directive and complements the Birds Directive adopted in 1979. At the heart of both these Directives is the creation of a network of sites called Natura 2000. The Birds Directive requires the establishment of Special Protection Areas (SPAs) for birds. The Habitats Directive similarly requires Special Areas of Conservation (SACs) to be designated for other species, and for habitats. Together, SPAs and SACs make up the Natura 2000 series. All EU Member States contribute to the network of sites in a Europe-wide partnership from the Canaries to Crete and from Sicily to Finnish Lapland.

(3) Ramsar sites are wetland sites of international importance designated under the Ramsar Convention, signed in Ramsar, Iran, in 1971. It is Government policy that Ramsar sites are also treated as if they are European designated sites in accordance with the Habitats Regulations.

Table 1.1 Summary of WCS and HRA Conclusions

Relevant WCS Sections Including Modifications	Consideration of Compliance with the Habitats Regulations
MM4 <u>Spatial Vision (to be reflected in Executive Summary as well as within Chapter 3)</u>	Not a material change affecting compliance or HRA
MM 5 <u>Strategic Objectives and associated text</u>	Not a material change affecting compliance or HRA
MM6 <u>Core Policy WCS1 – Waste Reduction</u> Amend as follows: The County Council will continue to work in partnership with <u>local communities</u> , the District Councils and other public and private sector organisations including local schools and colleges to raise awareness and positively influence attitudes and behaviour so as to reduce the amount of waste produced and ensure a greater proportion of waste is re used.	Not a material change affecting compliance or HRA
MM7 <u>Core Policy WCS2 Recycling/Composting (to include FC13 + other associated changes)</u> <u>Various amendments to Section 4 as follows:</u> <u>Paragraphs 4.24 – 4.39 Amend text as follows:</u> 4.24 Where waste cannot be eliminated or re-used, our priority should be to recycle <u>or</u> compost or process it by means of AD facilities . This helps to recover resources from the waste rather than simply disposing of it. 4.26 Windrow composting is generally suitable for green or garden waste, whereas in-vessel composting is more suitable for food wastes (plate scrapings etc). Food waste can also be processed through an anaerobic digester <u>which has the added benefit of generating renewable energy (see below)</u> . 4.27 Anaerobic digestion is the natural process by which bacteria break down organic material in the absence of oxygen. An AD facility is a controlled version of this process taking place in a vessel or series of vessels. 4.28 Almost any organic material can be processed using AD including paper, cardboard, grass cuttings,	Recycling and composting facilities were included in the HRA of the Site Options as potential facility option and assessed accordingly against the Habitats Regulations. The potential development of such facilities on the site allocations were considered to have no likely significant effect on European sites. Policy WCS2 has had no material change and is still considered to be compliant with the Habitats Regulations. No further changes recommended

food, industrial effluents, energy crops (grown specifically such as maize silage), sewage and animal waste. This makes AD suitable for dealing with organic MSW and C&I waste (which includes a lot of organic material) waste water and agricultural waste. It is not suitable for some waste such as inert C&D waste.—

4.29 The AD process produces biogas and digestate. Biogas can be used to generate heat and electricity through combined heat and power (CHP) and can also be turned into 'biomethane' which can be used as a vehicle fuel or injected in the mains gas grid. Digestate is a solid and liquid residue made up of leftover, indigestible material and dead micro-organisms. It is used as a fertiliser and soil conditioner, but this has to meet certain quality standards.

4.30 There are limitations to AD including the fact that it requires a consistent, segregated supply of waste such as kitchen waste which is not always available, depending on the waste collection arrangements that may be in place. AD facilities in England have, to date tended to be geared towards agricultural and sewage waste. However, the Government is very keen to roll the technology out further to deal with MSW and C&I waste, but there will be a need for industry to come forward with arrangements that satisfy the pollution control agencies.

4.31 There are currently no operational AD facilities in Gloucestershire treating MSW or C&I waste. For MSW in Gloucestershire it is likely that AD would generally be used for segregated waste (i.e. not residual waste) that currently goes to composting facilities but nevertheless could form a useful part of an integrated system.—

4.34 First, we need to consider the provision of larger scale recycling and composting facilities such as bring sites (bottle banks etc.) household recycling centres, materials recycling facilities and composting facilities. We also include within this bracket the provision of waste bulking and transfer facilities because materials passing through such facilities are generally destined for further processing operations:

4.38 Although our forecasts suggest that sufficient capacity exists for bulking and transfer facilities, there may be different spatial arrangements in the future for example those arising from the shadow Joint Waste Board (JWB). It is important therefore for the WCS to be sufficiently flexible.

4.39 Having regard to the relatively modest requirement for additional recycling and composting capacity for MSW, the need for flexibility in relation to bulking and transfer and having regard to previous consultation responses, the most appropriate way forward is considered to be a 'criteria-based' approach. The same applies to some extent to C&I waste, however because of the additional capacity required the strategic sites identified under Core Policy WCS4 maybe suitable for waste management facilities which might come forward to meet this capacity gap.

Core Policy WCS2

Amend policy as follows:

Core Policy WCS2 – Recycling & Composting ~~/Anaerobic Digestion (including Bulking and Transfer)~~

In order to achieve the Gloucestershire local authorities' household recycling and composting target of at least 60% by 2020, the Council will support in principle, proposals relating to the development of new and expanded recycling and composting ~~anaerobic digestion, bulking and transfer~~ facilities including businesses that process recyclates and re-use waste.

Planning permission will be granted subject to the following criteria being met:

1. It can be demonstrated that the impact on the environment and neighbouring land uses is acceptable. Proposals for composting ~~AD~~ generally must be at least 250m from sensitive land uses such as housing unless it can be demonstrated that it can operate in closer proximity without adverse impact.
2. The highway access is suitable for the proposed vehicle movements.
3. The proposal contributes towards providing a sustainable waste management system for Gloucestershire.
4. If the proposal is of a 'strategic' scale (>50,000 tonnes/year) it is located in the area defined as 'Zone C' (see Key Diagram).

Particular support will be given to proposals that:

- Are located within¹ or close to an urban area; and/or
- Involve the re-use of previously developed land, vacant or underutilised employment land and/or redundant rural buildings including farm diversification opportunities; and/or
- Involve co-location with an existing operation of a similar or complimentary nature; and/or
- Incorporate alternatives to the transport of waste by road (rail, water etc.), and/or
- Are well located to allow employees to reach the site by foot, cycle or public transport.

Proposals for the development of markets for recycled materials, in particular initiatives to assist small to medium-sized businesses to re-use/recycle their discarded waste materials will be supported and encouraged through partnership working including the Gloucestershire Waste Partnership.

¹ It is acknowledged that in the case of composting ~~or anaerobic digestion~~ it may prove difficult to locate within an urban area due to a 250m buffer generally being required for issues relating to bio-aerosols. ~~This should not however apply to recycling and bulking/transfer facilities.~~

How will we know if the policy is working?

4.43 There are a number of measures including:

<ul style="list-style-type: none"> ▪ Percentage of household waste sent for re-use, recycling and composting. ▪ Percentage of municipal waste landfilled. ▪ Total available recycling/composting capacity. ▪ Number of planning applications refused on the basis of Policy WCS2. ▪ Number of new/expanded recycling and composting/AD facilities permitted per year. ▪ Number of 'strategic' composting, AD and recycling facilities permitted inside and outside 'Zone C' per year ▪ Number of recyclates 're-processing' facilities in Gloucestershire. 	
<p>MM8 <u>Policy WCS3</u></p> <p>Amend to include reference to Transport Assessment under Criteria 2 as follows:</p> <p>2. Where viable, the proposal incorporates the use of alternatives to road transport such as rail and water and that where road transport is used the highway access is suitable for the proposed vehicle movements and is supported by a <u>transport assessment and</u> travel plan setting out measures to encourage employees to reach the site by foot, cycle or public transport.</p>	<p>Not a material change affecting compliance or HRA</p>
<p>MM9 Core Policy WCS3a AD (FC13 +other associated text changes)</p> <p>Move location in document slightly to fit under recovery section</p> <p><u>Section 4</u> Insert new text as follows:</p> <p><u>Anaerobic Digestion</u></p> <p><u>4.53a Anaerobic Digestion is the natural process by which bacteria break down organic material in the absence of oxygen. An AD waste facility is a controlled version of this process taking place in a vessel or series of vessels. It is very similar to IVC and generally suited to source segregated organic waste such as food waste, waste water and agricultural waste. It is not suitable for inert C&D waste.</u></p> <p><u>4.53b Although classed as 'other recovery' under the revised waste hierarchy, AD can under certain circumstances be considered to deliver a better overall outcome than recycling such as when managing food waste. In addition because of similarities with IVC, AD is not generally used to manage mixed residual waste therefore AD has scope to contribute to both MSW composting requirements (an additional 19,000 – 38,000 tpa) and the C&I recycling/composting additional</u></p>	<p>Anaerobic digestion facilities were included in the HRA of the Site Options as potential facility option and assessed accordingly against the Habitats Regulations. The potential development of such facilities on the site allocations were considered to have no likely significant effect on European sites. New policy WCS3a is therefore considered to be compliant with the Habitats Regulations.</p>

	<p><u>requirements of 91,000 – 111,000 tpa. In addition it might be possible that AD could contribute under certain circumstances towards the addition recovery requirement for C&I waste of 43,000 – 73,000 tpa.</u></p>
4.53c	<p><u>Almost any organic material can be processed using AD including paper, cardboard, grass cuttings, food, industrial effluents, energy crops (grown specifically such as maize silage), sewage and animal waste. AD can be carried out on a small-scale (e.g. a farm based system managing livestock manure) or on a larger, commercial-scale such as the management of food waste collected by local authorities. It can also be used to manage the sewage sludge created by the treatment of waste water (see Core Policy WCS5).</u></p>
4.53d	<p><u>The AD process produces biogas and digestate. Biogas can be used to generate renewable energy in the form of heat and electricity through combined heat and power (CHP) and can also be turned into 'biomethane' which can be used as a vehicle fuel or injected in the mains gas grid. Digestate is a solid and liquid residue made up of leftover, indigestible material and dead micro-organisms. It is used as a fertiliser and soil conditioner, but this has to meet certain quality standards.</u></p>
4.53e	<p><u>There are limitations to AD including the fact that it requires a consistent, segregated supply of waste such as food waste which is not always available, depending on the waste collection arrangements that may be in place. AD facilities in England have, to date tended to be geared towards agricultural and sewage waste. However, the Government is very keen to roll the technology out further to deal with MSW and C&I waste and in March 2010 published 'Accelerating the Uptake of Anaerobic Digestion in England: an Implementation Plan'.</u></p>
4.53f	<p><u>The implementation plan highlights the potential use of AD in dealing with food waste, agricultural material such as manure and slurry and sewage sludge. There will however be a need for industry to come forward with arrangements that satisfy the pollution control agencies.</u></p>
4.53g	<p><u>There are currently no operational AD facilities in Gloucestershire treating MSW or C&I waste³³. In accordance with Government Policy, the Council will therefore support in principle, proposals for new AD facilities in appropriate locations and our policy on this matter is set out overleaf. For MSW in Gloucestershire it is likely that AD would generally be used for segregated waste (i.e. not residual waste) that currently goes to in-vessel composting facilities but nevertheless could form a useful part of an integrated system contributing towards the envisaged capacity gap requirements of the WCS.</u></p>
4.53h	<p><u>Our approach towards the management of residual waste is set out in Core Policy WCS4.</u></p>
<p>³³ <u>There is permission for an MSW AD facility at Rose Hill Farm in Dymock, but this is not yet operational. There is also permission for a small AD at Stanley's Quarry in the Cotswolds, but this is for agricultural waste. Additionally some AD processes are undertaken at Hayden and Netheridge</u></p>	

Sewage Treatment Works and the Unilever factory in Gloucester.

New Policy – Core Policy WCS3a

Core Policy WCS3a – Anaerobic Digestion

In the interest of maximising the recovery of value (energy) from organic waste the Council will support in principle, proposals relating to the development of new or expanded anaerobic digestion facilities in Gloucestershire.

Planning permission will be granted subject to the following criteria being met:

1. It can be demonstrated that the impact on the environment and neighbouring land uses is acceptable.
2. The highway access is suitable for the proposed vehicle movements.
3. The proposal contributes towards providing a sustainable waste management system for Gloucestershire.
4. If the proposal is of a 'strategic' scale (>50,000 tonnes/year) it is located in the area defined as 'Zone C' (see Key Diagram).

Particular support will be given to proposals that:

- Incorporate Combined Heat and Power (CHP) where practicable; and/or
- Are located within or close to an urban area; and/or
- Involve the re-use of previously developed land, vacant or underutilised employment land and/or redundant rural buildings including farm diversification opportunities; and/or
- Involve co-location with an existing operation of a similar or complimentary nature; and/or
- Incorporate alternatives to the transport of waste by road (rail, water etc.), and/or
- Are well located to allow employees to reach the site by foot, cycle or public transport.

How will we know if the policy is working?

4.53i There are a number of measures including:

- Total available AD capacity for food waste.
- Total available AD capacity for agricultural waste.
- Total available AD capacity for sewage sludge.
- Number of planning applications refused on the basis of Policy WCS3a.
- Number of new/expanded AD facilities permitted per year.
- Number of 'strategic' AD facilities permitted inside and outside 'Zone C' per year.
- Renewable energy generation.

<p><u>4.53j Further information is set out in Section 6.0 –Measuring Progress.</u></p> <p>MM10 Core Policy WCS4 Recovery and associated text changes Amend Core Policy as follows:</p> <p><u>Core Policy WCS4 – Other Recovery (including energy recovery)</u></p> <p>In order to divert waste from landfill, in particular biodegradable waste, in the period to 2027, the WPA will make provision for the following residual waste recovery capacity:</p> <ul style="list-style-type: none"> - MSW <u>Up to 170,000 tonnes/year</u> - C&I <u>Up to 73,000 tonnes/year</u> <p>All 'strategic' residual waste recovery facilities (>50,000 tonnes/year) will be located in the central area of Gloucestershire, close to the main urban areas along the M5 corridor including Gloucester and Cheltenham. This area is designated 'Zone C' and is shown on the Key Diagram.</p> <p>Within 'Zone C' the following sites are allocated for residual waste recovery: <u>Planning permission will be granted for strategic residual recovery facilities (>50,000 tonnes/year) within the outline boundaries of the site allocations shown in Appendix 5 at:</u></p> <ol style="list-style-type: none"> 1. Wingmoor Farm East (primarily C&I, but with MSW potential) 2a. Wingmoor Farm West– The Park Sites A & B (primarily MSW, but with C&I potential) 2b. <u>Wingmoor Farm West</u> 3. Javelin Park (primarily MSW, but with C&I potential) 4. Land at Moreton Valence (primarily C&I, but with MSW potential) <p>These strategic sites are illustrated on the Key Diagram. Detailed site boundaries and key development criteria are set out in the Strategic Site Schedules at Appendix 5. Planning permission for 'strategic' residual waste facilities will only be granted outside the allocated sites where it can be demonstrated that the strategic sites are unavailable and that there is a clear justification that proposals will meet the identified recovery capacity and not compromise any other policies contained in this strategy. <u>Subject to the following:</u></p> <ul style="list-style-type: none"> (a) <u>That the requirements of the General and Key Development Criteria for the respective site in Appendix 5 being met;</u> (b) <u>That for any proposals within sites 1, 2a and 2b will need to be in accordance with the provisions set out in Core Policy WCS 10 – Green Belt;</u> 	<p>The HRA of the site options report could not conclude for the assessment of air pollution on European sites at the planning application stage that there would be no likely significant effects for the development of some scales of energy recovery facilities at some allocated sites. The HRA report concluded that the findings should not preclude promotion of energy recovery facilities on such site options, given the parameters used for the modelled facilities were very conservative and were not based on a detailed design. It was therefore considered that if a facility were brought forward with the associated detailed design necessary at the planning application stage, it would be possible to produce a design such that outputs would be at acceptable levels such that no likely significant effect on a European Site could be assessed.</p> <p>Following the Examination in Public in 2012 and a concern raised by the inspector regarding whether appropriate assessment had been completed as required by the Habitats Regulations, GCC responded that appropriate assessment had been carried out with regard to bird disturbance effects for the two site allocations adjacent to the Severn Estuary at Lydney, however it was not possible to carry out in depth assessment of the effects of air pollution, given detailed design is not available at the strategic level to allow such an assessment to be undertaken. GCC sought legal opinion regarding the matter of deferral of in depth assessment of air quality matters to the planning application stage.</p> <p>Mr Anthony Crean QC was subsequently commissioned by GCC to provide a legal opinion. Mr Anthony Crean advised that the Feeney v Oxford City Council case was a just approach for precedence for the qualifying wording to ensure that no such adverse effects or any combination of effects can occur at international sites. GCC have the flexibility to deliver recovery capacity from some of the site allocations. They have introduced a modification to advise that although it may not be possible to deliver the full capacity, there is sufficient capacity available to ensure the requirements of the strategy can be achieved as it is a technology neutral plan. In addition, further modifications to policy WCS4, WCS7 and Appendix 5 (the Site Schedules) for the protection of European Sites at the development control stage allow this policy to be delivered within the requirements of the Habitats Regulations.</p> <p>The findings of the HRA of the site options and the Feeney judgement as presented at the WCS examination hearings allow this policy to be delivered.</p>
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- (c) Proposals are supported by sufficient information for the purposes of an appropriate assessment of the implications of the proposal, alone or in-combination with other plans and projects, for any Special Area of Conservation (SAC), Special Protection Area (SPA) and Ramsar site. The conclusions of the assessment, in accordance with Council Directive 92/42 EEC and the Conservation of Habitats and Species Regulations, must show that a proposal can be delivered without adverse effect on the integrity of any SAC or Ramsar site.
- (d) That any proposals for waste recovery are principally for Gloucestershire's waste needs unless it can be demonstrated, through a supporting statement, to be the most sustainable option to manage waste arisings from outside the county at that facility

Where a proposal for a strategic residual waste recovery facility is on land not within the boundary of a site allocation in Appendix 5, planning permission will not be granted unless:

- (a) The application site is within Zone C;
- (b) It can be demonstrated that the proposed recovery capacity cannot be provided on the sites allocated in Appendix 5;
- (c) That the requirements of the General Development Criteria in Appendix 5 being met; and
- (d) That the proposal is in accordance with all other policies of the Development Plan including those which ensure protection of international sites for nature conservation.

Planning permission will not be granted for strategic scale residual waste recovery facilities (>50,000 tonnes/year) outside Zone C.

'Non-strategic' residual waste recovery facilities (<50,000 tonnes/year) will be permitted both within and outside Zone C where the facility forms part of ~~a sustainable~~ an integrated and adequate waste management system and would be subject to the following criteria:

- The proposal is located on an industrial estate or permitted/allocated employment land ~~permitted or allocated for B2 general industrial use~~; and/or
- The proposal is located on previously developed land; and/or
- The proposal involves the development of an existing waste management facility or mineral site; and
- The facility would meet the relevant policies and criteria of the development plan.

(1)

New paragraph 4.99

For any proposals on any of the allocated sites, they will need to meet the General and Key Development

This is subject to this modification (MM10) which should be read in conjunction with Appendix 5 (the Site Schedules) and paragraph 4.99 and Policy WCS 7 (MM15 & MM30) and is in accordance with the Habitats Regulations.

<p><u>criteria in appendix 5. The General Development Criteria is also generally applicable to any proposals which might come forward on unallocated sites. For any proposals coming forward on site allocations 1 – 2b will in particular need to accord with the requirements of Core Policy WCS10 relating to the Green Belt. Although a Habitat Regulations Assessment (HRA) was carried out in support of the WCS allocations, to demonstrate that no adverse effect on the ecological interest and integrity of SACs, SPAs and Ramsar sites occurs, a detailed assessment of potential affects will need to be undertaken in accordance with the policy. For each site allocation identified in Appendix 5 the particular European sites are indicated which will need to be taken into account.</u></p>	
<p>MM11 <u>Policy WCS5</u></p> <p>Amend as follows:</p> <p>The development or expansion of waste water treatment facilities will be permitted, either where needed to serve existing or proposed development in accordance with the provisions of the development plan, or in the interests of Gloucestershire's waste water management, provided that the need for such facilities outweighs any adverse land use or environmental impact, and that any such adverse impacts can be satisfactorily mitigated <u>and that the proposal would be consistent with the objectives of the Water Framework Directive (WFD).</u></p>	<p>Not a material change affecting compliance or HRA</p>
<p>MM13 <u>New Policy WCS6a Landfill and associated text changes</u></p> <p><u>Paragraph 4.129 - Amend text as follows</u></p> <p><u>'The current landfill capacity identified in paragraph 4.124 is consider sufficient to meet the needs for the County. This includes capacity at Wingmoor Farm East which was granted planning permission in September 2011 for landfill operations to run until 2029. However this application is subject to a judicial review and therefore the situation may need to be reassessed in the near future. Therefore position of future landfill capacity will require monitoring and is likely to require further consideration through a review of the WCS or preparation of a separate development plan document potentially starting in 2017/2018. The DPD would include specific details as to suitable locations for landfill sites; this would either be in the form of areas of search and/or specific sites. To get to that stage detailed assessment of suitable geology, aquifers and source protection zones would have to be considered. This follows Environment Agency Landfill Directive Regulatory Guidance Note 3 (Version 4.0, December 2002) Groundwater Protection: Locational aspects of landfills in planning consultation responses and permitting decisions) on landfill design and construction which excludes non-hazardous landfills on or in a major aquifer. Other planning issues such as transport, ecology, flood risk, amenity and proximity to sensitive</u></p>	<p>The HRA of the site options demonstrated that there are locations within the County where the development of facilities which do not have long ranging impacts (such as landfill) will be possible with no likely significant effects on European sites. The HRA of the Site Options therefore did not specifically address landfill, however the modifications to this policy plus WCS4, WCS7 and Appendix 5 (MM10, MM15 & MM30) protect European sites such that the development of landfill will not adversely affect the integrity of European sites.</p> <p>It is considered that with the modified wording, policy WCS6a is compliant with the Habitats Regulations.</p>

<p><u>receptors would also need to be taken into consideration. If a planning application for waste disposal by landfill were to be submitted the policy below outlines those matters which would need to be considered in the determination of such a proposal.</u></p> <p><u>New Core Policy WCS6a</u></p> <p><u>Core Policy WCS6a – Landfill</u></p> <p><u>Proposals for new landfill developments or extensions to existing landfill sites will only be permitted where it can be demonstrated that:</u></p> <ol style="list-style-type: none"> <u>1. The waste cannot be managed further up the waste hierarchy through reuse, recycling and recovery; and</u> <u>2. The proposed landfill would involve the minimum amount of waste necessary to deliver the County's needs and to enable:</u> <ol style="list-style-type: none"> <u>i. restoration of current or former minerals sites (subject to technical suitability of the site); or</u> <u>ii. a demonstrable improvement in the quality of the land; or</u> <u>iii. facilitating an appropriate after use; or</u> <u>iv. the engineering or other operations.</u> <u>3. The proposed development would not compromise the permitted restoration of mineral sites or existing landfill sites by the diversion of significant amounts of material; and</u> <u>4. The site does not adversely affect the following designations – major aquifers, source protection zones and European Sites.</u> <u>5. Any proposal for new or extended landfill will need to indicate that it is principally for Gloucestershire's waste disposal needs. Waste from outside of the county will only be disposed of within Gloucestershire unless it can be demonstrated through supporting information to be the most sustainable option.</u> 	
<p><u>MM14</u></p> <p><u>Policy WCS6</u></p> <p>Insert additional text as follows:</p>	<p>Not a material change affecting compliance or HRA</p>

<p>Factors to be included in any assessment of environmental acceptability will include:</p> <ol style="list-style-type: none"> 1.The quality of life, amenity and health of local residents and other land users; 2.Impacts on neighbouring land-uses (including the local road network) and the potential for the achievement of appropriate 'stand-off distances' between the facility and residential properties; 3.The need for the facility, where applicable, its relationship with existing activities and the potential wider environmental implications of not managing the waste stream;and 4. Where applicable, the potential for successful land restoration; <u>and</u> 5. <u>That the hazardous waste is managed as high up the waste hierarchy and as close to source as possible.</u> 	
<p>MM15 Policy WCS7 & associated text changes Policy WCS7</p> <p>In determining proposals for waste related development for new or enhanced waste management facilities the Council will have regard to the cumulative effects of previous and existing waste management facilities on local communities alongside the potential benefits of co-locating complimentary facilities together. <u>Planning permission will be granted where the proposal would not have an unacceptable cumulative impact.</u></p> <p>In considering the issue of cumulative impact, particular regard will be given to the following:</p> <ol style="list-style-type: none"> 1. Environmental quality; 2. Social cohesion and inclusion; and 3. Economic potential. <p>Within these broad categories this will, <u>subject to the scale and nature of the proposal</u>, include an assessment of the following issues: noise, odour, traffic <u>(including accessibility and sustainable transport considerations)</u>, dust, health, <u>ecology</u> and visual impacts.</p> <p>Traffic impacts will be given particular attention as they are diffuse by their nature and thus not contained on sites.</p> <p>Paragraph 4.183 Insert text as follows: Should development proposals come forward on any of these sites, a further assessment will be needed at the planning application stage to determine the potential impact once the details of any proposal are known. Planning conditions can then be used to control certain aspects of the development as appropriate e.g. hours of operation and the impacts of noise, dust and odour. The same principles apply to speculative waste related development proposals on unallocated sites. <u>In relation to the Council Directive 92/42 EEC</u></p>	<p>See also comments made relating to WCS4 (MM10) and Appendix 5 (MM30). The supporting text at paragraph 4.183 and inclusion of the word 'ecology' makes it clear (for the avoidance of doubt) that development brought forward at the planning application stage must demonstrate no adverse effect on the integrity of European sites which includes assessing any cumulative effects.</p> <p>It is considered with this modification that Policy WCS7 is compliant with the Habitats Regulations.</p>

<p><u>and the Conservation of Habitats and Species Regulations the WCS will only make provision for a level and location of residual waste management development where there will be no adverse effect on the integrity of any SAC, SPA or Ramsar site, even if this is below the indicative residual waste recovery capacity set out in this WCS.</u></p>	
<p>MM16 <u>Policy WCS8 & associated text changes</u> <u>Paragraph 4.193 Inset text as follows</u></p> <p><u>The waste management sites within the county can regularly change due to new permissions being granted and facilities closing. Therefore the Council will produce a list of the current waste management sites within the county in its monitoring report which will be produced on an at least yearly basis. This is likely to include around 150 sites on average. The sites will be grouped into the respective districts and the Local Planning Authority will be notified accordingly and it will be these sites to which Policy WCS8 applies.</u> Our proposed approach is set out in Core Policy WCS8 below.</p> <p><u>Policy WCS8 Insert additional text as follows:</u></p> <p>Existing and allocated sites for waste management use¹ will <u>normally</u> be safeguarded by local planning authorities who must consult the Waste Planning Authority where there is likely to be incompatibility between land uses. Proposals that would adversely affect, or be adversely affected by, waste management uses will not be permitted unless it can be satisfactorily demonstrated by the applicant that there would be no conflict.</p> <p>The Waste Planning Authority (WPA) will oppose proposals for development that would prejudice the use of the site for waste management.</p> <p>¹includes sewage treatment works</p>	<p>Not a material change affecting compliance or HRA</p>
<p>MM17 <u>Policy WCS9 Amend as follows:</u></p> <p>In order to reduce the likelihood and impact of flooding both on and off-site there will be a general presumption that all waste-related development will be located in areas of low flood risk, (Flood Zone 1) unless it can be demonstrated that there are no suitable, alternative sites available.</p> <p>Only if no suitable sites are available in Flood Zone 1 will consideration be given to sites within Flood Zone 2 and only if no suitable sites are available in Zone 2 will consideration be given to sites within Flood Zone 3a. Proposals relating to sewage treatment works which are classified as 'less vulnerable' may come forward in Flood Zones 1, 2 and 3a although the sequential approach will still apply.</p>	<p>Not a material change affecting compliance or HRA</p>

<p>Proposals for 'more vulnerable' waste development including landfill/landraise and hazardous waste treatment and disposal will only be permitted in Flood Zone 3a where it can be demonstrated through application of the 'exception test' that:</p> <ul style="list-style-type: none"> - The development provides wider sustainability benefits to the community that outweigh flood risk having regard to the Gloucestershire Strategic Flood Risk Assessment (SFRA); and - The site is previously developed or if not, that there are no reasonable and available alternative sites on previously developed land; and - The development will be safe without increasing flood risk elsewhere and where possible, will reduce flood risk overall. <p>Proposals for waste-related development within Flood Zone 3b (the functional floodplain) will not be permitted other than 'water compatible' proposals such as sewage transmission infrastructure and pumping stations <u>and, subject to the exception test, development which is classified as 'essential infrastructure'.</u></p> <p>A Flood Risk Assessment (FRA) will be required for all development of 1 hectare or more and for any proposal located within Flood Zone 2 and 3a. <u>The FRA should consider all sources of potential flood risk.</u></p> <p>The design of all new development will be required to take account of current and potential future flood risk <u>from all sources</u> both on and off-site including in particular the use of Sustainable Drainage Systems (SUDS).</p>	
<p>MM18 Policy WCS10 & associated text changes</p> <p>Paragraph 4.218 Amend as follows:</p> <p>4.218 The WPA will work in partnership with the local authorities of Gloucester, Cheltenham and Tewkesbury in relation to potential Green Belt revisions <u>arising through the Joint Core Strategy or other relevant Development Plan Documents (DPD) to ensure that any such revision takes full account of proposed waste management facilities including where appropriate the designation of 'inset' sites within the Green Belt.</u></p> <p>New paragraph 4.220 Insert as follows:</p> <p><u>The matters which might indicate that very special circumstances might exist in relation to waste related proposals might include the lack of suitable and available non - Green Belt sites. In particular a proposal</u></p>	<p>Policy WCS10 is still considered to be compliant with the Habitats Regulations. No further comments</p>

<p><u>would need to indicate a particular identified need for the facility to be located where it is proposed such as proximity to the main waste arisings, or a relationship to an existing waste management facility. However the proposal would need to demonstrate that it did not conflict with the purposes of Green Belt designation and the positive contribution that can be made by the development to the use of land in the Green Belt.</u></p> <p><u>Core Policy WCS10 – Green Belt - Replace existing policy with text below:</u></p> <p><u>There will be a presumption against</u> proposals for waste <u>management that amounts to inappropriate</u> development within the Gloucester – Cheltenham Green Belt <u>except</u> where it can be demonstrated that there are ‘very special circumstances’.</p> <p><u>Very special circumstances’ to justify inappropriate waste development proposals will not exist unless the totality of the harm to the Green Belt and other matters can be clearly outweighed by other considerations.</u> Where the proposal involves the re-use of an existing building <u>in the Green Belt</u>:</p> <ul style="list-style-type: none"> - It must not have a materially greater impact than the existing building on the openness of the Green Belt and the purpose of including land within it; and - The building must be of permanent and substantial construction and be capable of conversion without major or complete reconstruction; and - The form, bulk and design of the buildings is in keeping with its surroundings; and - The proposal would be consistent with other relevant development plan policies. 	
<p>MM19 <u>Core Policy WCS11 and associated text changes</u></p> <p><u>Replace Paragraph 4.223 with the following:</u></p> <p>4.223 <u>Gloucestershire has a diverse landscape as a result of a number of factors including its unique geology, culture, and socio-economic influences. In 2006 a Landscape Character Assessment was produced on behalf of Gloucestershire County Council which identified 38 landscape types within the county. It accompanied two earlier district landscape assessments for the Forest of Dean (2002) and the Cotswolds (2004).</u></p> <p>4.224 <u>Over 50% of the county is falls within the Cotswold AONB, Wye Valley AONB and the Malvern Hills AONB and as</u> a national designation AONBs have been confirmed by the Government as having the highest status of protection in relation to landscape and scenic beauty. The conservation of the natural beauty of the landscape and countryside should therefore be given great weight in planning policies and planning decisions in these areas. Planning policies should also support suitably located and designed development that may be necessary to facilitate the</p>	<p>Not a material change affecting compliance or HRA</p>

economic and social well-being of the AONB and its communities⁴⁴.

Replace paragraph 4.229 with the following:

4.229 The proposed locational strategy set out in Core Policy WCS4 ensures that all of the strategic site allocations identified in the WCS are located outside of the AONB. There is however of course the possibility of speculative unplanned development proposals coming forward and as such we need to ensure an appropriate policy framework is in place to determine these against the national designation of AONB and the potential impact of development on all landscapes of the county.

4.230 Our proposed approach is set out in Core Policy WCS11

(1) ⁴⁴See PPS7: Sustainable Development in Rural Areas (2004).

Core Policy WCS11 - Replace with following:

Core Policy WCS11 - Landscape

General Landscape

Proposals for waste development will be permitted where they do not have an adverse effect on the local landscape as identified in the Landscape Character Assessment¹ or unless the impact can be mitigated.

Areas of Outstanding Natural Beauty (AONB)

Proposals for waste development within or affecting the setting of the Cotswolds, Wye Valley and Malvern Hills Areas of Outstanding Natural Beauty (AONB) will only be permitted where it can be demonstrated that:

- There is a lack of alternative sites not affecting the AONB to serve the market need; and
- The impact on the special qualities of the AONB as defined by the relevant management plan (including the landscape setting and recreational opportunities) can be satisfactorily mitigated; and
- The proposal complies with other relevant development plan policies.

In the case of major development within the AONB, a proven public interest must be demonstrated. Planning permission will only be granted in exceptional circumstances following the most rigorous

(1) ¹ <http://www.gloucestershire.gov.uk/index.cfm?articleid=13187>

<p>examination and subject to the criteria above.</p> <p>The County Council will continue to work in partnership with the respective AONB Conservation Boards and/or Joint Advisory Committees to help deliver the vision and objectives of the AONB Management Plans and Waste Core Strategy (WCS).</p>	
<p>MM20 Core Policy WCS12 Amend policy as follows:</p> <p>Sites of Special Scientific Interest (SSSI) and National Nature Reserves (NNR) will be safeguarded from inappropriate waste management development.</p> <p>Planning permission for waste management development within or outside a Site of Special Scientific Interest (SSSI) or National Nature Reserve (NNR) will only be granted where it can be demonstrated that:</p> <ul style="list-style-type: none"> - The development would not conflict with the conservation, management and enhancement of the site unless the harmful aspects can be satisfactorily mitigated; or <u>and</u> - The benefit of the development clearly outweighs the impacts that the proposal would have on the key features of the site; and - The proposal complies with other relevant policies of the development plan; and - In the case of a SSSI, there would be no broader impact on the national network of SSSIs. <p>Local nature conservation designations will also be safeguarded from inappropriate development and planning permission will only be granted for development affecting such designations where it can be demonstrated that the impact of the development can be satisfactorily mitigated or <u>and</u> that the benefit of the development clearly outweighs any impact.</p> <p><u>Development proposals will be required to assess their impact on the natural environment and make a contribution to local nature conservation targets to ensure net gain for biodiversity.</u></p> <p>Proposals that incorporate beneficial biodiversity or geological features into their design and layout will be favourably considered particularly where the proposal would result in a positive contribution to a Strategic Nature Area (SNA) as identified on the Nature Map for Gloucestershire.</p> <p>Where proposals for major developments are within or close to Strategic Nature Areas (SNAs) they will be required to assess and make an appropriate contribution to nature conservation targets in those areas.</p>	<p>This policy does not include international sites as recommended in PPS 9. Inclusion of word 'and' rather than 'or' in the policy wording better protects SSSIs (which underpin international site). International sites are covered elsewhere by other Main Modifications (MM10, MM13, MM15 and MM30). Policy is compliant with the Habitats Regulations.</p>
<p>MM21</p>	<p>Not a material change affecting compliance or HRA</p>

Amend Historic Environment section as follows:

Historic Environment

- 4.248 Gloucestershire ~~is fortunate to have~~ has a rich historic environment that includes designated heritage assets such as listed buildings, scheduled monuments, conservation areas, registered parks and gardens, and registered battlefields, as well as many undesignated other archaeological sites and other historic structures. ~~Detailed~~ Information on these 'heritage assets' is set out in the archaeology evidence paper⁴⁶ available separately, and detailed information is held in the county Historic Environment Record.
- 4.249 Like any form of built development, due consideration must be given to the potential impact of new and expanded waste management facilities on the historic environment.
- 4.250 National policy on planning and the historic environment is currently set out in Planning Policy Statement 5: Planning for the Historic Environment (March 2010)⁴⁷.
- ~~4.251 Like all planning policy statements the provisions set out in PPS5 are a material consideration which must be taken into account in determining applications for planning permission. PPS5 emphasises that core strategies and other development plan documents should not repeat the policies set out in PPS5 or reformulate them unless there are specific factors which would justify a variation to the policies.~~
- ~~4.252 Taking this into account it is not considered necessary or appropriate to include a specific policy on the historic environment within the WCS. Any planning decision made by the Council as Waste Planning Authority (WPA) where the proposal has the potential to impact on Gloucestershire's historic environment and assets, will be determined having due regard to the policies and objectives laid out in PPS5— Planning for the Historic Environment. In addition there are detailed policies related to archaeology and the historic environment that remain in force in the WLP. It is our intention that these policies will continue to be used along side PPS5 as appropriate until they are updated through the preparation of a separate development management waste DPD to be prepared following adoption of the WCS.~~
- 4.253 There will be a general presumption against development which would cause damage or involve significant alteration to Gloucestershire's heritage assets and their settings. Scheduled monuments and other designated heritage assets will be afforded the highest level of safeguarding. Proposals which are likely to affect the historic environment will need to be supported by an appropriate evaluation of the significance of the asset. This should include measures to adequately mitigate adverse impacts or as a last resort compensate or offset any loss or damage to the asset.

<p>4.253 Our proposed approach is set out in policy WCS11a below.</p> <p>⁴⁶www.gloucestershire.gov.uk/wcs/evidence</p> <p>⁴⁷www.communities.gov.uk</p> <p>New Policy WCS12a – insert as follows:</p> <p><u>Policy WCS12a Historic Environment</u></p> <p><u>Planning permission for waste management that would have a significant adverse impact upon heritage assets including their integrity, character and setting will only be granted where it can be demonstrated that:</u></p> <ul style="list-style-type: none"> - <u>The benefits of the development clearly outweighs the impacts that the proposal would have in the key features of the site; or</u> - <u>The proposal includes adequate measures to mitigate adverse impacts; and</u> - <u>The proposal complies with other relevant policies of the development plan.</u> <p><u>There will be a presumption in favour of the conservation of designated heritage assets, and of those heritage assets with archaeological interest that are of demonstrably of equivalent significance.</u></p>	
<p>MM22</p> <p>WCS13a Bulking and associated text changes</p> <p><u>Section 4</u></p> <p><u>Paragraph 4.264 Amend text as follows:</u></p> <p>4.264 Most of Gloucestershire's waste is transported by road. Whilst Gloucestershire has an extensive road network including good links to the M4 and M5 motorways and other strategic routes, clearly in the interests of sustainability and reducing the impact of road transport on the environment, we need to consider <u>first how to minimise the impact of transporting waste by road e.g. through bulking and transfer and second,</u> whether more of our waste can be transported by alternative <u>sustainable</u> modes of transport in particular water (river and canal) and rail. This could potentially help to reduce the overall impact of waste management operations within the county.</p> <p><u>Bulking and Transfer</u></p> <p><u>4.264a One of the main ways in which we can reduce the impact of waste being transported by road is through the effective use of 'bulking and transfer' facilities. These are temporary waste storage facilities where waste is taken to be sorted and stored before being transported onwards for further management or disposal. Some facilities deal with mixed-waste, others with single waste types such as asbestos. Some include an element of waste recycling and recovery.</u></p>	<p>Not a material change affecting compliance or HRA.</p>

- 4.264b Importantly, the bulking of waste for onward transport to other waste facilities allows for greater efficiency, helps reduce journey length and in turn can help reduce traffic impacts.
- 4.264c If for example we provide bulking and transfer facilities in the right locations across Gloucestershire, some bin lorries will be able to drop their load close to where it was collected from allowing for the waste to be 'bulked up' and put onto larger vehicles for onward transfer to an appropriate facility as currently happens at Lydney and Cirencester. This is particularly applicable to more remote areas which are some way distant from the main waste management facilities.
- 4.264d As we described earlier, there are a number of existing waste bulking and transfer facilities in Gloucestershire dealing with different waste types including MSW, C&I, C&D and clinical waste. An element of waste transfer also takes place at other facilities including Household Recycling Centres (HRC).
- 4.264e Whilst our Waste Data Paper suggests that we already have adequate transfer capacity, there are a number of reasons why new or expanded facilities or a different spatial arrangement might be required in the future. These include changes in local authority contracts, different collection arrangements (for example arising from the implementation of the Joint Municipal Waste Management Strategy (JMWMS)) and commercial changes.
- 4.264f This may result in the need for new or expanded bulking and transfer facilities either to replace existing ones or to serve other parts of the County not currently covered.
- 4.264g Policy WCS13a overleaf therefore provides a criteria-based approach for bringing forward new bulking and transfer facilities in appropriate locations across the County. It should be noted that any waste transfer proposal which includes an element of recycling will also be considered having regard to Core Policy WCS2 as well as any other relevant core policies.

Paragraph 4.265 Amend text as follows:

Sustainable Transport

- 4.265 As we have outlined above, most waste in Gloucestershire is transported by road. Whilst the impact of this can be mitigated to a certain extent through effective bulking and transfer, in the interest of sustainable development we need to consider whether more of our waste can be transported by alternative modes of transport e.g. rail and water. The main issue militating against this is generally 'economies of scale' where the movement of waste or any bulk goods by rail or water only generally works with large tonnages over long distances. For example, significant quantities of waste are moved by rail from Bristol to Buckinghamshire.

<p><u>New Policy WCS13a – insert as follows:</u></p> <p><u>Core Policy WCS13a – Bulking and Transfer</u></p> <p><u>In order to promote greater efficiency and to reduce the potential impact of transporting waste by road, particularly on the Strategic Road Network (SRN) the Council will support in principle, proposals relating to the development of new and expanded bulking and transfer facilities.</u></p> <p><u>Planning permission will be granted subject to the following criteria being met:</u></p> <ol style="list-style-type: none"> <u>1. It can be demonstrated that the impact on the environment and neighbouring land uses is acceptable.</u> <u>2. The highway access is suitable for the proposed vehicle movements.</u> <u>3. The proposal contributes towards providing a sustainable waste management system for Gloucestershire.</u> <p><u>Particular support will be given to proposals that:</u></p> <ul style="list-style-type: none"> <u>- Are located within or close to an urban area; and/or</u> <u>- Involve the re-use of previously developed land, vacant or underutilised employment land and/or redundant rural buildings including farm diversification opportunities; and/or</u> <u>- Involve co-location with an existing operation of a similar or complimentary nature; and/or</u> <u>- Incorporate alternatives to the transport of waste by road (rail, water etc.), and/or</u> <u>- Are well located to allow employees to reach the site by foot, cycle or public transport.</u> <p><u>How will we know if the policy is working?</u></p> <p><u>4.264h There are a number of measures including:</u></p> <ul style="list-style-type: none"> <u>▪ Total available bulking and transfer capacity.</u> <u>▪ Number of planning applications refused on the basis of Policy WCS13a.</u> <u>▪ Number of new/expanded bulking and transfer facilities permitted per year.</u> 	
<p>MM23</p> <p><u>Policy WCS14 -Amend as follows:</u></p> <p>Any development exceeding the thresholds set out in the Department for Transport publication 'Guidance on Transport Assessment' must be supported by a Transport Assessment (TA) and Travel Plan.</p> <p><u>Consideration will also be had to the location of the proposed development in determining whether a TA is required.</u></p>	<p>Not a material change affecting compliance or HRA.</p>

MM30

Appendix 5 Changes relating to Ecology/HRA sections

Amend Ecology/HRA section of General Development Criteria as follows:

Survey(s) are required to determine whether notable species, habitats or possibly designated sites may be adversely affected by development. All surveys carried out should be assessed to determine:

1. The biodiversity importance of the land and its surrounds.
2. All impacts of the proposed development on biodiversity.
3. The choice of any necessary avoidance, mitigation and/or compensation measures for biodiversity.
4. Provision of landscaping/restoration and where possible enhancements for biodiversity on the land and/or surrounds.
5. Arrangements for appropriate after-care and long-term management of the land and/or surrounds.

Habitats Regulations Assessment (HRA):

The strategic sites identified within Policy WCS 4 have been subject to a study to consider any potentially significant effects on Natura 2000 sites i.e. European Sites of Nature Conservation Importance protected under the EU Habitats Directive (92/43/EEC) as transposed into UK law by the Conservation of Habitats and Species Regulations (the Habitats Regulations). European Sites include Special Areas of Conservation (SACs) and Special Protection Areas (SPAs). It is government policy to also consider Ramsar sites (wetlands of international importance) as if they were European Sites. Further information regarding European Sites and the results of the HRA are contained in the detailed report which supports the WCS. The overall aim of the HRA is to ensure that the strategy will not affect the integrity of these protected sites.

Any development proposals for waste management facilities which come forward at any of the strategic sites contained in Policy WCS 4 will need to be supported by sufficient information to assess the implications of a proposal, alone or in combination with other plans or projects, for any SAC, SPA or Ramsar site. The consideration of the assessment must show that a proposal can be determined without adverse impact on the integrity of any SAC, SPA or Ramsar site.
~~refer to the detailed findings of the HRA report. In most cases the strategic waste sites are some way distant from European Sites and therefore many forms of waste management development would potentially not have a significant impact on European Sites. The HRA has not precluded the development of thermal treatment facilities at any waste site, but for these proposals it must be demonstrated that there will be no significant effect on European Sites either alone or in combination with other plans or projects.~~
Each individual ~~waste~~ strategic site schedule indicates the particular European Sites which will need to be

See also WCS4 and WCS7 (MM10 and MM15)., It is considered that with the further policy text modifications Appendix 5 is compliant with the Habitats Regulations.

considered at the planning application stage. ~~The following applies: Section 61 of The Conservation of Habitats and Species Regulations 2010.~~

Amend Ecology/HRA Key Development Criteria for Wingmoor Farm East as follows:

In respect of the General Development Criteria, the presence of Key Wildlife Site (Wingmoor Farm Meadow) is confirmed as adjacent to the land and protected species (e.g. badger and great crested newt) may occur nearby or on the land. Trees, ponds and rough grassland are habitat features which could be affected by development on this land.

~~Any proposal for waste management at Wingmoor Farm East will need to demonstrate that there will be no significant effect on European Sites either alone or in combination with other plans or projects. Dixon Wood SAC will require specific consideration.~~

In respect of the General Development Criteria for HRA any AA will need to ensure that there will be no adverse effect on the integrity of any SAC, SPA or Ramsar site, either alone or in combination with other plans or projects. In particular, Dixon Wood SAC will require specific consideration in such an assessment.

Amend Ecology/HRA Key Development Criteria for The Park as follows:

In respect of the General Development Criteria, the presence of protected species has been confirmed by surveys connected with previous developments in the vicinity (e.g. great crested newt and badgers) with reptiles and nesting birds also likely to be present on or near this land. Trees, ponds, watercourses and rough grassland are habitat features which could be affected by further development on this land.

~~Any proposal for waste management at Wingmoor Farm West & The Park will need to demonstrate that there will be no significant effect on European Sites either alone or in combination with other plans or projects. Dixon Wood SAC will require specific consideration.~~

In respect of the General Development Criteria for HRA any AA will need to ensure that there will be no adverse effect on the integrity of any SAC, SPA or Ramsar site, either alone or in combination with other plans or projects. In particular, Dixon Wood SAC will require specific consideration in such an assessment.

Amend Ecology/HRA Key Development Criteria for Wingmoor Farm West as follows:

In respect of the General Development Criteria, the presence of protected species has been confirmed by surveys connected with previous developments in the vicinity (e.g. great crested newt and badgers) with reptiles and nesting birds also likely to be present on or near this land. Trees, ponds, watercourses and rough grassland are habitat features which could be affected by further development on this land.

~~Any proposal for waste management at Wingmoor Farm West & The Park will need to demonstrate that~~

~~there will be no significant effect on European Sites either alone or in combination with other plans or projects. Dixon Wood SAC will require specific consideration.~~

In respect of the General Development Criteria for HRA any AA will need to ensure that there will be no adverse effect on the integrity of any SAC, SPA or Ramsar site, either alone or in combination with other plans or projects. In particular, Dixon Wood SAC will require specific consideration in such an assessment.

Amend Ecology/HRA Key Development Criteria for Javelin Park as follows:

In respect of the General Development Criteria, the presence of protected species has been confirmed in the surrounding area (e.g. badger and barn owl) but reptiles, nesting birds and bats may also occur on the land itself. There is some probability but not high that water voles and great crested newts may use land around the margins of the land. On site habitat features include scrub and regenerating 'brownfield' land and there are boundary features including hedgerows and a watercourse which could be affected by new development.

Any proposal for waste management at Javelin Park will need to demonstrate that there will be no significant effect on European Sites either alone or in combination with other plans or projects. In respect of the General Development Criteria for HRA any AA will need to ensure that there will be no adverse effect on the integrity of any SAC, SPA or Ramsar site, either alone or in combination with other plans or projects. In particular, the Severn Estuary SAC, SPA, Ramsar, Walmore Common SPA, Ramsar, Cotswold Beechwoods SAC and Rodborough Common SAC will require specific consideration.

Amend Ecology/HRA Key Development Criteria for Moreton Valence as follows:

In respect of the General Development Criteria, badgers have been confirmed in the general area and so this protected species may be the main constraint along with boundary features of hedgerows, trees and ditches which may possibly support other protected species (e.g. nesting birds and bats).

~~Any proposal for waste management at Morton Valence will need to demonstrate that there will be no significant effect on European Sites either alone or in combination with other plans or projects. In respect of the General Development Criteria for HRA any AA will need to ensure that there will be no adverse effect on the integrity of any SAC, SPA or Ramsar site, either alone or in combination with other plans or projects. In particular, the~~ Severn Estuary SAC, SPA, Ramsar, Walmore Common SPA, Ramsar, Rodborough Common SAC and Cotswold Beechwoods SAC will require specific consideration.

Amend Ecology/HRA Environmental Considerations for The Park as follows:

The nearest European site is Dixon Wood SAC, at a distance of ~~5.8~~ c.6 km.
Wingmoor Farm Meadow GWT Reserve & Key Wildlife Site; Lowland meadows Priority Habitat and Wingmoor Farm Meadow GC/SO92/W01 Grassland Inventory sites are located within 1km of the two sites.

Site A (The Park)

Brown Argus (*Aricia agestis*) have been identified within 50m of the site.
Rye Brome (*Bromus secalinus*), Brown Hare (*Lepus capensis*), Small Heath (*Coenonympha pamphilus*) and Wall (*Lasiommata megera*) have been identified within 1km of the site.

Amend Ecology/HRA Environmental Considerations for Wingmoor Farm West as follows:

The nearest European site is Dixton Wood SAC, at a distance of 5.8 km.
Wingmoor Farm Meadow GWT Reserve & Key Wildlife Site; Lowland meadows Priority Habitat and Wingmoor Farm Meadow GC/SO92/W01 Grassland Inventory sites are located within 1km of the two sites.

Site A (The Park)

~~Brown Argus (*Aricia agestis*) have been identified within 50m of the site.
Rye Brome (*Bromus secalinus*), Brown Hare (*Lepus capensis*), Small Heath (*Coenonympha pamphilus*) and Wall (*Lasiommata megera*) have been identified within 1km of the site.~~

Site B (Wingmoor West)

Brown Hares (*Lepus capensis*) have been identified adjacent to the site.
Brown Argus (*Aricia agestis*), Small Heath (*Coenonympha pamphilus*) and White Letter Hairstreak (*Satyrrium w-album*), have all been identified within 1km of the site.

Amend Ecology/HRA Environmental Considerations for Javelin Park as follows:

The nearest European site is the Severn Estuary SAC, SPA, Ramsar at a distance of c.6.3 km. Other nearby European sites include Walmore Common SPA, Ramsar (~~6.7~~ c.6.5km), Cotswold Beechwoods SAC (c.7.4 km) and Rodborough Common SAC (c.7.56 km).

Amend Ecology/HRA Environmental Considerations for Moreton Valence as follows:

The nearest European site is the Severn Estuary SAC, SPA, Ramsar at a distance of c.5.35 km. Other nearby European sites include Walmore Common SPA, Ramsar (c.6.35km), Rodborough Common SAC (~~c.7.9~~ 8km) and Cotswold Beechwoods SAC (c.8.0km).

This assessment has been an iterative process working alongside and informing the contents of the GCC WCS Site Options and policies. The final aim of this study has been to carry out a review of the Modification Version of the WCS in terms of compliance with the Habitats Regulations and Council Directive 92/43/EEC. This assessment has been an iterative process working alongside and informing the contents of the GCC WCS Site Options and policies. The final aim of this study has been to carry out a review of the Modification Version of WCS in terms of compliance with the Habitats Regulations and Council Directive 92/43/EEC. As part of this process ERM have made some recommendations to the draft Main Modification which are highlighted in yellow.

GCC decided it would be unreasonable to rule out any site allocations or waste facility types at the WCS stage as the HRA of the Site Options concluded a proposal could be acceptable when facility design is known and mitigation measures are set out for consideration at the planning application stage.

The modifications in Appendix 5 (Site Schedules) of the WCS publication version meant the WCS, and WCS4 could not have an adverse effect on the integrity of any international site and so the HRA was considered complete to a level compliant with legislation.

Natural England (letter dated May 2011) and the Environment Agency (letter dated February 2011 and statement to the EiP) also considered that the HRA was sufficient for the WCS and that a more detailed assessment could occur at the planning application and Environmental Permitting stages.

At the Examination in Public of the WCS, legal opinion based on the High Court Feeney judgement (Feeney vs. Oxford City Council CO/3797/2011) confirmed this view. In the Counsel Note to the Inspector, Mr Anthony Crean QC stated that *"the Law recognises that high level strategic plans which make land allocations which anticipate further, more detailed proposals are allowed to be more general in their anticipation of effect. You can only know what you can know. You can only assess what you can assess. If a strategic high level plan can only be brought forward three years in advance of a detailed proposal then it plainly cannot discount all the possible effects of such a proposal on a SAC. The most it can do is provide a framework within which the latter application will be approved only if it meets the requirements of the Habitats Directive. Any other solution would bring an end to forward planning. The judge in Feeney dealt with this point in this way"*.

Anthony Crean QC continued that *"The approach of introducing a caveat or qualification into a policy which has the effect of assuring the integrity of the ecological interest is plainly the way forward here and the Inspector should be invited to carefully consider the utility of this approach in the context of the WCS."*

Therefore, at the advice of Mr Anthony Crean QC, and to strengthen the WCS further, in its protection of international sites, GCC has modified the wording of policy WCS4, supporting text and a minor word insertion has been made into policy WCS7 and changes to text in Appendix 5 (Site Schedules).

The assessment has shown that the strategy has the flexibility to deliver the required recovery capacity within the requirements of the Habitats Regulations.

GCC, supported by Counsel Opinion, considers the WCS is compliant with the Conservation of Habitats and Species Regulations (which enacts the Council Directive 92/42 EEC).