



UNITED KINGDOM WITHOUT INCINERATION NETWORK

RESPONSE TO THE DRAFT NATIONAL PLANNING POLICY FRAMEWORK CONSULTATION DOCUMENT

Date of Submission:
September 2011

Company Number:
06660486

Registered Office:
25 THE BIRCHLANDS
FOREST TOWN
MANSFIELD
NOTTINGHAMSHIRE
UNITED KINGDOM
NG19 0ER

Contact Details:
Shlomo Downen
National Co-ordinator

shlomo.downen@gmail.com
(01623) 640134

Introduction

1. The United Kingdom Without Incineration Network (UKWIN) welcomes this opportunity to respond to the Government's National Planning Policy Framework (NPPF) consultation document.
2. UKWIN was founded in March 2007 to promote sustainable waste management and help local groups engage positively with the planning system. UKWIN currently has more than 80 member groups.
3. Waste incinerators (i.e. all facilities covered by the Waste Incineration Directive) constitute a unique type of development with great potential to adversely affect waste reduction, re-use and recycling efforts for their entire (50-years or more) operating life. Incineration is also harmful to meeting UK targets for the decarbonisation of the energy mix.
4. This consultation submission response should be read in conjunction with our first consultation submission, written prior to the release of the draft NPPF, which is attached as an appendix to this submission. UKWIN's position is that the draft NPPF has failed to ensure that waste incinerators are not imposed on communities that do not want them and fails to give communities recourse to a public inquiry via an automatic right of appeal.

UKWIN Response to the Draft NPPF

5. Paragraph 10 of the draft NPPF provides a definition of sustainable development. UKWIN is concerned that this definition would allow for unsustainable incinerators to be treated as if they were sustainable. Incineration of fossil fuels is inherently unsustainable and should therefore not benefit from any presumption in favour of sustainable development. In fact, there should be a clear presumption against unsustainable developments such as incineration.
6. Paragraph 14 of the draft NPPF states that authorities should “...grant permission where the plan is absent, silent, indeterminate or where relevant policies are out of date...”. UKWIN is concerned that this principle, if applied to proposed incinerators, would unfairly deprive communities of the ability to be properly consulted regarding how their waste should be managed and could lead to unneeded incinerators being imposed, without due process, upon local communities that do not want them.
7. The Glossary to the draft NPPF does not provide sufficient clarity as to what is meant by the terms ‘renewable’ and ‘low-carbon’ energy. The Government should specifically rule out from the definition of ‘renewable energy’ any scheme which relies upon the combustion of fossil fuels such as plastics (e.g. mixed waste incineration). The Government should specifically rule out from the definition of ‘low-carbon’ any scheme which would hamper efforts to decarbonise the energy supply.
8. Preferably such a definition of ‘low-carbon’ would require a facility to produce less carbon than both the marginal electricity mix estimated by the Inter-departmental Analysts’ Group¹ and the Committee on Climate Change’s recommendation of 50g CO₂e/kWh by 2030. The Government should also make it clear that the emission of biogenic carbon should be included within the calculation of emissions.
9. Even using the illustrative benchmark of 100g CO₂e/kWh outlined within the Government’s Electricity Market Reform consultation would be better than the rather fuzzy statement of “compared to conventional use of fossil fuels”.
10. Furthermore, the Government should require that such ‘low-carbon’ and ‘renewable’ schemes meet strict sustainability standards to ensure that proposals would not result in unacceptable changes in land-use or deviations from the waste hierarchy.

¹ See http://www.decc.gov.uk/en/content/cms/about/ec_social_res/iag_guidance/iag_guidance.aspx

APPENDIX



UNITED KINGDOM WITHOUT INCINERATION NETWORK

NATIONAL PLANNING POLICY FRAMEWORK CONSULTATION SUBMISSION

Date of Submission:

15th February 2011

Company Number:

06660486

Registered Office:

25 THE BIRCHLANDS
FOREST TOWN
MANSFIELD
NOTTINGHAMSHIRE
UNITED KINGDOM
NG19 0ER

Contact Details:

Shlomo Downen
National Co-ordinator

shlomo.dowen@gmail.com
(01623) 640134

Introduction

1. The United Kingdom Without Incineration Network (UKWIN) welcomes this opportunity to contribute to the National Planning Policy Framework (NPPF) consultation.
2. UKWIN was founded in March 2007 to help local groups develop the case against waste incineration and engage positively with the planning system, and in doing so create a UK-wide movement in favour of more sustainable approaches to waste management. UKWIN currently has some 82 member groups.
3. UKWIN's vision is in harmony with the One Planet Living goal featured in the 2007 Waste Strategy. One Planet Living should go hand in hand with the Government's commitment to a zero waste economy. A zero waste economy, and a trajectory that would move us closer to One Planet Living, must emphasise ongoing reductions in the quantities of all wastes arising. There is no place for incineration in a zero waste economy.
4. Waste incinerators (i.e. all facilities covered by the Waste Incineration Directive) constitute a unique type of development with great potential to adversely affect waste reduction, re-use and recycling efforts for their entire (50-years or more) operating life. Incineration is also harmful to meeting UK targets for the decarbonisation of the energy mix.
5. UKWIN produced a comprehensive response to DEFRA's Call for Evidence as part of the Waste Review. Our full submission is available at: http://ukwin.org.uk/files/pdf/UKWIN_DEFRA_Submission_4_October_2010.pdf
6. In a letter dated 11th November 2010, prior to the release of the Localism Bill, UKWIN wrote to the Department for Communities and Local Government (DCLG) raising our concerns that the Localism Bill should ensure that waste incinerators are not imposed upon communities that do not want them. This letter is available at: http://ukwin.org.uk/files/pdf/UKWIN_Localism_11_November_2010.pdf
7. UKWIN received a reply from the DCLG's Mark Plummer, dated 17th January 2011, wherein Mr Plummer called attention to the Rt Hon Greg Clark MP's announcement regarding the NPPF consultation, and Mr Plummer invited UKWIN to participate.

UKWIN's position

8. UKWIN's position is that the granting of planning consent for increased incineration capacity is unjustifiable. However, if the Government disagrees with UKWIN in this regard then UKWIN proposes the following principles:
 - 8.1. Government should ensure that waste incinerators are not imposed on communities that do not want them. Or, at the very least, these communities should have recourse to a public inquiry via an automatic right of appeal;
 - 8.2. Incinerator applications (i.e. planning applications for any facility covered by the Waste Incineration Directive) should fall outside the ambit of any presumption in favour of sustainable development. Or, at the very least, applications for waste incinerators should be required to robustly demonstrate sustainability throughout their lifespan; and
 - 8.3. National planning policy should be made stronger in order to help ensure that waste facilities are well-located and that proposals are consistent with the waste hierarchy. This should also include an explicit commitment to preventing the unintentional creation of Persistent Organic Pollutants (POPs). Or, at the very least, the simplification of the planning system should not make it easier for incinerators to obtain planning consent.
9. UKWIN believes that all three of these principles are important for a fair and just planning system. If the Government decides that our planning system should operate in a manner inconsistent with any one of these principles then it is all the more important that the other principles are properly followed.

Not imposing incinerators on communities that do not want them

10. On 1st July 2010 the Secretary of State for Energy and Climate Change, Christopher Huhne, said: “We support modern energy generation from waste where local communities want it and where it makes good environmental sense”¹ [emphasis UKWIN’s].
11. This echoes Nick Herbert MP’s statement, made when he was the Shadow Environment Minister, that: “Where there is community consent, there is also a place for energy recovery plants for non-recyclable material”² [emphasis UKWIN’s].
12. The principle at work here is that incinerators should not be imposed upon communities that do not want them.
13. This principle is entirely consistent with UKWIN’s understanding of what the Coalition Government aspires to achieve through the Localism agenda. As such, we hope that sufficient safeguards will be put in place to ensure that waste incinerators cannot be imposed upon communities that do not want them.
14. There is currently nothing in place to ensure that waste incinerators are not being imposed on communities against their expressed wishes. Public opposition to incineration is not even considered to be a material planning consideration.
15. As long as this remains the case, and until genuine community consent is required for waste incinerators, UKWIN argues that – in the name of fairness – communities should be granted an automatic right to appeal any incinerator-related planning decision, i.e. any decision involving a facility that is covered by the Waste Incineration Directive.
16. The Rt Hon Greg Clark MP said in a written ministerial statement that: “The national planning policy framework will set out the Government’s views on how the planning system in England can contribute to the delivery of a prosperous, competitive and attractive country based on the values of freedom, fairness and responsibility”³ [emphasis UKWIN’s].
17. In the interests of fairness communities should be able to have recourse to a public inquiry via an automatic right of appeal in circumstance where attempts are being made to impose an incinerator upon them without their consent.
18. The current planning system includes an asymmetrical right to appeal enjoyed by developers but not by the community.
19. UKWIN calls attention to the Conservative Party’s *Open Source Planning* Policy Green Paper, page 7 of which states that: “...we will make the system symmetrical by allowing appeals against local planning decisions from local residents, as well as from developers”.

¹ HC Deb, 1 July 2010, c977

² Speech at Policy Exchange, July 20 2009. Available from:

http://www.conservatives.com/News/Speeches/2009/07/Nick_Herbert_It_is_time_to_stop_sending_waste_to_landfill.aspx

³ HC Deb, 20 December 2010, c143WS

20. Another aspect of fairness is that not only must justice be done, but justice must be seen to be done. Many would-be incinerator developers are waste partners with the very local authorities who determine planning applications for waste incinerators. Would-be incinerator developers sometimes submit applications on behalf of the local authority, to fulfil a contractual obligation arising from a waste contract with that authority.
21. Regardless of the ability of Planning Officers and Planning Committee Members to treat such applications impartially, when planning permission is granted under such circumstances it is entirely reasonable for communities to feel that they have not been given a fair hearing. Without a public inquiry, i.e. without the consideration of someone who is seen to be impartial, and where there is seen to be no potential for conflict of interest in the determination of the application, communities will understandably experience the planning system as unfair.
22. Furthermore, in two-tier authorities it can often be the case that a local (e.g. district or borough) council objects to an incinerator application, often because the proposal is considered to conflict with the local development plan, but the waste planning authority nevertheless decides to grant planning permission. In such circumstances the lack of recourse to an independent arbiter is experienced as especially unfair.

Sustainability

23. The Rt Hon Greg Clark MP said in a written ministerial statement that: "...The framework will also set out a strong basis for economic growth, a presumption in favour of sustainable development, as well as any further policy needed to establish and implement neighbourhood plans"⁴ [emphasis UKWIN's].
24. This statement echoes that made in Action 5.2 of the DCLG's Business Plan 2011 – 2015 (published 8th November 2010), which states: "Introduce as part of the national planning framework a strong presumption in favour of sustainable development"⁵ [emphasis UKWIN's].
25. The principle of a presumption in favour of sustainable development is also found in the Conservative Party's *Open Source Planning* Policy Green Paper, page 3 of which states that: "...we will create a system of approvals which is much more open and responsive by: establishing a presumption in favour of sustainable development: the presumption will be that individuals and businesses have the right to build homes and other local buildings provided that they conform to national environmental, architectural, economic and social standards, conform with the local plan, and pay a tariff that compensates the community for loss of amenity and costs of additional infrastructure".
26. UKWIN members would be deeply dismayed if such a presumption resulted in planning applications for waste incinerators being treated as if incinerators were somehow inherently "sustainable".
27. Incinerators have the potential to have a significant adverse effect on the environment and to adversely affect the sustainable management of discarded material (waste), and in UKWIN's view building new incinerators is inherently unsustainable.
28. UKWIN strongly asserts that waste incineration cannot ever be appropriately described as contributing to sustainable waste management. Only the highest rungs of the waste hierarchy can be considered "sustainable", i.e. reduction, reuse, recycling, composting and AD.
29. Incinerator applications (i.e. planning applications for any facility covered by the Waste Incineration Directive) should therefore fall outside the ambit of any presumption in favour of sustainable development.
30. Incinerator applications are often predicated upon an increase in future waste arisings and depressed recycling and composting levels over the lifetime of the proposed incinerator, and as such are inherently unsustainable, and incompatible with One Planet Living.
31. UKWIN refutes the notion that high recycling and high incineration can be seen as compatible. Incineration is in fact a barrier to high recycling. The idea that one could have both high recycling and high incineration is a contradiction in terms.

⁴ *ibid.*

⁵ Available from: <http://www.communities.gov.uk/documents/corporate/pdf/1762476.pdf>

32. With some 70% of household waste considered by the Audit Commission (2008, Well Disposed, Para 140) to be “readily recyclable” (and at Para 47 it is noted that 70% of MSW is biodegradable, and would therefore be suitable for composting / AD), and with the Welsh Assembly Government’s study demonstrating that 93.3% of discarded materials could be recycled or composted⁶, it is apparent that high incineration rates can only come at the expense of recycling and composting.
33. Whilst 6.7% of the current waste stream may not be recyclable that does not mean that it is combustible and due to waste minimisation efforts the quantity of such waste should be expected to decrease in real terms. In fact, in a zero waste strategy this non-recyclable waste should be a top priority for waste minimisation efforts and should not be used to justify waste incineration.
34. Incineration is not sustainable by virtue of its feedstock composition and its emissions. Any disposal or EfW process that consumes unsustainable (non-renewable) material, such as fossil derived plastics, cannot itself be accurately described as a sustainable process.
35. The Inspector considering the Ridham Dock Incinerator application concluded that if permission were granted the “provision of greater incineration capacity than necessary would tend to undermine efforts to increase waste recycling and recovery locally, and encourage the transportation of waste from a more widespread catchment area”⁷.
36. According to the Local Government Improvement and Development organisation (formerly known as I&DeA): “There is a danger that investing in large, inflexible EfW incineration facilities as a technical fix to divert waste from landfill can undermine efforts to prioritise minimisation and recycling”⁸.
37. Further evidence of incineration harming recycling is contained within UKWIN’s Waste Review submission to DEFRA (specifically Paras 6.7 through 6.34). See http://www.ukwin.org.uk/files/pdf/UKWIN_DEFRA_Submission_4_October_2010.pdf
38. The Guardian newspaper reported that East Sussex County Council was “so worried it may not be able to fulfil its contract that it has now capped Lewes and Wealden’s recycling levels - effectively penalising them if they recycle more than about 30% of their waste”⁹.
39. The Government needs to learn from the experience in Kent where it is reported that “...the council is forced to send increasingly valuable recyclable material to the incinerator in order to meet its annual quota”. Kent County Council’s Environment Spokesman said of the decision to sign a long-term incineration contract: “What seemed a very wise decision a very long time ago is a very stupid one today...”¹⁰.

⁶ <http://wales.gov.uk/docs/dsjlg/meetings/090106pc304annex2e.doc>

⁷ Planning Inspectorate (2002), Ridham Dock, Kent, 17 Oct 2002 APP/W2275/A/01/1061392

⁸ <http://www.idea.gov.uk/idk/core/page.do?pageId=9594626>

⁹ John Vidal, 9th August 2006, Ecosoundings: Burning issue

¹⁰ Kent’s waste contract could be money in the bin, 12th August 2008

<http://www.kentonline.co.uk/kentonline/newsarchive.aspx?articleid=46264>

40. It should be assumed that incineration is not 'sustainable' and therefore planning applications for incinerators, even where these are described as "energy from waste" facilities, should not benefit from any presumption in favour of sustainability. Applications for waste incinerators should, at the very least, be required to meet a very high bar in terms of robustly demonstrating sustainability throughout their lifespan.

Ensuring waste facilities are well-located and consistent with the waste hierarchy

41. The Rt Hon Greg Clark MP said in a written ministerial statement that: "...the Government will produce a simple national planning policy framework setting out their priorities for the planning system in England in a single, concise document covering all major forms of development proposals handled by local authorities. All the national planning policies set out in PPSs, MPSs, PPGs and MPGs will be integrated into a single document...I invite organisations and individuals to offer their suggestions to the department on what priorities and policies we might adopt to produce a shorter, more decentralised and less bureaucratic national planning policy framework"¹¹ [emphasis UKWIN's].
42. UKWIN hopes that the simplification of the planning system will not come at the expense of ensuring that waste facilities are well-located and consistent with the waste hierarchy. Planning policy should offer clear and concise guidelines that prevent unsuitable and unsustainable development.
43. The central issue of interest to UKWIN relates to the determination of planning applications for waste incinerators. As is highlighted in the 'sustainability' section (above), incinerators depress recycling rates and undermine sustainable waste management. Incinerators are also a source of unintentionally-created Persistent Organic Pollutants (POPs).
44. The UK Government has a duty to ensure that the waste hierarchy is followed and that POPs are reduced and eliminated. Allowing new incinerators to be built runs contrary to these obligations.
45. If the UK Government feels that there is a role for new incinerators then the Government should at the very least put clear safeguards in place to minimise the damage that incinerators can cause in relation to driving waste management down the waste hierarchy, and in relation to producing POPs.
46. National planning policy should be made stronger in order to ensure that waste facilities are well-located and that proposals are consistent with the waste hierarchy. This should also include an explicit commitment to preventing the unintentional creation of POPs.
47. UKWIN calls upon the Government to issue clear guidelines to both planning authorities and the Environment Agency spelling out their respective roles and responsibilities in relation to implementing the UK's POPs obligations.
48. Paragraph 52 of Annex K of Waste Strategy 2007 states that: "WS2007 makes clear that energy should be recovered only from residual waste that cannot viably be recycled..."

¹¹ HC Deb, 20 December 2010, c143WS

49. Whilst UKWIN opposes the introduction of any new incinerators, we agree with the recommendation of the House of Commons' Environment, Food and Rural Affairs Committee (EFRACOM) that: "Waste should only be used for energy recovery if it is not possible to re-use, recycle or compost it. To achieve maximum energy efficiency levels, planning consent for energy from waste plants must require heat to be captured and used"¹².
50. On 30th June 2010, in response to a question from Nadine Dorries MP about an incinerator proposal, the Prime Minister said: "We want to make sure that all the latest technology for alternatives to incineration is considered, so that we can make sure that we are using the best ways to achieve a green approach"¹³.
51. It is therefore clear that material that could be recycled or composted should not be incinerated. This principle should be enshrined in the NPPF, and accompanied by sufficient safeguards to ensure that planning decisions adhere to the waste hierarchy.
52. As we know from Kent, and elsewhere, the prospect of valuable recyclable material being sent for incineration as the result of "take or pay" waste contracts is very real.
53. Incinerators are designed to work within a very narrow window – limited by maximum and minimum calorific value and throughput rates for the feedstock. Outside of this range the incinerator will experience additional inefficiencies or would simply cease to operate. This means that what has a positive impact on the environment – increased composting of kitchen waste and recycling of paper and plastic – has a negative impact on the operational feasibility of incinerators.
54. Applicants for waste incinerators should therefore be required to robustly demonstrate that the incinerator would be able to operate effectively based on an assumed feedstock that does not rely on material that could be reused, recycled or composted (including via AD).
55. All waste projections used to support planning applications for waste incinerators should be required to make explicit their assumptions, formulae, methodology, raw data, etc. to allow for proper scrutiny.
56. Furthermore, the applicant should be required to robustly demonstrate that they would be able to locally source suitable feedstock for the duration of the anticipated lifespan of the incinerator (30 – 50 years), and that the facility would in no way prejudice the reduction, re-use, composting and recycling of discarded material.
57. This analysis should have to assume best practise, which would include successful waste reduction efforts, 70%+ recycling, separate collections of food waste and separate (not co-mingled) collections of materials such as glass, paper and plastic.

¹² From their report on Waste Strategy 2007, available from <http://www.publications.parliament.uk/pa/cm200910/cmselect/cmenvfru/230/230i.pdf>

¹³ HC Deb, 30 June 2010, c853