

## A short briefing on

# Taking Round O Out of the Minerals and Waste Local Plan



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## Introduction

The decision by the officers of Lancashire County Council to continue to recommend Round O Quarry as a strategic site for the disposal of biodegradable waste is very questionable. Not only are there the issues relating to the suitability of the site itself, but if we analyse the evidence presented to the minerals and waste local plan inquiry then there is no reasonable basis for allocating the site in the plan.

The precise details regarding the need for Round O are given at the end of the briefing. First, what powers do the Members of Lancashire County Council have to take Round O out of the Minerals and Waste Local Plan. There are essentially two avenues we can go down to achieve this:

- a modification to the plan through the local plan inquiry; and
- the wholesale withdrawal of the proposal under the Development Plan Regulations.

## Plan Modifications

In much the same way as the County Council considered the '*proposed changes*' to the local plan following the consultation on the deposit draft, it is also possible to make '*suggested changes*' to the plan during the course of the local plan inquiry.

Usually the ability to make minor changes to the plan during the course of the inquiry is a matter delegated to an officer. But the Members of the relevant committee may also consider changes, and request that officers implement them, as the inquiry proceeds.

As matters progress, the local planning authority will often agree changes during the inquiry, and these are put to the Inspector as '*agreed changes*'. They are not actual changes to the plan – what they are is a statement which the Inspector will consider alongside his own deliberations on the results of the local plan inquiry, and which he may agree or disagree with.

If Lancashire County Council wished, it could make the withdrawal of the change 'official' by

advertising the change, and allowing six weeks public consultation on the issue. Any objections to this measure could then, conceivably, be heard at the end of the public inquiry. If this option were chosen then it would still be up to the Inspector to comment on the changes to the plan.

With regards to the views of the Inspector, his view is not binding on the County Council. However, where a local authority do not take the advice of an Inspector then it may stand against the planning authority should someone judicially reviews the decision of the authority at the adoption stage.

There is no defined legal procedure for making 'agreed' changes to a plan once it has been deposited. However, paragraphs 20 and 21 of the 'brown book'<sup>i</sup> do outline the procedures that should be followed where changes are made to the deposited plan.

## Withdrawal of Proposals

The other option open to a planning authority is to withdraw a proposal deposited with the local plan. The difference between this and the previous procedure is that:

- it is a statutory procedure under Regulation 13 of the Development Plan Regulations<sup>ii</sup>;
- once the appropriate statutory notice has been given that a part of the deposited proposals is being withdrawn, any objections on that issue are not considered since the proposal is not longer considered part of the plan.

In many respects the withdrawal of the Round O proposal using Regulation 13 would be a much clearer and procedurally simple method of dealing with the issue. It would require a motion from the appropriate committee to instruct the officers to issue the notice, the format of which is prescribed by the Regulations. As part of the notice procedure 'reasons' must be given. There are a number of reasons why this could be done, but I believe a defensible approach would be that there is no need for a landfill in the south of the county. The need for capacity is elsewhere.

If it were my decision, I would pick the statutory procedure under Regulation 13. It is more favourable in terms of the certainty of the outcome, and because there would be no adverse consequences in taking such action should the reasons for doing so be sound. The only response UK Waste would have would be to appeal to the High Court<sup>iii</sup>. But the matter is at the discretion of the local planning authority, and I believe that there are enough grounds to defend any appeal resulting from the decision.

### Reasons to Make the Change

Now that I have had chance to review the most recent data on landfill requirements and remaining capacity, it is possible to state categorically that Round O Quarry will not be required as a strategic location for the disposal of waste under Policy 78 of the draft plan.

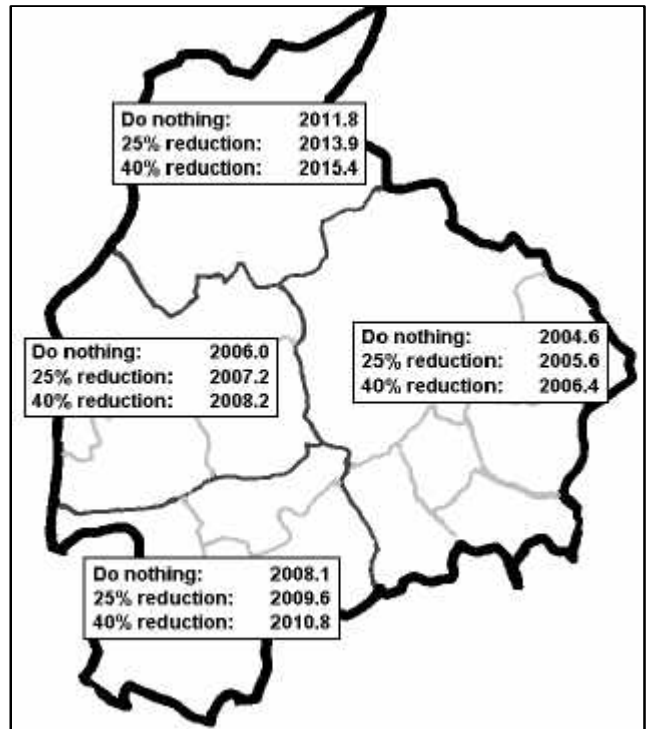
Lancashire's officers have thus far only considered the waste requirements for the whole county. This is a very rough and ready way to proceed. For practical purposes Lancashire operates as a series of sub-regions, and if we assess the requirement for waste disposal capacity along sub-regional areas the picture is very different.

The diagram opposite shows the districts of Lancashire, divided into roughly equal areas on the basis of population and geography. If we add up the waste produced in these areas, and then calculate the remaining 'permitted'<sup>iv</sup> landfill capacity, it is possible to project how many years of landfill we have left. This has been worked out for three scenarios<sup>v</sup>:

- 'Do nothing': This assumes that we carry on dumping waste at the current rate over the period of the local plan.
- '25% Reduction': This is the case being made by the County Council to the local plan inquiry. It assumes that we'll be tipping 25% less waste in 2006.
- '40% Reduction': This assumes that Lancashire can meet the Government's target for reducing waste to landfill.

**The analysis shows that the south of Lancashire has sufficient capacity to last until 2008, or if we can reduce waste going to landfill much longer than that. Round O is not needed during the lifetime of the local plan. Capacity is needed in Lancashire, but in the east of the County.**

What we should be doing in the local plan is concentrating waste developments in the central and eastern parts of the County. Of course this



'capacity' need not be landfill – we could instead focus our efforts on waste prevention, minimisation and recycling in this area as a way to make existing capacity last longer.

### In conclusion...

The purpose of local plans is to meet the needs of society. It is clear to see that southern Lancashire does not have the need for a new landfill at the moment. Developing Round O will not solve the problem in other parts of Lancashire either since waste will have to be transported from Burnley, Accrington and Blackburn – which is contrary to the 'proximity principle'.

**There are many reasons why Round O should not be developed as a landfill for household and industrial waste. But the main one in terms of the Members of the County Council introducing a change to the plan is that capacity is not needed in that area. The current policies pursued by the County Council do not meet the needs of all the people of Lancashire.**

<sup>i</sup> "Development Plans: What You Need to Know", DoE 1997, colloquially called 'the brown book'.

<sup>ii</sup> Town and Country Planning (Development Plan) Regulations 1991, SI. 1991/2794.

<sup>iii</sup> Section 284 of the Town and Country Planning Act 1991 permits any aggrieved person to appeal to the High Court on any matter relating to the modification of a development plan before or after adoption.

<sup>iv</sup> This calculation uses exactly the same data as has been used by the County Council – the only different is that I have done the calculation based on each of the areas individually

<sup>v</sup> The full detail of this is provided in the proof of evidence to the local plan inquiry for the 'round table' session.