



*Summary of responses to  
the planning and pollution  
control interface consultation*

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Department for Communities and Local Government  
Eland House  
Bressenden Place  
London SW1E 5DU  
Telephone: 020 7944 4400  
Website: [www.communities.gov.uk](http://www.communities.gov.uk)

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# 1. Introduction

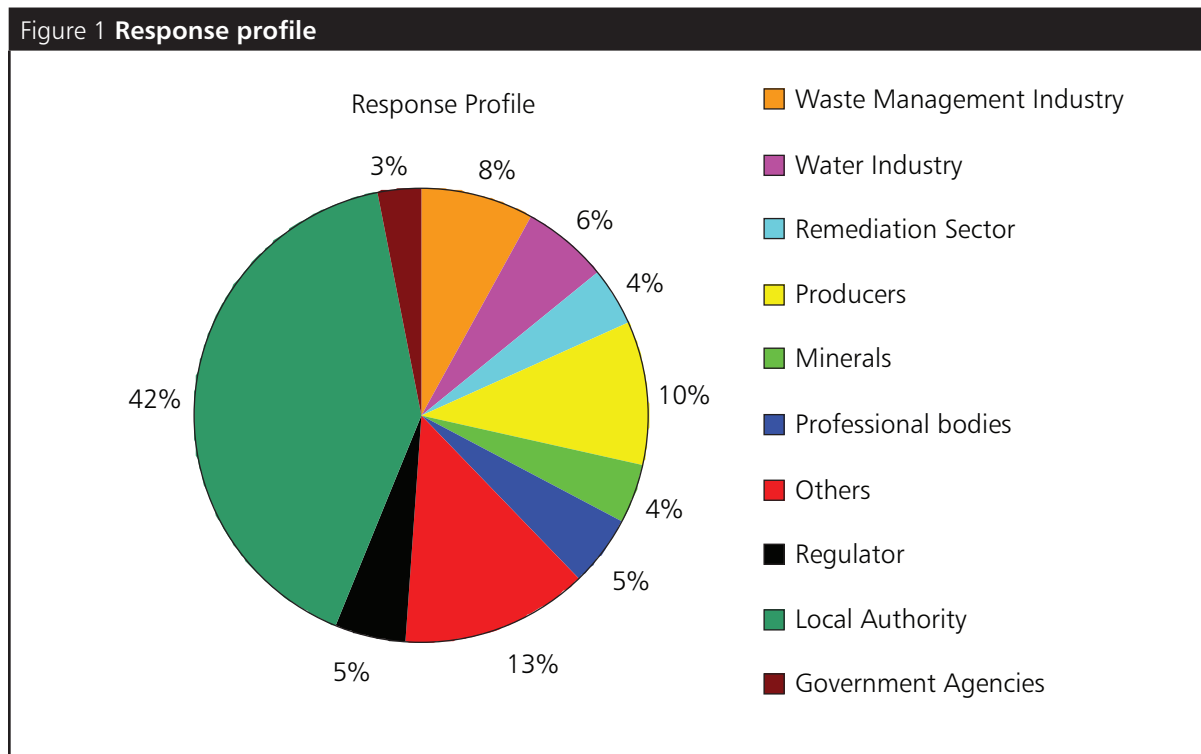
- 1.1 This document provides an analysis of the responses to the public consultation by Communities and Local Government and the Department for Environment, Food and Rural Affairs (Defra), on 'Options for improving the way planning and pollution control regimes work together in delivering new development'. This was a joint consultation by Communities and Local Government and Defra due to their respective responsibilities for planning and pollution control.
- 1.2 New development can have repercussions for the environment through its potential to pollute, and opportunities for new development can be constrained by existing pollution. As good planning is about delivering the right development in the right place, land-use planning has a significant influence in defining the quality of natural and built environments. Environmental permitting and compliance systems complement land-use planning through controlling the operation of those industries and processes which have the potential to damage the quality of land, air or water, or human health.
- 1.3 This consultation considered the way the interface between planning and pollution control regimes works in practice, primarily focussing on the waste management licensing regime. It sought views and comment from those affected by the regulatory framework and those charged with its implementation. A number of options for improvement were presented in the consultation on which views were sought. None were firm proposals from Government. Rather, they reflected suggestions made by those affected by current arrangements. All had a mix of advantages and disadvantages and this summary of responses describes what respondents thought of these. Through the consultation Government sought views on the options and further evidence of impacts to be taken into account in considering how to proceed.
- 1.4 The consultation document and partial Regulatory Impact Assessment (RIA) were sent to over 500 interested organisations, key stakeholders, and individuals. The consultation was launched on 13 September 2006 and ran for 12 weeks until 6 December 2006, in parallel with the second consultation on Defra's Environmental Permitting Programme (EPP).
- 1.5 Three stakeholder workshops were held. Two were held during the consultation period and one shortly after it closed, to draw together initial thoughts on emerging themes from consultation responses.
- 1.6 A total of 100 responses to the consultation were received. The written consultation posed 15 specific questions to stakeholders, the questions and responses are summarised below. A list of respondents can be found in section 4 and a breakdown of the sectors they represent is shown in Figure 1. 42% of responses came from local government. This ranged from individual local authority responses, collective responses from representative bodies such as LACORS (the Local Authorities Coordinators of Regulatory Services) and planning officer responses via the regional planning bodies and their regional technical advisory bodies (RTABs). Where local authority responses represented particular functions within the authority, for example planning, we have tried to make this clear. Eight organisations from the waste management sector

responded. Three of these were trade associations representing up to 1200 members: the Environmental Services Association (300 members); the Composting Association (600 members) and the British Metals Recycling Association (300 members)

- 1.7. It should be noted that not all respondents commented in relation to every question. In addition some respondents commented more generally on the approach instead of responding to the specific questions posed. These views have been taken into account and assigned to particular questions as appropriate.

## Next Steps

- 1.8 Defra and Communities and Local Government will move quickly to take account of the outcome of this consultation and to make further proposals in respect of the environmental permitting and planning systems, as appropriate. Any proposed outcomes requiring regulatory change will be subject to a quantitative regulatory impact assessment and proposals for non regulatory reform will be taken forward in consultation with stakeholders.



## 2. Executive Summary

- 2.1 This section provides a summary of the key points made by consultation respondents. Further elaboration of the views expressed on each question can be found in section 3.
- 2.2 There was a general welcome for the consultation. There was recognition among many respondents that working across the interface between planning and pollution can be subject to overlap of responsibilities, and that the consultation was an opportunity to clarify where change was needed.
- 2.3 There was support for action to be taken to improve the interface but little support for a fundamental overhaul of the system. The Environment Agency pointed out that “there should be careful assessment of the impact of recent and pipeline changes in both regimes, when considering whether further changes are needed”.
- 2.4 There was a range of views on the scope of the consultation with some calling for broadening to other local authority regimes such as pollution prevention control and also for consideration of other non waste related matters. Although comment on wider issues was not restricted in the consultation, the interfaces were not explored.
- 2.5 There were differences of opinion on whether regulatory overlap was a bad thing. Some saw overlap as a way to make sure all bases are covered and something that promotes a close working relationship between regulators. Others saw it as an unnecessary level of bureaucracy.
- 2.6 Respondents favour an approach which seeks to make the current system work better rather than introduce more fundamental changes. For example, it was suggested that significant improvements can be made through encouraging greater co-operation and good practice at the pre-application stage.
- 2.7 There was broad agreement that protocols and guidance would be useful in clarifying the roles and responsibilities of key players in the planning pollution control interface. The feeling was that these would not be suitable as stand alone solutions but could form part of a coordinated approach to the whole interface.
- 2.8 There was support for parallel tracking of planning permission and pollution control permits. The general feeling was that this should not be mandatory and that there should be flexibility on the order that consents can be sought. Removal of the ‘prior planning permission’ requirement that applies to some waste activities was suggested by eight respondents from a wide range of sectors. It was thought by some that this would streamline waste permitting and would enhance the efficiencies to be brought by the parallel EPP. The majority of local authorities that answered the question thought that having planning determination first was helpful.
- 2.9 There was support for amending the approach set out in Schedule 4 of the Waste Management Licensing Regulations 1994 to separate more clearly the roles and responsibilities of planning and pollution control authorities.

- 2.10 There was some support for discharging further waste permitting requirements or other pollution control activities through the planning permission mainly from the non waste development industry, trade associations as well as six local authorities.

### 3. Views expressed on specific questions and related issues

The first question deals with scope of the consultation

#### Question 1

This consultation paper focuses on the interface of land-use planning and the Environment Agency's responsibilities for waste management and pollution control permitting. Do you agree with the scope of the consultation?

- 3.1.1 The majority of respondents agreed that there is a need to improve and streamline processes for planning and pollution control regimes.
- 3.1.2 Of the respondents that answered this question, 63% agreed with the scope of the consultation, however, a number of these also suggested that it might have been wider (e.g. to cover other parts of the UK). 31% disagreed with the scope, also saying it should be widened, and 6% remained silent. It was suggested by 17% of respondents from a wide range of sectors that the role of local authorities was not fully considered. They also suggested that environmental health within local authorities could have been considered more. Local Authority Pollution Prevention and Control and the land contamination regime are examples of where relationships between planning and pollution control regimes involve a number of regulators.
- 3.1.3 Four local authorities and two minerals associations pointed out that the consultation should also have considered the impact of any changes on those authorities with a two tier planning regime. For example, Durham County Council's officer level response suggested that "different relationships arise as a result of the structure of local government. In a two tier system such as exists in County Durham at present, the Environmental Health Officer (EHO) and development planning are located in the districts, whilst strategic, waste and minerals planning are County responsibilities". Respondents suggested that the scope could have been widened to include the interface with other organisations (e.g. the State Veterinary Service for composting) and also other legislation such as the Water Framework Directive.
- 3.1.4 Of the respondents that answered this question, 5% suggested the consultation could have been widened to include Wales, as the EPP consultation also covered Wales. Chester City Council pointed out that "Chester District is adjacent to the border with Wales and some industrial processes in the district, if they are within the River Dee catchment, are regulated by the Environment Agency (Wales). This could therefore mean that there would be differing processes for dealing with Pollution Control within the same district dependant upon which river catchment the installation is situated in".
- 3.1.5 Of the respondents that answered this question, 5% suggested the consultation on the interface between planning and permitting should not be limited to new developments. Veolia Environmental Services suggested that it should be "extended to include changes to existing permitting and planning arrangements as well".

The second question relates to the legal framework and the implications for planning and pollution control authorities

## Question 2

The current arrangements for transposing the requirements of EU legislation provide for potentially overlapping responsibilities. Do you consider that this can be unhelpful for working across the interface between planning and pollution control?

- 3.2.1 Of the respondents that answered this question, 74% thought that there are overlaps that could potentially be unhelpful. However it was recognised that although there are overlaps, this not always a bad thing. Overlap can be positive in that it ensures matters don't fall between gaps and help secure proper regulatory outcomes. They can sometimes encourage regulators with different statutory functions to co-operate with each other.
- 3.2.2 Five respondents to this question, including from the water industry, the waste industry, a local authority and a consultancy, described here the benefits of parallel tracking of planning and pollution control permits to reduce the amount of overlap, with one supporter for this to be mandatory. However views on this issue were expressed in response to a number of consultation questions so are quantified further in the responses to Questions 4 and 13.
- 3.2.3 Of respondents to this question, 8% thought that overlaps are not always a problem or could actually be beneficial. Uncertainty caused by these overlaps can be addressed by clear and relevant guidance. Biffa suggested the problems with overlaps could be managed through "strong national guidance, minor legislative change and a willingness for effective liaison".
- 3.2.4 There was a call for clarity about process and responsibilities. This would also improve accountability and make clear to the wider public and stakeholders when and how to make their input into the democratic process.

Questions 3 and 4 relate to working across planning pollution control interface

### Question 3

The consultation presents examples of problems encountered when working across the planning and permitting interface. From your experience do you agree with the problems described:

- a) when remediating contaminated land?
- b) from regulatory duplication in information requirements?
- c) considering the implications for health?
- d) in securing effective input to planning applications?
- e) in promoting community confidence in decision-making?

#### a) When remediating contaminated land?

- 3.3.1 Generally these problems were recognised. 48% of respondents to this question had some experience with the problems outlined in the consultation although Sita UK said “the present system represents a reasonable balance between expeditious decision-making and environmental protection”.
- 3.3.2 There was support from six respondents for the recently introduced Mobile Treatment Licensing scheme (from the Environment Agency) which makes permitting more effective and transparent for the construction sector.
- 3.3.3 Five respondents from the local authority and industrial association sectors suggested that a clearer definition of waste in respect of development sites would provide clarity and address some of the problems and it was noted that guidance was still to be finalised by the Environment Agency.

#### b) From regulatory duplication in information requirements?

- 3.3.4 Of the respondents that answered this question, 74% recognised the problems outlined in the consultation.
- 3.3.5 Twelve respondents to the consultation highlighted the need and importance of pre-application discussions in addition to guidance to reduce the possibility for duplication of information requirements.
- 3.3.6 Of the respondents that answered this question, a quarter did not think duplication of information requirements was a serious issue. There was a feeling that duplication is not a universal experience and can largely be avoided by good co-operation at the pre-application stage.

3.3.7 It was suggested that guidance is needed on the appropriate amount of detail for each consent application, it is important to clarify how those applications are then handled by the regulators post-submission.

3.3.8 Eight respondents raised the issue of Environmental Impact Assessments (EIAs), for example whether there should just be one required or what should be included in one. Gill Pawson Planning Consultancy thought that “if the requirements of both planning and permitting were clearer, it would be possible to ensure that impact assessments were designed to deal with the whole range of information needed at the commencement of the work. This would mean that one assessment could be provided to accompany both a planning application and a permit application”.

### c) Considering the implications for health?

3.3.9 Of the respondents that answered this question, 69% recognised the problems outlined on health issues. There were a wide variety of responses to this question.

3.3.10 Biffa thought the approach outlined in sections 4.13 and 4.14 of the consultation document “is not necessarily understood, accepted or applied”. They suggested that “whatever systems are operated, there needs to be one definitive and independent “voice” providing advice on health impacts”. The Environment Agency said a “statutory consultee could be designated, this could be the Health Protection Agency (HPA) or relevant Primary Care Trust (PCT)”.

3.3.11 Few respondents commented directly but of the four that did, there was an even split between those that supported the allocation of health protection solely to pollution control permitting and those that supported its consideration at the planning stage as well. There was concern from local authorities and government agencies (the Environment Agency and English Partnerships) about whether the expertise and information was available to make decisions at the planning stage. However the response from a Senior Environmental Health officer at Vale Royal Borough Council said that “our close working relationships with the HPA and PCTs have enabled us to ensure that health issues are properly addressed”.

### d) In securing effective input to planning applications?

3.3.12 Of the respondents that answered this question, 79% had experienced one or more of the problems outlined on duplication of information requirements. Some of the issues involved were; varied and uncoordinated responses to applications from both the Environment Agency to local authorities seeking views on planning applications, and from the local authorities providing information on the status of the application to applicants. There is also a perceived lack of clarity about what information is required at what stage of the process and which organisations need to be involved.

3.3.13 Two respondents suggested a “stop the clock” solution, whereby if any consultee on a planning application asks for additional information, the local planning authority’s (LPA) time clock should be stopped while the information is provided. Herefordshire County

Council said that the determination targets for planning applications and EIA planning applications are hard to meet and that parallel application would help in this respect.

- 3.3.14 Two respondents asked for the pollution control authority to give an “in principle” opinion in response to consultation on planning applications that had preceded the permit application. This would help the developer understand the likely prospects of success at the pollution control permitting stage.
- 3.3.15 E.ON Plc. suggested that “by clarifying and strengthening the links and responsibilities between the planning authority and pollution control authorities, and by making clear the requirement to provide sufficient information on which a decision may be based the input of pollution control authorities and other consultees can be improved”.

**e) In promoting community confidence in decision-making?**

- 3.3.16 Over half the respondents that answered this question recognised the problems outlined in this question (58%). Nearly a fifth did not agree and just under a quarter were silent.
- 3.3.17 Some respondents took the view that if the public was more informed about the decision making process, was involved early on in the process and any outputs were made available in plain English, then community confidence would improve.
- 3.3.18 Others reported that there is a lack of transparency in the system. A small number of respondents think there is a lack of accountability of decisions made by the Environment Agency. However, the Waste and Resources Action Programme (WRAP) thought “the separate consultation on Environmental Permitting addresses the ambiguity of regulatory expectations through the recommendations on fixed permitting conditions”.
- 3.3.19 The views expressed indicate that there is not necessarily a need to overhaul the system but that it needs to be better explained.

Questions 4–13 look at options for improvement for working across the planning and pollution control regimes

#### Question 4

One area of expressed concern is the sequencing of planning permission and pollution control permits. Do you see merit in:

- a) the planning context being confirmed first through the grant of planning permission before the pollution control permit is issued?
- b) the pollution control permit being issued before planning permission is sought?
- c) both the planning permission and the pollution control permit being sought in parallel?
- d) flexibility for the applicant to pursue necessary authorisations in the order they see fit?

- 3.4.1 The strongest support for these four options was for parallel tracking, (option c) with 57% of all respondents who answered question 4 supporting this option. There was stronger support still among local authority respondents who answered this question. Responses to this question did not indicate that this approach should be mandatory. There was roughly the same amount of support for options a and d (around 35%) although around 28% of respondents remained silent on these options. Option b (which suggested the pollution control permit should be granted first) was the least supported option with 10% supporting and 44% remaining silent. The sequencing issue is complex, and the options were not considered to be mutually exclusive by some respondents who saw merit in more than one option. For example, Veolia Environmental Systems responded that “at this stage consideration should be given to making planning and permitting applications run in parallel. However, in some circumstances parallel applications are not always possible or even desirable, therefore a degree of flexibility is also needed. We would support a flexible combination of both options (c) and (d).”
- 3.4.2 The support for parallel tracking of applications was from a wide range of respondent types, although it was recognised that this was not appropriate in every case and that flexibility would be needed in some instances. Twelve respondents mentioned the importance of pre-application discussions and some said they would assist parallel tracking. Pre-application discussions are a vehicle whereby the appropriate response can be agreed by each regulator.
- 3.4.3 There is a need for better quality of information at the beginning of the process and more time for determination. Biffa and the Environmental Services Association (ESA) suggested the term “co-ordinated consenting” rather than “parallel submission”. This would involve streamlining information requirements and reducing the administrative burden of dealing with matters separately.
- 3.4.4 A significant number of respondents (34%) thought that sorting out the land use requirements first was the most important consideration. A number of these respondents also supported parallel tracking of applications. Support for confirmation

of the planning context first was more common among local authorities than industry or industry association respondents.

- 3.4.5 In terms of granting the pollution control permit before the planning consent, there was concern that the pollution control permit incurs greater expense by the applicant, which would all be wasted if planning permission were not granted. At the moment the information necessary for Pollution Prevention and Control (PPC) purposes is normally not available at such an early stage unless an EIA is required. There was also a concern from one local authority that in their experience the public can feel that the planning process has been pre-judged if the pollution control permit is sought beforehand.
- 3.4.6 There was a suggestion to remove the prior planning requirement from a number of those respondents that favoured flexibility as part of Question 4. (This is picked up below under Q8). A respondent from Cranfield University suggested “there should be a single permit to operate”. This would cover both planning permission and pollution control.

### Question 5

Do you agree that the criteria set out [in paragraph 5.2 of the consultation document] are the right ones to test the development of new options against? Consultees are invited to suggest amendments or offer further criteria.

- 3.5.1 Of the respondents that answered this question, 94% of respondents thought the criteria set out in question 5 were the appropriate ones to test development of new options against. Some of these respondents also suggested additional criteria, some suggestions/comments were:
- a specific reference to reduced delay or introduction of timescales;
  - good regulation is more likely with well resourced, well trained, well motivated regulators;
  - avoidance of duplication; and
  - clarification on what is meant by the “right level of detail” in terms of pollution controls.

### Question 6

One option for improving the interface between planning and pollution control could be to prepare and implement protocols (or administrative improvements) that set out roles and responsibilities between planning and pollution control authorities. Do you:

- a) support this option?
- b) feel it would be sufficient by itself to address your concerns?

- 3.6.1 Of the respondents that answered this question, 87 % agreed that protocols could help improve the interface between planning and pollution control authorities. However, despite supporting the option, the majority of these respondents did not think that

protocols were sufficient on their own to address these issues. 5% of respondents, including from industry, a professional organisation and a LPA, suggested that guidance would be necessary to accompany them.

- 3.6.2 It was recognised that protocols should not be too prescriptive and need to allow for flexibility for factors such as local conditions.
- 3.6.3 There was support for protocols but 8% of respondents to the question thought that they must be monitored for effectiveness. It is important that all parties sign up to these protocols if they are to work. There also needs to be a driver for parties to comply with the requirements. Durham County Council thought it might also be worth looking to “develop protocols to smooth working between District Authorities and Counties in two tier areas”.
- 3.6.4 Suggestions as to what a protocol might include were: definition of the roles of each regulatory authority, formalisation of the pre-application process and formal timescales and expectations for each authority when dealing with applications.
- 3.6.5 Of the respondents that answered this question, 12% of respondents did not support the preparation and implementation of protocols. These respondents included waste management companies, consultancies, industrial associations, a water company and two local authorities. There was a lack of confidence in what they could achieve and a concern that they would not help deliver the policy. 5% of respondents that answered this question said that protocols were insufficient and that regulatory change was needed.
- 3.6.6 In total, 5% of respondents, including LPAs and a consultancy, added that protocols will not address the key issue which is a lack of resources. Stephen Bowley Planning Consultancy went as far as to say they may “just add another level of bureaucracy”.

#### Question 7

One option for improving the interface between planning and pollution control could be to publish specific practice guidance on working across the planning and pollution control interface so as to deliver the expected ways of working set out in PPS10 and PPS23. Do you:

- a) support this option?
- b) feel it would be sufficient by itself to address your concerns?

- 3.7.1 Of the respondents that answered this question, 89% thought that specific practice guidance would be useful in clarifying the roles and responsibilities of those working at the pollution planning control interface. However, similarly to protocols, some thought that guidance on its own would not be sufficient. Suggestions included incorporating all guidance in to one simple document, and providing training so that the implications of the guidance are understood by all parties.
- 3.7.2 Most respondents thought that practice guidance is a useful tool, and with the complexities of the interface between planning and pollution control, practice guidance would be an ideal starting point to improve the understanding for all interested parties.

- 3.7.3 As mentioned in Question 6, 5% of respondents thought that guidance would be very useful if protocols were developed but alone would be insufficient. As with protocols, effectiveness would need to be monitored and they would need to be signed up to by all parties.
- 3.7.4 Guidance would need to be short and written in plain English. The London Borough of Camden thought “it should be quick to produce and easy to get sign up to” but should not duplicate existing guidance.
- 3.7.5 GlaxoSmithKline thought guidance was a short term solution and what was really needed was to reform planning policy statements (PPSs). Equally others thought the PPSs were sufficient without further guidance. The Home Builders Federation (HBF) said ‘PPS23 is undervalued and underused and until its profile is raised providing further guidance would be pointless’. There was a concern that guidance would just add another level of bureaucracy and would not be taken up by the key players in the interface.

### Question 8

One option for improving the interface between planning and pollution control could be to amend the approach set out in Schedule 4 of the Waste Management Licensing Regulations 1994 to separate more clearly the roles and responsibilities of planning and pollution control authorities. Do you:

- a) support this option?
- b) feel it would be sufficient by itself to address your concerns?

- 3.8.1 Of the respondents that answered this question, 59% supported the suggestion to amend the approach set out in Schedule 4 of the Waste Management Licensing Regulations 1994 to define more clearly the roles and responsibilities of planning and pollution control authorities. The support for this option was split reasonably equally between the different sectors of respondents (see Figure 1).
- 3.8.2 It was noted that there is scope for rationalisation and clarification of the respective responsibilities of planning authorities and the Environment Agency. Of the 59% of respondents who answered positively, 12% thought if this step was adopted it would work towards clarifying and possibly removing overlapping responsibilities. There was some scepticism about how it could be done in practice.
- 3.8.3 There did not seem to be a consensus on how to amend the approach set out in Schedule 4. However the Environment Agency said that any new rules would have to address “not just the case of ‘new development requiring both planning consent and a pollution control permit but also the circumstances when a pollution control permit, but no planning consent, was required and when one or other of the permits was varied”.
- 3.8.4 Of the respondents that answered this question, 25% did not support the option to amend the approach set out in Schedule 4 of the Waste Management Licensing Regulations. Nottingham City Council thought there could be further duplication of

roles, for example, “the suggestion that LPAs could impose conditions on emissions which would cease to have effect once the relevant PPC permit was granted would be confusing and problematic”. Ashford Borough Council Planning and Development Unit suggested there was a possibility that it would dilute local democracy in the planning process too far.

- 3.8.5 There was support for a good practice guide to clarify the roles and responsibilities of planning and pollution control authorities. The Composting Association said that “A good practice guide could be introduced much more quickly than revised legislation” and that the “option to amend regulation could be implemented in the longer-term”.
- 3.8.6 Eight respondents to the consultation, including environmental industry associations, the waste management industry, as well as the Environment Agency, specifically called here for the removal of the ‘prior planning permission’ requirement that applies to some waste activities. It was suggested that this would streamline waste permitting and would enhance the efficiencies brought by the parallel EPP. It was also thought that this requirement results in a degree of inconsistency.
- 3.8.7 Amendments to the Town and Country Planning (General Development Procedure) (England) (Amendment) Order 2003 (GDPO) were also suggested to accompany any changes. This would state the information required by LPAs when in consultation with the Environment Agency. Two respondents noted that the legal framework for the preparation of EIAs necessitates an overlap, and therefore that the amendment suggested in Question 8 would be insufficient to address their concerns.
- 3.8.8 Four respondents suggested good practice guidance was required rather than revised legislation. This would also have the advantage of being available more quickly. It was also thought that Government should first explore options such as improving the working of the interface through protocols and administrative change before considering any major revision to existing regulations.

#### Question 9

One option for improving the interface between planning and pollution control could be to discharge some waste permitting requirements through the planning permission. Do you support this option?

- 3.9.1 There was opposition to this option with three quarters of respondents who answered the question not supporting it. Just over one fifth of respondents supported this option and only 3% stayed silent. This opposition was illustrated by the Environment Agency who said “We fail to see how, without fundamental overhaul of the planning system, the differences between the systems can be overcome”.
- 3.9.2 There was a majority view (expressed in this question and throughout the consultation) that local authorities did not have the resources or, currently, the expertise or capacity to cope with taking on this extra responsibility. Two respondents, one LPA and one water company pointed out that there would also be added inconsistency in delivery as there are both unitary and two tier authorities. Two LPA respondents that supported

the option did so by saying that it would be possible if local authorities were given the resources and training to do it.

- 3.9.3 There was support for this to be included in a single permit. Association of Geotechnical & Geoenvironmental Specialists thought that “waste permits for development sites could be incorporated into the planning permission and not exist separately”. Equally responses from local authorities suggested a single permit would not be sufficient to address the inefficiencies in the system.
- 3.9.4 The HBF as a representative body said they would “support this idea in the specific case of definition of waste for materials handling to overcome the dual regulation but it does not bring the same certainty that the HBF proposals would”.

#### Question 10

In the particular case of construction sites one option could be for particular waste permitting requirements to be discharged through the granting of a planning permission for the development envisaged.

Do you support this option?

- 3.10.1 There was a mixed response to this question although the majority did not support this option. Just over one half of respondents disagreed with this option and one third agreed, with 13% remaining silent.
- 3.10.2 The majority of those that opposed this option thought creating another system would increase inconsistency and create more confusion. There were also the ongoing issues of lack of resources and expertise to take on another responsibility.
- 3.10.3 There was some support for the HBF proposal focussing on simplifying the regulatory framework applying to construction sites. Two respondents from the 33% that supported this option thought this. These options would have the benefit of providing improved efficiency and transparency for some waste streams and related activities.
- 3.10.4 English Partnerships suggested that the particular concerns raised by the HBF have, to some extent, been addressed through the Remediation Licensing Task Force outputs and revision of the Mobile Treatment Licensing regime.
- 3.10.5 Leeds City Council said “We agree with the HBF. It would be relatively easy for Planning to deal with all matters on a site which involve remediation. This would simplify matters for developers. However, there is a resource issue here”. The issue of resources was one that many respondents thought would be a barrier to the implementation of this option.

**Question 11**

In the particular case of proposed new development on contaminated land one option could be for those matters addressed by the relevant pollution control authority through their waste management licensing to be excluded from the set of factors that the local planning authority is expected to consider in assessing whether the proposed development is appropriate. Do you support this option, either:

- a) by itself?
- b) or as part of a permit that consolidates all pollution control responsibilities along the lines of that proposed in the Urban Task Force report, 'The Remediation Permit: towards a single regeneration licence'?
- c) or, irrespective of any changes to the remit of the local planning authority would you favour a permit along the lines of that proposed in the Urban Task Force report, 'The Remediation Permit: towards a single regeneration licence'?

- 3.11.1 Of the 100 respondents to the consultation, 58% of respondents answered this question. Of these many remained silent on one or more of the options. The majority of respondents did not support option a, either by itself or as part of options b or c. While there was more support for option a by itself (22%) the overall results were similar for all three options with around 40-50 % not supporting them and similarly high percentages remaining silent.
- 3.11.2 The majority of respondents who answered this question thought contamination should continue to be addressed through land use planning controls. There was support for the current situation of delivering remediation through planning conditions.
- 3.11.3 Comments from Chelmsford Borough Council's Planning Services did support the options with the caveat "Provided that it addresses the issues identified during the determination of the planning application."
- 3.11.4 Five respondents from two LPAs, a government agency, an industry association and an energy company, indicated their support for the single permit along the lines of that proposed in the Urban Task Force report, 'The Remediation Permit: towards a single regeneration licence?' Once again there would be a resource issue.

**Question 12**

One option for improving the interface between planning and pollution control could be for local authorities to be the regulator for discharging all pollution control activities. Do you support this option?

- 3.12.1 Of the respondents that answered this question, 76% thought that local authorities should not be the regulator for discharging all pollution control activities.
- 3.12.2 The majority of these respondents, from industry as well as local authorities and other organisations thought local authorities would not have the staff or resources capable of undertaking all of the Environment Agency's pollution control functions. The differing

areas of regulation and outputs seem large enough to warrant two separate control authorities. They thought it would lead to greater inconsistency and additional burden on local authorities.

- 3.12.3 The issue was raised of how this would work in two-tier authorities. Wessex Water pointed out that “inclusion of waste permitting within LPA’s remits is also likely to give rise to a new dual interface for water companies, who have to apply for planning consent for all waste matters to county planning authorities (and may therefore also have to apply to district council’s for a waste permit). In these cases, this option would only replicate the present system rather than improving it”.
- 3.12.4 A response on behalf of the Lancashire Chief Environmental Health Officers thought this “would require radical organisational change and local government reorganisation” but that this was possible. The benefits would be that it would create a simple system where all pollution control responsibilities rest with one locally accountable regulator. The HBF said that “in principle a single regulator, provided they were sufficiently resourced would provide the best solution to avoid overlaps”.
- 3.12.5 There was also a feeling that there was not enough information in the consultation to provide a clear view on whether this was a feasible option. Devon County Council thought that “there is no opposition in principle to local authority officers discharging a broader range of pollution control functions, but it is considered that this is outside the scope of this consultation”.

### Question 13

One option for improving the interface between planning and pollution control could be to prescribe methods of working essential to good delivery, for example the parallel submission of applications for planning permission and pollution control permit applications. Do you support this option?

- 3.13.1 Responses to this issue were split almost 50/50 with 52% of respondents agreeing that methods of working essential to good delivery should be prescribed and 46% disagreeing. There was no clear grouping by type of respondent. However most respondents referred only to the issue of parallel tracking and some of those that agreed that parallel tracking was a good idea still said there needed to be flexibility in the system. In total, 16% of respondents, largely from industry and industrial associations, thought that there should still be flexibility for the applicant to chose the most suitable applications order.
- 3.13.2 The reasons given for supporting this option were that it would remove doubt as to the responsibilities of each authority, and it would be clear if there had been any fault in the process. It was also suggested that any process that clarifies the roles of both the LPA and the Environment Agency has to be welcome.
- 3.13.3 Those against this option generally saw merit in parallel tracking of applications but thought that there needed to be flexibility to decide if this was the best option. It should not be mandated. It was suggested by the National Farmers Union (NFU) that

the idea of “prescribing methods of working essential to good delivery perhaps could be built into protocols or specific practice guidance rather than any legislative reform”.

3.13.4 Respondents reiterated the benefits and drawbacks of parallel tracking outlined in the responses to Question 4c.

Questions 14 and 15 ask for any options for improvement or suggestions not included in the consultation and RIA.

#### Question 14

Are there other options for improvement not mentioned in the consultation document that should be considered?

3.14.1 Just under half the respondents (46%) answered this question and suggested further options for improvement not considered in the consultation.

3.14.2 Some suggested that greater consideration should be given to national strategic impacts and implications rather than in isolation at the planning level.

3.14.3 Sita UK suggested convening a single “Planning and Permitting Board with representatives from the regional bodies, the LPA, the Environment Agency, the district council, the parish council, other statutory consultees and the local MP, which jointly consider the application”.

3.14.4 As discussed in the responses to the previous question, a number of respondents mentioned the importance of the role of pre-application discussions and called for this to be enhanced.

3.14.5 Respondents also suggested that further consideration needs to be given to the interface with other agencies such as the Health and Safety Executive, Highways Agency, Natural England and English Heritage.

3.14.6 There was a call from the water companies for more information on the impacts the Water Framework Directive (WFD) might have. If changes are to be made to the planning/pollution control interface then they should reflect any extra duties the regulating authorities will have as a result of the WFD.

3.14.7 In terms of financial resources Gill Pawson Planning Consultancy suggested “to require the fees submitted to the LPA or EA to process applications to be ‘ring-fenced’ to provide the necessary staff resources”.

### Question 15

Do you agree with the assessment of the advantages and disadvantages of the options set out in the RIA, and have you specific experiences which could help with developing this assessment further (e.g. relevant quantitative data)?

- 3.15.1 Only 39% of respondents answered this question. There was an even split between those who agreed with options set out in the RIA and those who disagreed and suggested other areas to consider.
- 3.15.2 There was concern from local authorities and the joint response from LACORS, the Planning Officers Society and the Local Government Association that the RIA did not focus on the level of resources that would be needed by the regulatory bodies if the changes suggested in the consultation took place. Chelmsford Borough Council added that “the advantages postulated are theoretical related to the administrative aspects of permissions and certificates, but do not address the skill base resource required to implement the proposals”. There was a general view from across sectors that the RIA was qualitative and did not look at the costs of the different options.
- 3.15.3 It was suggested that additional parties such as pollution control authorities would be affected, not just planning authorities. They may also face issues they are unfamiliar with and require additional expertise for some options. It was suggested to consider the impacts on other council workers rather than just the planners.
- 3.15.4 Respondents suggested that the scope could be widened to include other sectors, such as minerals and recycling and water and sewerage companies. The RIA looked at pollution control activities but omits regimes such as the Groundwater Regulations 1998 and the Contaminated Land Regulations 2000. The Royal Borough of Kensington and Chelsea asked if “proposed reforms take account of the additional planning powers for the Mayor of London announced by the Department for Communities and Local Government on 13 July 2006”.
- 3.15.5 Some respondents reiterated their concerns from previous questions in the consultation, for example the need for clarity of roles and responsibilities and the need for guidance and protocols. The Chartered Institute of Environmental Health (CIEH) suggested it is “difficult to engage the planning profession on matters which ought to be of mutual concern and it might be beneficial for the Department to sponsor some kind of occasional forum, bringing planners of various descriptions together with pollution regulators.”

## 4. List of respondents

### Respondent organisation

Ashford Borough Council  
Association of Electricity Producers  
Association of Geotechnical & Geoenvironmental Specialists  
Barnsley Metropolitan Borough Council  
Biffa Waste Services Ltd.  
British Aggregates Association  
British Metals Recycling Association  
CBI Environmental Regulation  
CBI Minerals Group'  
Chartered Institute of Environmental Health  
Chartered Institution of Wastes Management  
Chelmsford Borough Council  
Chemical Industries Association  
Chemical Business Association  
Cherwell District Council  
Chester City Council  
City of Bradford Metropolitan District Council  
City of Lincoln Council  
Commission for Local Administration in England  
Community Composting Network  
Country Land and Business Association  
Cumbria County Council  
David L Walker Chartered Surveyors  
Devon County Council  
Durham County Council  
E.ON UK plc  
East of England Regional Technical Advisory Body  
EDF Energy  
English Partnerships  
Environment Agency  
Environmental Industries Commission  
Environmental Services Association

Essex County Council  
Forbury Environmental  
Friends of the Earth  
Gill Pawson Planning  
GlaxoSmithKline  
Gloucestershire County Council  
Government Office for the South West  
Greater Manchester Geological Unit  
Guildford Borough Council  
Hampshire County Council  
Home Builders Federation  
Helen Pillinger  
Herefordshire County Council  
Hinckley and Bosworth Borough Council  
Institute of Historic Building Conservation  
Institute of Quality Assurance  
Kent County Council  
Lancashire Chief Environmental Health Officer Group  
Local Authority Recycling Advisory Committee  
Law Society  
London Borough of Camden  
London Borough of Hillingdon  
London Borough of Newham  
London Borough of Brent  
Leeds City Council  
Local Authorities Co-ordinators of Regulatory Services (LACORS), Planning Officers Society  
and the Local Government Association (joint response)  
Merseyside Environmental Advisory Service  
Milton Keynes Council  
Mining Association of the United Kingdom  
National Farmers' Union  
National Grid Property Ltd  
National Society for Clean Air and Environmental Protection  
Natural England  
Norfolk Environmental Waste Services Ltd.  
Northamptonshire County Council

Nottingham City Council  
Nottinghamshire County Council  
Dr Peter Howsam, Cranfield University  
Peter Ward  
The Planning Inspectorate  
Portsmouth City Council  
Quarry Products Association  
Ravinderpalsingh Bajwe  
Regional Development Agencies' Planning and Housing Leads Group  
Royal Borough of Kensington and Chelsea  
Royal Institution of Chartered Surveyors (RICS)  
RWN ePower  
Sefton Council  
Scottish Environmental Protection Agency  
Severn Trent Water Ltd.  
Shropshire County Council  
Sita UK  
South West Water Ltd.  
Stephen Bowley Planning Consultancy  
Suffolk Environmental Protection Group  
Thames Water Ltd.  
The Composting Association  
The Marine Painting Forum  
Total  
UK Environmental Law Association  
Vale Royal Borough Council  
Veolia Environmental Services (UK) PLC  
Warwickshire County Council  
Water UK  
Wessex Water Ltd.  
West Midlands Regional Technical Advisory Body  
Waste and Resources Action Programme (WRAP)  
Yorkshire and Humberside Pollution Advisory Council Land Sub-Committee  
Yorkshire Water Ltd.