Policy CC/CE (Supporting a circular economy and sustainable resource use)

Railpen objects to Policy CC/CE as unsound and considers its drafting raises legal compliance concerns under section 19(2) of the Planning and Compulsory Purchase Act 2004 (regard to national policy). The objection is tested against the four soundness tests set out in national planning policy: positively prepared, justified, effective, and consistent with national policy.

Criterion 2 uses undefined, subjective terms. "Significant part" is not defined in the policy itself and supporting paragraph 4.64's glossary ("a proportion…with significant carbon content") is not a workable threshold. "To the satisfaction of the Local Planning Authority" imports pure discretion, with no objective evidential standard for an Applicant to work to. A test decision-makers, applicants and the Plan's own supporting text cannot apply consistently fails the effective test and the standard identified by *Tesco Stores v Dundee CC* [2012] UKSC 13.

NPPF policy S3/S4 sets the general decision-making standard that development should be approved unless adverse effects substantially outweigh the benefits. Policy CC/CE placing the burden on the applicant to satisfy a discretionary LPA-controlled test before demolition is even acceptable in principle, with wider benefits allowed only on an "exceptional basis." NPPF reserves that kind of heightened test for defined assets of particular importance e.g habitats sites, designated heritage. Applying an equivalent bar to Greater Cambridge, without site-specific justification, sits uneasily with the requirement that plan policies extending beyond site-specific matters be demonstrably necessary and justified, and fails to be Consistent with National Policy test.

Criterion (d) is the only route for wider benefits, but confines them to "exceptional" cases where they must "outweigh" carbon savings, rather than being weighed as part of the ordinary three-way balance of economic, social and environmental objectives that NPPF paragraph 17 requires to be pursued "in mutually supportive ways," not sequentially. As drafted, the policy does not allow proper weight to benefits such as housing and employment delivery, building safety, energy performance and design quality. Left unbalanced, Policy CC/CE also risks undermining delivery, a further Positively Prepared and Effective test concern.

Railpen requests that criterion 2, and in particular criterion (d), be reworded so wider sustainable development benefits are weighed in the normal way against embodied carbon savings, rather than confined to exceptional cases where they must outweigh them.

Summary of why Railpen consider the plan is not legally compliant or is unsound

Railpen considers Policy CC/CE unsound and potentially legally non-compliant because its wording is unclear, overly discretionary and inconsistent with national policy. Undefined terms such as “significant part” and reliance on what satisfies the LPA create uncertainty and undermine effectiveness. The policy also imposes a stricter presumption against demolition than the NPPF generally requires, without sufficient justification. By allowing wider development benefits to be considered only exceptionally, it creates an inappropriate hierarchy rather than balancing economic, social and environmental objectives. Railpen therefore seeks revised wording so embodied carbon savings are weighed proportionately against wider sustainable development benefits through the normal planning balance.

Railpen proposes the following amended wording to replace the existing text in the draft Local Plan:

Part 2:

To avoid the wastage of embodied carbon in existing buildings and to avoid the creation of new embodied carbon in replacement buildings, and proportionate to the scale and significance of the demolition proposed, there is a presumption in favour of repairing, refurbishing, and re-using existing buildings over their demolition. This presumption is applied as part of the overall planning balance and is not, of itself, a reason to refuse an otherwise acceptable proposal. Proposals that result in the demolition of a building (in whole or a significant part) should be accompanied by a full justification for the demolition. Compliance with criteria (a) to (d) below must be demonstrated through a Whole Life Carbon Assessment, prepared in accordance with the RICS methodology referred to in criterion 2(b), submitted with the application. Demolition will only be acceptable where it is demonstrated ~~to the satisfaction of the Local Planning Authority~~ that:

Para 4.60

A significant proportion of a building's whole-life greenhouse gas emissions are locked into its fabric, with emissions stemming from material manufacturing, the transportation of materials and components, and physical construction and demolition – these emissions are commonly referred to as "embodied carbon". The effective application of circular economy principles to the built environment creates places where buildings are designed for adaptation, reconstruction and deconstruction, which reduces the need to extract raw materials and manufacture new building components. To avoid the unnecessary wastage of embodied carbon emissions in existing buildings, proposals must make every effort to refurbish, retrofit and re-use existing buildings and building materials, where possible. It is recognised that retrofit or refurbishment may not be the most sustainable option for the development of a site or may not be viable, but applicants must present a clear case that one or more of criteria (a) to (d) of Policy CC/CE is satisfied. ~~applicants must present a clear case that demolition and reconstruction is the only viable option for the development of the site or, in exceptional circumstances, would deliver significant public benefits.~~

If you wish to participate in the hearing session(s), please outline why you consider this to be necessary

Railpen wishes to participate in the relevant hearing session(s) because its representations raise a number of concerns regarding the soundness, effectiveness and deliverability of policies across the Plan. These concerns relate to matters including policy justification, proportionality, flexibility, implementation and the practical implications of applying the proposed policy framework to development sites at different stages of the planning and delivery process.

Participation in the hearings would allow Railpen to explain these concerns in greater detail, respond to the Council's evidence and clarify how particular policy requirements may operate in practice. It would also provide an opportunity to discuss potential modifications that could improve the clarity, effectiveness and deliverability of the Plan while still achieving its overarching objectives.

Given the breadth of Railpen's representations and its direct interest in the implementation of the Plan, participation would assist the Inspector by providing a landowner and development perspective on the practical consequences of the proposed policies. Railpen therefore considers that its involvement in the relevant hearing sessions would make a useful contribution to the examination of whether the Plan has been positively prepared, is justified, effective and consistent with national policy.