

www.defra.gov.uk

Summary of Responses to the Consultation on the Draft Construction Code of Practice for the Sustainable Use of Soils on Construction Sites

28th July 2008 to 20th October 2008

March 2009

Department for Environment, Food and Rural Affairs
Nobel House
17 Smith Square
London SW1P 3JR
Telephone 020 7238 6000
Website: www.defra.gov.uk

© Crown copyright 2009
Copyright in the typographical arrangement and design rests with the Crown.

This publication (excluding the royal arms and departmental logos) may be re-used free of charge in any format or medium provided that it is re-used accurately and not used in a misleading context. The material must be acknowledged as crown copyright and the title of the publication specified.

Information about this publication and further copies are available from:

Defra
Soils Policy Team
3C Nobel House
17 Smith Square
London SW1P 3JR
Tel: 020 7238 6419

Email: ccopsoil.consultation@defra.gsi.gov.uk

This document is available on the Defra website:
<http://defraweb/corporate/consult/sustainable-soil-construction/index.htm>

Published by the Department for Environment, Food and Rural Affairs

Executive summary

This consultation relates to the Construction Code of Practice for the Sustainable Use of Soil on Construction Sites. The Code of Practice's overall objective is to assist the construction sector to be more effective at protecting and enhancing the soil resources with which they work. This is achieved by providing detailed guidance on soil management.

Defra put a draft of the Construction Code of Practice out to formal public consultation between 28th July 2008 to 20th October 2008. The aim of this was to obtain views on the draft Code of Practice. This report sets out Defra's analysis of the responses to the consultation. Information from this analysis has been used in finalising the Code of Practice.

A total of 23 responses was received to the consultation. The majority (11) were from the industrial sector, this included construction, environmental and engineering consultancies such as utility companies and Rail. This group reflects those that directly manage soil in their everyday work. The remaining were from Local Authorities (2), a consultant, research consultancy and other public bodies (e.g. charities and advice groups).

In terms of the need for a Code of Practice, all were agreed that this Code was very useful as it successfully brought together guidance (e.g. Soil Action Plan) and information from other publications and industry-based advice into one document. The layout of the document was also praised for the use of diagrams and toolboxes.

- Part 1 – Introduction

 - Background

 - Headline findings

 - Process of consultation

 - Respondents to the consultation

 - Methods of analysis

- Part 2 – Responses to initial questions

- Part 3 – Additional issues raised by respondents

- Part 4 – The way forward: Government response

- Annex I – List of respondents

1. Introduction

Background

- 1.1 Soil is a fundamental and ultimately finite resource that fulfils a number of functions and services for society which are central to sustainability. Some of the most significant impacts on soil properties occur as a result of practices associated with construction activity. Yet it appears that there is a general lack of awareness and understanding of these issues within the construction sector (evidence from Soils in the Built Environment – A Strategy for the Construction Sector).
- 1.2 A Code of Practice (Code) has therefore been developed to assist those involved in construction to improve protection of the soil resources with which they work. By following the guidance in the Code the aim is to provide advice to help protect and enhance the soil resources on site but may also achieve cost savings. Cost savings from importing less topsoil and reducing the amount of soil going to landfill which is currently taxed at £2.50/tonne.
- 1.3 The draft Code was put out for public consultation between 28th July 2008 – 20th October 2008. The consultation sought views on best practice by the industry, the accessibility of the document and were the demands of the draft Code reasonable and achievable.
- 1.4 The main findings from the consultation responses received are set out in Parts 2-3 of this paper. Information from this analysis has been used in finalising the Construction Code of Practice for the Sustainable Use of Soils on Construction Sites.

Headline findings

- 1.5 23 responses to the consultation were received (see Annex I for a list of respondents). Some key findings from these responses were:
 - Many felt that this document was constructive at highlighting best practice in the construction industry.
 - All respondents liked the layout of the document describing the different methods of displaying the information useful and engaging.
 - The Impact Assessment usefully explained how improving onsite soil management was beneficial especially the cost savings that may be achieved.

Process of consultation

- 1.6 The draft Code for consultation was developed with a steering group and the consultation sought views on key questions and went out to consultation 28th July 2008 and closed on 20th October 2008.

Respondents to the consultation

1.7 23 responses to the consultation were received. These were divided into the following classification for the purpose of analysis:

Classification	Description	Number in group
Ind ^y	Key industry - construction, waste, engineering consultancies)	11
OPB	Other public bodies (non-government) – specialist institutes, environmental charities	5
DPB	Departmental public bodies	3
LA	Local authorities	2
Ind ^v	Individual	1
RES	Research bodies	1

1.8 Industry formed the largest classification with 11 responses. Interest was also shown by other public bodies, very few private individuals responded to the consultation.

Method of analysis

1.9 This analysis relates to the written responses received to the consultation and does not focus on views expressed outside of this. In analysing the consultation responses we have tried to establish the views given on each question and each question has taken into account the sector's response.

1.10 In a number of cases, issues were raised in response to a specific question, where they would actually fit better with a different question. Where appropriate such issues have therefore considered under those questions to which the response most closely relates.

1.11 Not all respondents answered every question and therefore the conclusions drawn in response to some questions are based on limited input and may be strongly influenced by a particular sector.

2. Responses to questions

2.1 Ten questions were posed at the beginning of the consultation. These were divided into three sections; content of the draft code, use of the draft code and impact assessment.

Do you think the draft Code demands a suitable level of protection for soils or is it too high to be achievable or too low to have a significant impact?

2.2 Of 23 total consultation responses received, 10 answered this question. Half of the respondents believe that the demands of the draft Code are at a suitable level. Many of these agreed that the detail included should have a

positive impact on raising awareness of good soil practices and promoting consistent behavior throughout the construction industry. 3 of the industry respondents agreed that the demands with the document were at the appropriate level. 1 response from Other Public Body (OPB) specifically identified that a voluntary code was the appropriate level to promote best practice and another noting that the guidance may help to achieve statutory regulations on waste.

- 2.3 A total of 5 respondents felt that the level of soil protection outlined in the Code was conceivably at the wrong level. Three respondents; Local Authority (LA), Departmental Public Body (DPB), Research (RES) felt that the document didn't go far enough. Many considered if the document was unsuccessful as a voluntary Code then it should be made statutory, as formal requirements will force all industry to comply. 1 respondent from the industry sector felt that success may be limited by programme time and budget costs and another suggested that paperwork may be a constraint.

Does the practice recommended by the draft Code reflect best practice in the industry?

- 2.4 Of the 23 total consultation responses, 8 answered this question. 4 from differing sectors agreed that Defra's Code reflected best practice in industry. Several of the respondents acknowledged that whilst the Code does promote best practice if this isn't voluntarily carried out by the construction industry then the impact will be limited.
- 2.5 Those not content with the proposed best practice were from the industrial sector and 1 OPB. They had concerns that best practices were not always applicable when working in the field especially when confronted with obstacles such as space and weather. One concern was that soil sampling is very site specific, as a soil is very heterogeneous and more sampling might be necessary in some cases.

Do you think the draft Code achieves its objective of being a practical user-friendly guide for use in the construction industry?

- 2.6 Of the 23 total consultation responses, 11 answered this question. All agreed that the Code is practical and in a user friendly style for use by the construction industry. Many expressed how the summary boxes, pictures, toolboxes, Do's and Don'ts enhanced the written information making it easier to understand the technical detail. The only criticism was to slim-down the document to make it more user-friendliness in the field and for it to be printed in colour to make it more appealing.

Is there any information included in the draft Code which could be presented in a more suitable and easy-to-use manner?

- 2.7 Of the total 23 consultation responses, 8 answered this question. 7 from three different sectors felt that alterations should be made to the draft Code to make it easier to understand. The majority of respondents that felt changes should be made were from the industry and other public body sector.

The following issues were raised:

- The two principle pieces of legislation for industry is planning and environmental permitting. It should be made clear in the document that planning approval is a pre-requisite to their development proposals.
- The draft Code would benefit from an alignment of terminology and documentation with MMP (Material Management Plan) and the CL:AIRE The Definition of Waste: Development Industry Code of Practice document.
- It may be helpful to make the financial benefits clearer.
- Does any of the monitoring need specialist soil scientists and are there enough to fill this criteria?
- Brochure should be published in colour to make it more appealing.
- The list of guidance documents could be placed in a table to make it clearer and the case-studies bulleted to make the key information obvious.
- Sections 6.2 and 6.3 need to make reference to the availability and use of PAS100 materials.

Do you think any further terms should be defined in the glossary?

- 2.8 Of the total 23 consultation responses, 8 answered the question. 7 felt that additional terms need to be added to the glossary. 1 respondent from the industry sector felt that the glossary contained some definitions that had been explained in the body of the text. The repeated information should be removed. Requests for additions to the glossary came predominantly from the Industrial sector. Suggested additions include:

- Basal layer
- Contaminated soil should be changed to unsuitable soil
- Biochemical oxygen demand, biosolids, soil management plan, soil stripping, soil strength and verti drain
- Explanation of disposal and recovery
- The definitions in the glossary are mainly based on soil structure, needs to be some explanation on legislative terminology e.g. exemption or environmental permits

Do you agree with the analysis outlined in the Impact Assessment?

- 2.9 Of the total 23 respondents, 8 answered this question. The majority of the respondents agreed with the analysis outlined, the majority of those that agreed (7) were from the industrial sector. Respondents highlighted that they liked how the Impact Assessment shows how sustainable use of soils can reduce operating costs. Additionally, identifying other key soil functions and not just

focusing on soil as a platform for construction proved popular. A respondent from departmental public body felt additional consideration should be given to other resources that may be needed by stakeholders e.g. helpline advice.

In your view, to what extent is good soil management as recommended by the draft Code currently practiced by the construction industry?

- 2.9 Of the total 23 respondents, 6 answered this question. 5 felt that good soil management is not practiced widely by the construction industry. This Code should go some way to increase awareness of sustainable methods and practices. One respondent felt that since the introduction of Site Waste Management Plans (SWMP), construction site management had improved e.g. reusing materials on site. However, the information provided in the Code would assist in making earthwork sites more sustainable.

In your view, what are the key information gaps in respect of the sustainable use of soils on construction sites? Does the draft Code address these information failures adequately?

- 2.10 6 people responded to this question, half of which were from the industrial sector. They felt that educating site investigators and construction consultants was the best means in raising awareness of soil protection. One felt that toolbox talks specifically for construction workers would help to increase their understanding. One respondent felt that the emphasis on the key soil functions increases the significance of protecting soil resources. In addition they felt that draft Code doesn't give enough emphasis to the importance of customer and stakeholder satisfaction, which completing high quality sustainable work can bring.

Do you have any further evidence to contribute to the Impact Assessment?

- 2.11 2 responses were returned for this question which were from a research department and non-departmental public body. Both agreed that poor soil management was still an issue on construction sites and the Impact Assessment included presents a robust case for correcting this.

3. Additional issues raised by respondents

This section includes comments and issues raised by respondents which did not fit into the questions in section 2. These responses have been divided into the relevant chapters used in Code.

3.1 Introduction

- Other options should be included in addition to disposing the soil in landfill are available e.g. treatment and re-use at an exempt site. Advice on these more sustainable options should be made clear in the document.

3.2 Related legislation

- Links have to be made with EA 2006 guidance on the Definition of Waste, Site Waste Management Plans (SWMPs) and the CL:AIRE document (The Definition of Waste: Development Industry Code of Practice). It was highlighted that information and guidance remains consistent.

3.3 Related guidance

- Information should include reducing carbon impacts by minimising the transportation of soils.

3.4 Pre-construction planning

- Should include reference to SWMP and how to use these earlier in the construction project which may result in significant savings and good site management.
- Inclusion of more information on other methods of dealing with contaminated land found on the site, not just sending to landfill.
- Disagree that a soil resources survey is necessary in addition to a geotechnical or geoenvironmental survey. A respondent felt that a thorough geotechnical survey should reveal most of the information that is required to make educated decisions.
- Section on managing over-consolidated clays, a problem in northern England.
- Archaeological assessment should be included
- Should the document suggest specifically what analytical work should be carried out on the soils?
- Should a reference be included for the Institute of professional soil scientists and the British Agricultural Consultants to enable qualified soil scientists to be located by the construction industry?

3.5 Soil management during construction

- Guidance needed on not stock-piling material close to trees.
- Document needs to include information on managing invasive weed species on site.
- More detail needed regarding the handling of soil and keeping it aerated.
- The section should be revised to include the Materials Management Plan (MMP) rather than a Soil Management Plan (SMP). If the term SMP has to be retained this should be defined as part of the MMP.

3.6 Landscape, habitat or garden creation

- Government policy objectives should be furthered by providing advice and guidance on potential sustainable use of other soils rather than just concentrating on topsoil e.g. engineered back fill, acoustic mounds.
- The reference to Landfill Tax should be elaborated.

4. The way forward: government response

4.1 Based on the results of the consultation, some changes have been made to the Code but in the most part the structure and content remains largely the same. The significant changes are explained below:

- The Code has been modified to include more information on how this Code relates to regulations and other code of practices relating to waste. Significantly more detail has been added on The Definition of Waste: Development Industry Code of Practice DoWDICoP and the principles for the use of materials as non-waste. The text has also supplemented this information by explaining the differences between the DoWDICoP and this Code and how they support each other. Within this section we recognised that clarification of Materials Management Plans was necessary and how this related to the Soil Management Plan.
- Additional terms have been added to the glossary where consultation responses highlighted a lack in information or explanation.
- Detail on trees in relation to construction sites has been included with further advice provide on where additional information can be found.
- We have made it clear that a soil resource survey needs to be co-ordinated with other site assessments such as contamination, invasive weeds, ecology and archaeology.
- Concerns were raised regarding the number of sampling sites advised in the pre-construction planning chapter. Information has been provided on the British Standards (BS3882:2007, BS5930:1999 and BS10175:2001) to explain where this information was obtained.
- One respondent requested more information on reducing carbon emissions by minimising transportation costs. This issue was covered from a different angle; by looking at the preservation of soils on construction sites. By managing soil sustainably on site then the amount that is transported off or back onto sites from a different source should be reduced. This should in turn reduce transportation and consequently carbon emissions. However as this is a voluntary Code it would be difficult to reach any conclusions on the carbon savings that might be achieved.

ANNEX I – List of respondents

ADAS

Birse Rail

Carillion PLC

Chartered Institute of Environmental Health

CL:AIRE – Contaminated land:Application in Real Environments

Environmental Protection UK

Forestry Commission England

Graphite Resources

Highways Agency

Institute of Professional Soil Scientists

LBH Wembley Geotechnical

Mendip District Council

Miller Thomas

National Grid Gas

National Grid Property

Personal Response

Royal Institute of Chartered Surveyors

Scott Wilson

Society of Planning Officers

Suffolk County Council

Vital Earth

Wren & Bell