

CABINET – 18 JULY 2017

OXFORDSHIRE MINERALS AND WASTE LOCAL PLAN: PART 1 – CORE STRATEGY – INSPECTOR’S REPORT AND ADOPTION

Report by Director for Planning & Place

Introduction

1. The County Council has a statutory duty to prepare a new Oxfordshire Minerals and Waste Local Plan, to replace the existing Minerals and Waste Local Plan which was adopted in 1996. The new Plan will provide an effective and up to date planning strategy and policies for the supply of minerals and management of waste in the county, consistent with current national planning policy and environmental, social and economic needs. It is being prepared in two parts.
2. The Oxfordshire Minerals and Waste Local Plan: Part 1 – Core Strategy (the Plan) was approved by the County Council on 24 March 2015 for publication and submission to the Secretary of State for independent examination. Following publication in August 2015 for representations to be made, this Plan was submitted for examination in December 2015. The Secretary of State appointed Mr Brian Cook as the Inspector to carry out the examination of the Plan. He held a hearing between 20 and 30 September 2016.
3. The published and submitted Plan, the representations made on the Plan and all examination documents (including the Council’s evidence base) are available on the Examination website at:
<http://www.hwa.uk.com/projects/oxfordshire-minerals-waste-core-strategy/>

Inspector’s Interim Report and Council’s Proposed Modifications

4. During the hearing sessions, it became apparent and the Council agreed that modifications were needed to ensure the Plan was sound and that further Strategic Environmental Assessment / Sustainability Appraisal (SEA/SA) work was necessary to ensure it was legally compliant. To assist the Council in this, the Inspector undertook to produce an Interim Report, which was issued on 12 October 2016.
5. The main purpose of the Inspector’s Interim Report was to provide his conclusions on the amounts of provision that need to be made for mineral working and waste management over the plan period to 2031. It also reported on certain legal and procedural matters, including the need for further SEA/SA work to be undertaken, setting out some guidelines on this for the Council. In addition, it stated that the Council needed to bring forward proposed

modifications to the Plan, to give effect to the conclusions the Inspector had reached.

6. The further SEA/SA work required was undertaken in the autumn of 2016 and, in the light of the conclusions of that work, discussion at the examination hearing and the Inspector's Interim Report, proposed modifications were drafted. The conclusions of the Inspector's Interim Report together with the further SEA/SA work carried out and the draft proposed modifications were reported to the Cabinet on 21 January 2017. The Cabinet agreed proposed modifications to the Plan and a comprehensive updated SEA/SA report, as recommended. The report to that meeting (without annexes) is attached at Annex 1.
7. The proposed modifications agreed by Cabinet were of two types: main modifications, being changes to the Plan that relate to issues of soundness and including all modifications to policies; and additional modifications, being more minor changes such as factual updates and corrections or textual changes for clarification. The Inspector is only concerned with main modifications. The Council is only required to consult on main modifications, but, as is common practice, it was agreed that the additional modifications should also be published for comment.
8. The proposed modifications to the Plan and the comprehensive updated SEA/SA report were published for consultation for a six week period from 3 February to 20 March 2017.
9. Responses to this consultation were received from 83 respondents. Of these, 29 responses supported proposed modifications, 19 made objections, 8 made both supporting comments and objections and 27 made other comments not directly related to the proposed modifications. The full consultation responses were passed to the Inspector on 23 March. A list of the respondents with summaries of their comments was also provided to him; this is attached at Annex 2.
10. Most of the responses related to proposed modifications to the minerals policies, in particular to the inclusion of the minerals provision figures from the Council's Local Aggregate Assessment 2014 in policy M2 and to the inclusion in policy M3 (locations for mineral working) of a 25%/75% split in the location of new sites between northern and southern Oxfordshire. There were fewer responses on the proposed modifications to the waste policies and the core (development management) policies, being mainly from the waste industry, but these included a number of detailed comments. Many of the responses repeated comments and information included in previous representations. A significant number of responses were about parts of the plan that were not changed by the proposed modifications, in particular that the Bampton / Clanfield area should not be included in policy M3.
11. The response from OXAGE, which was supported by other respondents, includes objection on the grounds that the Inspector's Interim Report is flawed in respect of his conclusions on provision for minerals. OXAGE say that the

Council must consider whether or not this is so and give reasons for its decision, as it is the Council's responsibility to put forward what it considers is a sound plan, and that it is not sufficient to merely rely on the recommendations of the Inspector. OXAGE also consider that the SEA/SA remains inadequate in terms of the minerals provision figures because it fails to assess alternative projections (i.e. the 10-year sales average).

12. The Inspector did not ask the Council to make any comments on or responses to the consultation responses, and therefore none were made.
13. The Inspector's Interim Report, together with the updated SEA/SA report, the proposed modifications and the full consultation responses received on them, are available on the County Council website at:
<https://www.oxfordshire.gov.uk/cms/content/minerals-and-waste-core-strategy>

Inspector's Final Report

14. The Inspector's Final Report was received on 15 June 2017 and published on the County Council website on 19 June. It is attached at Annexes 3, 3A and 3B. The Final Report includes the Inspector's Interim Report as Appendix A (Annex 3A) and recommended main modifications as Appendix B (Annex 3B). The Inspector's conclusion is that the Plan as submitted has a number of deficiencies in respect of soundness and legal compliance, which mean that he recommends non-adoption of it as submitted, but that with his recommended main modifications the Plan satisfies legal requirements and meets the criteria for soundness and is capable of adoption.
15. The Inspector has considered all the representations made on the Council's proposed main modifications and updated SEA/SA report. In his Final Report he addresses particular objections, comments and suggestions for rewording of modifications made in the representations. He also looks at the process the Council followed in the updated SEA/SA work, including the identification of reasonable alternatives for assessment and why the 10-year sales average was not included as a reasonable alternative to the level of provision being made through policy M2.
16. The Inspector confirms that the duty to co-operate has been met in the preparation of the core strategy; and he concludes that the plan now meets all legal requirements, including for sustainability appraisal.
17. The Inspector also confirms the findings of his Interim Report (October 2016) and this forms part of the Final Report (attached at Annex 3A). The Interim Report gave the Inspector's conclusions on the amounts of provision that need to be made for mineral working and waste management over the plan period to 2031. He largely supported the Council's proposals. In particular, he concluded that the Local Aggregate Assessment 2014 is soundly based on the best available evidence at the time and is therefore robust; and that the provision for mineral working over the plan period should be as proposed by the Council in the submitted Plan.

18. The Inspector has considered the views of OXAGE, supported by other representors, that his Interim Report is flawed and that the Council should not merely rely on his recommendations. He addresses this in his Final Report (paragraphs 11 – 15). He states that the criticism of the way the Council dealt with the Interim Report made by some representors is misconceived.
19. In the Final Report, the Inspector sets out his assessment of soundness of the Plan. This considers four main issues:
 - i. Provision for the supply of aggregates and for waste management capacity:
 - the Council’s proposed modifications reflected the Inspector’s findings in his Interim Report;
 - the Inspector now concludes that, subject to alterations to two of the modifications to ensure consistency with the NPPF, with these modifications the plan is sound in this respect.
 - ii. Spatial strategies for delivering the required provision for aggregates and waste management capacity:
 - this covers the key polices for the broad location and distribution of future mineral working and waste management sites;
 - the additional SA/SEA undertaken by the Council supported the spatial strategy for aggregates in the submitted plan and, with some small changes, also supported the spatial strategy for waste;
 - the Council’s proposed modifications were drawn up in the light of the further SA/SEA, discussion at the examination hearing and the Inspector’s Interim Report;
 - the Inspector now concludes that with these modifications the plan is sound in this respect.
 - iii. Development management policies:
 - this covers the policies setting criteria for the siting of new minerals and waste sites and the determination of applications, policies for specific types of facility and general development management policies;
 - the Council’s proposed modifications were drawn up in the light of discussion at the examination hearing and the Inspector’s Interim Report;
 - the Inspector now concludes that, subject to alterations to one of the modifications to ensure consistency with the NPPF, with these modifications the plan is sound in this respect.
 - iv. Monitoring framework:
 - the submitted plan did not include a monitoring framework but in the light of discussion at the examination hearing and the Inspector’s Interim Report this was included as one of the Council’s proposed modifications;
 - the Inspector concludes that with this modification the plan is sound in this respect.

Inspector's Recommended Modifications

20. The Inspector's recommended main modifications are very little altered from those agreed by Cabinet and published as the Council's proposed modifications for consultation earlier this year. He considers the following alterations to be necessary:
 - a) MM8 (policy M1) – to bring the policy into line with national policy, the Inspector has inserted “significantly and” in the first sentence of the fifth sub-paragraph, to read: “...unless the adverse impacts of doing so significantly and demonstrably outweigh the benefits”; this alteration is required for soundness.
 - b) MM19 (paragraph 4.44) – the Inspector has deleted the final sentence, which read “Proposals for development other than mineral extraction in Green Belt will be considered against policy C12”; this deletion removes a possible inconsistency with policy M5.
 - c) MM46 (policy W3) – to bring the policy into line with national policy, the Inspector has inserted “significantly and” in the first sentence of the fifth sub-paragraph, to read: “...unless the adverse impacts of doing so significantly and demonstrably outweigh the benefits”; this alteration is required for soundness.
 - d) MM63 (policy C6) – for consistency with national policy, the Inspector has inserted “Significant development leading to” and deleted “overriding” in the second sub-paragraph, to read: “Significant development leading to the permanent loss of best and most versatile agricultural land will only be permitted where it can be shown that there is a need for the development ...”; these alterations are required for soundness.
 - e) MM74 & MM75 (glossary) – the Inspector has deleted these as main modifications because they are not required for soundness; but the Council may include them as additional modifications.
21. The Inspector does not require any further consultation to be carried out on these alterations to the main modifications.
22. The plan as now recommended to be modified by the Inspector, includes:
 - a) A more positive approach to provision of recycled and secondary aggregates facilities, with clarification that there will be no ceiling on capacity provided the development is otherwise acceptable (policy M1).
 - b) Confirmation in policy of the amount of mineral provision required over the plan period, based on the figures in the Local Aggregate Assessment 2014 (policy M2).
 - c) Clarification that there will be no ceiling on the amount of waste management capacity for recycling, composting and food waste

treatment, provided the development is otherwise acceptable (policies W1 – W3).

- d) Confirmation of the general spatial strategies for where minerals and waste development can be located, including:
 - Minerals – the principal locations (strategic resource areas) for mineral working, with a 25%/75% split between northern and southern Oxfordshire in the location of new sites (policy M3); and
 - Waste – indication of areas around Oxford and larger towns where strategic and non-strategic waste management facilities should normally be located (policy W4).
- e) Confirmation of policies for siting of mineral working and waste management facilities and consideration of planning applications, including to secure high quality restoration of sites, and for safeguarding of mineral resources and minerals and waste infrastructure (policies M4 – M10 and W5 – W11).
- f) Confirmation of core development management policies, including for protection of the amenity of local communities and of the water environment, agricultural land and soils, biodiversity and geodiversity, the landscape, the historic environment and the Green Belt, consistent with national policy (policies C1 – C12).

23. In addition the Council produced a number of additional modifications to the Plan, as agreed by the Cabinet in January 2017, and published these for comment alongside the main modifications. These addressed minor matters of consistency and clarification, typographical and other minor errors and factual updates to supporting text. Only a few comments were received on the additional modifications, all of which were in support of particular modifications. Since January 2017, it has become apparent that some further additional modifications are required, in particular to update chapter 1 – Introduction to reflect the changed position in the plan-making process and to update the maps of current minerals and waste facilities in chapter 2 – Background.

24. The main modifications as recommended by the Inspector are set out in Appendix B to his Final Report (attached at Annex 3B). They are also incorporated into the updated, composite version of the Plan that is attached at Annex 4. This also includes the updated additional modifications, to provide a comprehensive document. The two types of modification are distinguished by the main modifications having a grey shaded background. The policies map, in two parts – north and south, is attached at Annexes 5A and 5B. This has been updated from the version published with the proposed modifications in February 2017 to show the mineral consultation areas in accordance with policy M8 (these were previously omitted) and make some corrections and clarifications to the key.

Consideration of the Inspector's Report and Recommendation

25. Having received the Inspector's Final Report, the Council may now adopt the Plan but it may only do so with the main modifications recommended by the Inspector (and any additional modifications that do not affect the policies). The only alternative would be for the Council to not adopt the Plan and either to start afresh on the preparation of a new plan or to not prepare a new plan and continue to rely on the 1996 Minerals and Waste Local Plan. The possible consequences not adopting the plan are addressed in the section on risk management below.
26. I consider the Inspector's report to be comprehensive and well-reasoned. He has considered all the relevant matters and issues and has taken into consideration all the representations made, both on the published Plan and the proposed modifications. I agree that the alterations he has made to the Council's proposed modifications are required for soundness; his recommended modifications to the Plan are otherwise as previously agreed by the Cabinet, in January 2017.
27. I have considered the views of OXAGE, supported by other representors, that the Inspector's Interim Report is flawed and that the Council should not merely rely on the recommendations of the Inspector. I agree with the Inspector (Final Report paragraph 14) that this criticism of the way the Council dealt with the Interim Report is misconceived. In my view, now that the Inspector has considered the representations on the proposed modifications and his Final Report has been received, confirming the conclusions of the Interim Report, it is not necessary for the Council to make any further response on this matter.
28. I consider that the Council should now adopt the Plan with the main modifications recommended by the Inspector and the additional modifications that are necessary. Adoption of the Plan requires a resolution of the Council.

Next steps

29. The Core Strategy is Part 1 of new Oxfordshire Minerals and Waste Local Plan. It sets out requirements and locational strategies for minerals and waste but does not include specific sites for mineral working or waste management facilities. Sites which are considered suitable in principle, subject to planning permission, for future minerals and waste development are to be identified in Part 2 of the Plan – Site Allocations. If the Core Strategy is adopted at the County Council meeting on 12 September, work will be able to start on the Site Allocations Plan in the autumn. An updated Minerals and Waste Development Scheme, setting out the timetable for preparation of the Site Allocations Plan, will need to be brought to Cabinet for approval.

Financial and Staff Implications

30. The new Minerals & Waste Local Plan is included within the work priorities of the Communities Directorate and is in part being progressed within the existing mainstream budget for the Council's minerals and waste policy

function. In addition, a special reserve was created to help fund the abnormal costs of plan preparation (including the commissioning of specialist background technical studies) and independent examination. The remaining costs of the plan examination and adoption processes, mainly the cost of the Inspector, can be met from what remains in the reserve. There are no additional staff implications.

Equalities Implications

31. None have been specifically identified.

Legal Implications

32. Under the Planning and Compulsory Purchase Act 2004 (as amended), the County Council is required to prepare a minerals and waste local plan. The European Waste Framework Directive, 2008 (2008/98/EC), as transposed through the Waste (England and Wales) Regulations 2011, requires waste planning authorities to put in place waste local plans. There are legal requirements for local plans to be subject to Strategic Environmental Assessment / Sustainability Appraisal (SEA/SA) and Habitats Regulations Assessment (HRA) and for the way these assessments are carried out and reported. These requirements will be met in adopting the plan as now recommended by the Inspector.

Risk Management

33. If the new Minerals and Waste Local Plan is not adopted, the County Council will have no up to date and locally-determined land-use policy framework against which to regulate proposals for new mineral working and waste management development in Oxfordshire. Such a diminution of local control over these operations would leave the authority with much less influence over the location of future minerals and waste operations and make it heavily reliant on the National Planning Policy Framework and National Planning Policy for Waste, which are considerably less comprehensive and detailed in their coverage of these matters. It is important that the legal requirements for SEA/SA and HRA are correctly met in order to minimise the risk of legal challenge to the Plan. It is considered that the Council has taken all reasonable steps to ensure this and that the Inspector's conclusion that all legal requirements have been met is robust.

RECOMMENDATION

34. **The Cabinet is RECOMMENDED to**
 - (a) recommend to Council to:
 - i. adopt the Oxfordshire Minerals and Waste Local Plan: Part 1 – Core Strategy with the main modifications recommended by the Inspector in his final report (Appendix B) at Annex 3B and such additional

modifications as are required, in accordance with the Planning and Compulsory Purchase Act 2004 section 23(3) (as amended);

- ii. authorise the Director for Planning & Place to carry out the steps required by The Town and Country Planning (Local Planning) (England) Regulations 2012, Regulation 26 for making the plan and other documents and information publically available and notifying specified persons as soon as reasonably practicable after the plan is adopted;
- (b) authorise the Director for Planning & Place to finalise the additional modifications that are required, for recommendation to Council, to include the additional modifications published by the Council for public comment on 3 February 2017 subject to any necessary amendments and any further additional modifications now required.

SUSAN HALLIWELL
Director for Planning & Place

Background papers:

Contact Officer: Peter Day, tel. 07392 318899
July 2017