

Divisions Affected - All

CABINET – 16 MARCH2021

West Berkshire Minerals and Waste Statement of Common Ground and Oxfordshire County Councils response to the West Berkshire Minerals and Waste Local Plan Consultation (Reg 19 Submission)

Report by Assistant Director Strategic Infrastructure and Planning

RECOMMENDATION

1. **The Cabinet is RECOMMENDED to**
 - (a) **endorse the officer response to the West Berkshire Minerals and Waste Local Plan Consultation (Reg 19 Submission) and the Statement of Common Ground (appended).**
 - (b) **To delegate authority to the Corporate Director, Environment and Place in conjunction with the Cabinet member for Environment, to:**
 - i. **seek to overcome and where possible withdraw the objections set out in the appended Officer response through duty to co-operate discussion with West Berkshire Council; and**
 - ii. **approve the Statement of Common Ground with West Berkshire.**

Executive Summary

2. West Berkshire Council have recently concluded public consultation on their R19 Submission Draft Minerals and Waste Local Plan ('Draft Plan') which, pending examination in public, will set out policies to manage their minerals and waste development needs until 2037.
3. West Berkshire Council consulted Oxfordshire County Council on their Submission Draft Minerals and Waste Local Plan on 4th January, the deadline for responses was 15th February providing six weeks to digest the proposals in the Draft Plan and review the technical evidence.
4. The objections raised by officers are significant and fundamental to the soundness of the Submission Draft West Berkshire MWLP. In summary they are:

- West Berkshire will be unable to deliver sufficient mineral (soft sand) to meet its requirements.
 - Lack of identification of waste management facilities for non-hazardous residual waste for the whole plan period.
5. Our concerns with the Soft Sand proposals are as follows –
- West Berkshire have the underlying soft sand deposits within their Area, and therefore in accordance with the NPPF they need to meet their own mineral requirements.
 - Currently only 2 sites are identified to meet all West Berkshires sand and gravel requirements. The soft sand site does not deliver all the identified soft sand requirements (est. 400-670,000 tonnes of soft sand) which is short of the 790,000 tonnes required through their Local Aggregates Assessment.
 - Due to the lack of identified reserve for soft sand, we would wish to see a more enabling policy. We had hoped that the addition of an area of search approach would create a positive policy, but it has been used to add a further restriction.
 - We would expect the priorities of the plan to be firstly the allocated site; secondly the areas of search and finally reliance on other authorities to meet the remaining need. In the West Berkshire case, the priority is firstly reliance on Oxfordshire; secondly its nominated site; and finally its restrictive policy on areas of search. This is not as agreed by Officers in the Statement of Common Ground.
6. Our concern with the lack of identification of waste management facilities for non-hazardous residual waste for the whole plan period relates to the impact on Oxfordshire, for example:
- Lack of clarity for how West Berkshire is managing their different types of waste arisings and how this compares to the types of waste management facility available.
 - Section 4.23 of the Draft Plan acknowledges that West Berkshire relies on other Authorities for non-hazardous landfill capacity, and we know that waste moves from West Berkshire to Oxfordshire, particularly to Sutton Courtenay Landfill site.
 - Supporting text (4.34) says that there is no need for additional waste management capacity. However, the Draft Plan also says that approximately 34,000 tonnes per annum capacity is required to dispose of non-hazardous (LACW + C&I) residual waste will be required in West Berkshire by 2037.
 - The policy on the location of waste sites is very restrictive.
7. The above points summarise the technical concerns raised in the letter which lead us to conclude that West Berkshire will become more reliant on Oxfordshire

for both soft sand supply and landfill disposal rather than becoming more self-sufficient. If unresolved, the proposed policies and proposals impact on minerals and waste planning in Oxfordshire and negatively impact on our residents and communities.

8. Furthermore, despite lengthy Duty to Co-operate discussions over a Statement of Common Ground with West Berkshire Council the policies and proposals set out in the Draft Plan are not considered to be in accordance with the Statement of Common Ground (SCG) as previously discussed and agreed with officers at West Berkshire Council. This departure from Duty to Co-operate discussions around the SCG has necessitated a more detailed and thorough analysis of the Draft Plan and technical evidence than was anticipated including over 20 supporting and evidence base documents including Minerals Evidence Paper, Site Selection Assessment, Topic Papers and Sustainability Appraisal, that were used in the preparation of the Draft Plan.
9. Officers submitted a holding objection to the Submission Draft West Berkshire Minerals and Waste Local Plan on 15th February, the deadline for all representations to the R19 public consultation and two days later consulted with the Cabinet member for Environment at her strategy briefing.
10. As West Berkshire are now moving to Submission and Examination of their Draft Plan, they are seeking Member approval of the Statement of Common Ground.

Background

11. As a neighbouring Authority, we have engaged with West Berkshire colleagues a number of times during the process of plan preparation, both through responding to previous public consultations and through the preparation of a Statement of Common Ground (SCG). There were discussions between the counties as early as 2017 for minerals movements and 2018 for non-hazardous waste movements. A Soft Sand study was carried out in 2019 and the latest iteration of the Soft Sand Statement of Common Ground was sent back to West Berkshire Council for comments in December 2020.
12. As Minerals and Waste Planning Authorities we are both members of the South East Aggregates Working Party (SEEAWP) and the South East Waste Authority Planning Advisory Group (SEWPAG) which co-ordinate minerals and waste planning respectively within the South East of England.
13. Both our Cabinet member for Environment and Leader of the Council have expressed a preference for a Cabinet decision to endorse the objections expressed by officers given the fundamental nature of the objections raised to the Submission Draft Minerals and Waste Local Plan.

West Berkshire Minerals and Waste Local Plan Statement of Common Ground

14. The two issues covered by the Draft Statement of Common Ground between Oxfordshire and West Berkshire Councils relate to Soft Sand and Non-Hazardous Landfill requirements, these have been discussed at an officer level between the two authorities, with comments passed to West Berkshire Council.
15. A Draft Officer Statement of Common Ground (SCG) has been prepared between West Berkshire District Council (WBDC) and other relevant authorities, including Oxfordshire (Annex 1). The Draft SCG is in its final stages of preparation and aims to address key strategic cross-boundary issues that have been identified between our plan-making areas.
16. Discussions between Officers from Oxfordshire and West Berkshire Authorities on the SCG commenced in mid-2019 and have continued throughout the Draft Plan's preparation, with the final Officer Draft being drawn together in December 2020.
17. The Statement of Common Ground between West Berkshire Council and Oxfordshire County Council supports (at an officer level) that:
 - part of the sales pattern in Oxfordshire included some supply to West Berkshire to meet demand that was not being met from quarries in West Berkshire, and that this cross-boundary movement of soft sand between the authorities is to continue as a strategic issue.
 - Oxfordshire Minerals and Waste Planning Authority would continue to make some provision for soft sand as set out in the Oxfordshire Minerals and Waste Local Plan: Core Strategy (to 2031), and as identified within the Local Aggregates Assessments. This provision is expected to be delivered through the preparation and adoption of the MWLP Part 2 - Site Allocations Plan.

Soft Sand Requirements Section of the SCG

18. National Policy requires an Authority to maintain provision to meet their aggregate requirements over their Plan period. West Berkshire, like Oxfordshire, are required to maintain a 7-year landbank for Sharp Sand and Gravel and a 7-year landbank for Soft Sand.
19. A soft sand landbank requirement for West Berkshire is relatively new in that they have historically not been able to separate soft sand from sand and gravel sales due to confidentiality agreements and so a separate level of need has never been required. However, this position has now changed.
20. West Berkshire have identified through their Local Aggregate Assessment that they require approximately 790,000 tonnes of soft sand over the Plan period or a rate of 43,730 tonnes per annum to provide a 7-year landbank. West Berkshire currently have no reserves of soft sand and no permitted sites.

21. A Sound Minerals Local Plan must set out how an Authority will meet these requirements over the Plan period and if insufficient permitted reserves exist, the Draft Plan must identify how this shortfall will be provided.
22. Significant amounts of West Berkshires soft sand deposits are located within the North Wessex Downs Area of Outstanding Natural Beauty (NWDAONB). Exceptional circumstances will need to be demonstrated if extraction is to take place within this designated landscape, including consideration of the need for development, the alternatives to extracting within the NWDAONB, and any detrimental effect on the environment, landscape and recreational opportunities.
23. To investigate how they could meet their identified shortfall, West Berkshire commissioned a Soft Sand Study. Within the Study, it was understood from local soft sand mineral operators that some of West Berkshire's requirement for soft sand was being met from Oxfordshire quarries, though this was never quantified.
24. In addition, West Berkshire have undertaken 'calls for sites' to meet their identified shortfall. Having undertaken a number of site assessments, they have only been able to propose one soft sand site for inclusion within their Draft Plan. This site is at Chieveley for 400,000 tonnes of soft sand, which would leave an unmet requirement of 320,000 tonnes or 21,666 tonnes a year. Therefore, they will need to permit other sites over their Plan period and this is to be encouraged through the areas of search and criteria policy, thereby hopefully reducing the need for Oxfordshire to export soft sand to West Berkshire. However, we do recognise that they may need to rely on other Authorities, such as Oxfordshire to help them meet their need.
25. Oxfordshire acknowledges within the MWLP Core Strategy that Oxfordshire is an exporter of soft sand to other Authorities, that this is a strategic issue and the 2014 Aggregates survey highlights that some of our soft sand goes to West Berkshire. This was a consideration at our Core Strategy Examination and our mineral requirements over the Plan period reflect this. It is also in accordance with the NPPF, as minerals can only be worked where they are found.
26. Therefore, in officer discussions with West Berkshire we acknowledged that Oxfordshire would continue to export soft sand to West Berkshire but not to supply all of West Berkshire's needs.
27. In light of these discussions, the following 3 recommendations were agreed at Officer level to be included within the Statement of Common Ground:
 1. West Berkshire District Council and Oxfordshire County Council understand that as identified through the West Berkshire Soft Sand Study 2019, part of the sales pattern in Oxfordshire included some supply to West Berkshire to meet demand that was not being met from quarries in West Berkshire, and that this cross boundary movement of soft sand between the authorities is a strategic issue.

2. West Berkshire District Council agrees to meet the identified need for soft sand from within their authority as far as is possible in line with national policy by allocating the Chieveley Services site and identifying Areas of Search in the West Berkshire Minerals and Waste Local Plan, and also including a criteria policy to enable any other suitable sites for soft sand that may come forward to be permitted. This will be over the lifetime of the Plan period to 2037.

3. Oxfordshire County Council agrees to continue making provision for soft sand as set out in the Oxfordshire Minerals and Waste Local Plan: Core Strategy (to 2031), and as identified within their Local Aggregates Assessments. This will be delivered through the preparation and adoption of the Site Allocations Plan.

28. This draft SCG has been endorsed by the South East Aggregates Working Party (SEEAWP).

Non Hazardous Landfill Section of the SCG

29. The second part of the SCG that Oxfordshire and West Berkshire have agreed at Officer level is the movement of waste and the shortfall in West Berkshire's provision for non-hazardous landfill.

30. Oxfordshire is a net importer of waste, supported by the MWLP Core Strategy. Some waste is bought into the county from elsewhere for disposal at landfill sites, under commercial arrangements that are largely outside of current planning controls. In particular, Oxfordshire still has some remaining void space for Non-Hazardous Landfill at Sutton Courtenay and Finmere.

31. As members of South East Waste Authorities Planning Advisory Group (SEWPAG), West Berks and Oxfordshire Authorities have agreed to:

- aim for net self-sufficiency which assumes that within each waste local plan area the planning authority or authorities will plan for the management of an amount of waste which is equivalent to the amount arising in that plan area.
- plan on the basis that no provision has to be made in their waste local plans to meet the needs of any other waste local plan area which are basing their waste policies on achieving the principle of net self-sufficiency.

32. However, SEWPAG has acknowledged the provision of non-hazardous landfill to be a strategic issue for the South East. There has been a decline in non-hazardous waste being sent to landfill in recent years, due to the drive to manage waste as high up the waste hierarchy as possible. As the existing sites become full, or in some cases close early, and the number of non-hazardous landfill facilities reduces, this has led to a decline in void space. Consequently,

the remaining facilities might now have to accept waste from a wider area in order to achieve their permitted restoration.

33. In 2018 strategic movements of non-hazardous waste from West Berkshire to Sutton Courtenay were 44,795 tonnes which was 79% of non-hazardous waste landfilled from West Berkshire.
34. West Berkshire are aware that Sutton Courtenay is due to close in 2030 which is before the end of their Plan Period, and they recognise that within our Core Strategy we do not make further provision for the disposal of non-hazardous waste by means of landfill.
35. In light of this, the following 7 recommendations were agreed at Officer level to be included within the Statement of Common Ground Common Ground:
 1. The parties agree that they each need to identify relevant waste management needs for their areas and seek to address these needs through the plan-making process. This will include policies that seek to push waste up the waste hierarchy.
 2. That landfill will continue to be needed for residual waste. Site identification for landfill sites is an ongoing issue, and its availability will be dependent on the amount and type of mineral extraction within the Waste Planning Authority's area.
 3. That the Waste Planning Authorities plan for sites in order to enable their availability, but it is ultimately up to the waste operators as to those sites that are proposed and whether they then get developed.
 4. The parties agree that all efforts need to be made to identify and allocate sufficient suitable landfill sites to meet their Authorities identified need and to achieve net self-sufficiency, for example through comprehensive 'calls for sites' in the plan-making process, repeated as appropriate.
 5. The parties conclude that if, despite best efforts, suitable non-hazardous landfill proposals are not available, or if sites do not come forward for allocation, a criteria based policy is the most sensible remaining option for landfill planning.
 6. Therefore the parties agree, where insufficient landfill capacity is provided through existing and allocated sites, to include a criteria based policy that would guide applicants to suitable sites.
 7. Even where all efforts are made to identify and allocate waste management sites, and a criteria based policy for landfill is included, there might still be a shortfall in landfill provision for an individual Waste Planning Authority. This would result in some cross boundary movement of waste to landfill.

36. It should be noted that that SCG recognises that agreement is provided without prejudice to other matters of detail that the Authorities may wish to raise in the ongoing requirement to engage constructively and actively in plan preparation through the Duty to Cooperate, or in subsequent participation in the plan making process.

Response to the West Berkshire Local Plan (Reg 19)

37. In commenting on the Proposed Submission Plan, we are required to make representations only on whether the Draft Plan is:
- legally compliant
 - sound
38. It will be for the Inspector to determine whether it meets these tests.

Legal Compliance

39. The Officers' response to the consultation has made no comment on Legal Compliance of the Proposed Submission West Berkshire Minerals and Waste Local Plan.

Soundness

40. It is on soundness grounds that Oxfordshire County Council officers raised objections to the Proposed Submission Minerals and Waste Local Plan (Annex 2).
41. Officers comments mainly relate to the ability of the Plan to deliver sufficient mineral requirements over their Plan Period, both in terms of reserves and production capacity; and the lack of identification of waste management facilities for non-hazardous residual waste for the whole Plan Period.
42. Our main comments relate to the following:
- Policy 2 – Landbank and Need. In particular relation to West Berkshire's Local Aggregate Assessments (LAA) and our concern that the fall in sales and production capacity due to lack of reserves could result in future lower apportionment figures for West Berkshire. While at the same time the increase in sales from Oxfordshire's reserves could cause an increase in our apportionment figures.
 - Policy 4 – Location of Development for Construction Aggregates. Following discussions on the SCG we would have hoped for the West Berkshire Draft Plan to have a more enabling Policy, to allow for more sites to come forward in the plan period. However, this Policy appears restrictive. The supporting text to this Policy also focusses first on the reliance on Oxfordshire to meet mineral requirements. It also continually uses the word "current" which we have previously raised with West Berkshire. There is no quantitative evidence of current movements, and the SCG agrees that Oxfordshire will provide some soft sand, but not all of it.

- Section 2.9 – Sales of recycled aggregate. Sentence is misleading to the reader as leads the reader to believe recycled aggregate is meeting primary aggregate needs.
 - Meeting wider needs. The Strategic Objectives do not include an objective in regards to the strategic issue of West Berkshire taking into account the contribution of minerals towards the aggregate supply of other areas.
 - Policy 3 – Net Self Sufficiency in Waste Management Supporting text. We have asked West Berkshire to set out how they are managing their waste streams over the Plan period. It is included within the supporting Waste Needs Assessment but not within the Draft Plan. As it is the Draft Plan that will be adopted, it is felt the information should therefore be contained within it. We are also seeking that they set out how they will deal with their shortfall in non-hazardous landfill capacity and residual waste management.
 - Policy 5 Location of Development - General Waste Management Facilities. We feel that this Policy is very limiting to where waste management facilities can be located and therefore is not positively planned.
 - Policy 19 Protected Landscapes. This policy is too restrictive and unjustified, especially in light of West Berkshires lack of soft sand sites and therefore it is not positively prepared. In particular the inclusion of “or in the setting of the North Wessex Downs AONB” is particularly restrictive as the NPPF refers to only the AONB but not the setting.
43. Officers also commented on a small number of other areas, on grounds of clarity and sought further information on the Beenham Tile Factory.

Financial Implications

44. If Oxfordshire maintain its objection then this may require Officers to attend the Examination, which could have resource implications. However, there would be no budgetary implications beyond that.

Comments checked by:

Rob Finlayson, Finance Business Partner, Rob.Finlayson@Oxfordshire.gov.uk
(Finance)

Legal Implications

45. If Oxfordshire maintain its objection then this may require Officers to attend the Examination, which could involve the need for legal advice. However, the council is making no objection on the grounds of legal compliance, and there

would be no legal implications beyond the possible need for legal advice during the examination process.

Comments checked by:

Jennifer Crouch, Principal Solicitor, Jennifer.Crouch@Oxfordshire.gov.uk
(Legal)

Staff Implications

46. The staff issues would be resourced from the existing team.

Equality & Inclusion Implications

47. The report would not result in a new policy, and there would be no equality or inclusion implications arising from the recommendation.

Sustainability Implications

48. The report considers the issues of authority self sufficiency in both minerals and waste issues. Although there is an acceptance that both minerals and waste will at times need to cross borders this report seeks to reduce the transport of both and would therefore have a positive impact on climate change and sustainability.

Risk Management

49. There is a political risk to joint working with the neighbouring authority if the objection is endorsed because it could be problematic to West Berkshire in the adoption of their Minerals and Waste Local Plan. However, if we don't raise our concerns over the self-sufficiency as a result of the plan, there could be an increasing reliance on Oxfordshire to provide minerals to West Berkshire and to take West Berkshire's waste.
50. The options we now have is that the Officer comments are endorsed or if not endorsed we can withdraw the objections. If endorsed our next steps will be to work with West Berkshire with a view to overcoming our objection. To that end we have drafted some changes which we intend to share with West Berkshire (annex 3).

RACHEL WILEMAN

Assistant Director Strategic Infrastructure and Planning

Annex: 1
Annex: 2

Statement of Common Ground
Letter to West Berkshire

Annex: 3 Suggested changes to put to Berkshire in order to overcome objections.

Background papers: Documents relating to the ongoing communications between Oxfordshire and West Berkshire are kept in the Policy team files.

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