

COUNCIL – 12 SEPTEMBER 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/>
4. The Inspector issued an Interim Report on 12 October 2016. In the light of this, the Council published proposed modifications to the Plan and a comprehensive updated Strategic Environmental Assessment/Sustainability Appraisal (SEA/SA) report for six weeks consultation from 3 February 2017. Responses to this consultation were passed to the Inspector; and on 15 June 2017 he issued his Final Report.
5. The Inspector’s Interim Report; the updated SEA/SA report and proposed modifications, and the full consultation responses received on them; and the Inspector’s Final Report are available on the County Council website at:
<https://www.oxfordshire.gov.uk/cms/content/minerals-and-waste-core-strategy>
6. Receipt of the Inspector’s Final Report was reported to the Cabinet on 18 July 2017. The content of that report is included in this report. The recommendation of Cabinet to Council is set out in paragraph 36 below.

Inspector's Interim Report and Council's Proposed Modifications

7. During the hearing sessions in September 2016, 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.
8. 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.
9. 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 24 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.
10. 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.
11. 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.
12. 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.

13. 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.
14. 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).
15. The Inspector did not ask the Council to make any comments on or responses to the consultation responses, and therefore none were made.

Inspector's Final Report

16. 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.
17. 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.
18. 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.

19. 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.
20. 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.
21. 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 were drawn up to reflect 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 policies for the broad location and distribution of future mineral working and waste management sites;
 - the additional SEA/SA 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 SEA/SA, 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

22. The Inspector's recommended main modifications are very little altered from those agreed by Cabinet in January 2017 and published as the Council's proposed modifications for consultation. 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.
23. The Inspector does not require any further consultation to be carried out on these alterations to the main modifications.

24. 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).
25. The main modifications as recommended by the Inspector are set out in Appendix B to his Final Report (attached at Annex 3B).

Additional Modifications

26. 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.

27. Since January 2017, it has become apparent that some further additional modifications are required, including in particular:
- Changes to Section 1 – Introduction to reflect the final stage in the plan-making process;
 - Changes to figures in Section 2 – Background to provide the most up to date factual position (Figures 5, 6, & 7) and reference data sources (Figures 3 & 4);
 - Insertion of updated Figure 13 – Oxfordshire Lorry Route Map (from LTP4) in Section 6 – Core Policies;
 - Changes to Appendix 2 to remove the closed Tubney Wood recycling facility from list of safeguarded waste management facilities and correct the numbering of Anglian Water facilities;
 - Additions to the Glossary to include definitions of cumulative impact and feedstock, which the Inspector has removed from the main modifications.
28. In his Final Report (paragraph 53), the Inspector says he tends to agree with representors who suggested policy W3 could be more simply worded. However, he concludes that, with one alteration (see paragraph 22 c) above), the wording in main modification MM46 is not unsound; and he leaves it for the Council to consider the points raised and address them as appropriate by way of additional modifications. In my view, whilst policy W3 as now worded in MM46 is lengthy and may appear repetitive, this is necessary to make its meaning clear and avoid possible ambiguity. Also, unless they are very minor, changes to policies are usually considered to be main modifications rather than additional modifications, and the Council is not at liberty to make main modifications beyond those recommended by the Inspector (see paragraph 30 below).
29. An amended schedule of additional modifications is attached at Annex 4. This includes some changes from the additional modifications as reported to Cabinet on 18 July, as provided for in the decision of Cabinet (see paragraph 36 below).

Consideration of the Inspector's Report and Recommendation

30. 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.
31. 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.

32. 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.
33. My report to Cabinet on 18 July recommended that Cabinet recommend to Council that the Plan now be adopted with the main modifications recommended by the Inspector and the additional modifications that are necessary.
34. A complete final version of the Plan, including the main modifications recommended by the Inspector (as at Annex 3B) and the amended additional modifications (as at Annex 4), is attached at Annex 5. A composite version of the Plan, showing the main and additional modifications as insertions in or deletions from the plan as published and submitted in 2015, has been prepared for information and is available in the Members' Resource Centre.
35. The policies map, in two parts – north and south, is attached at Annexes 6A and 6B. 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.

Recommendation of Cabinet

36. At the meeting on 18 July 2017, Cabinet resolved 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.

Monitoring and Review

37. The Council is required to monitor and publish information on the extent to which local plan policies are being achieved. This is done through the Council's Minerals and Waste Annual Monitoring Reports, which are linked to the Local Aggregate Assessment and Waste Needs Assessment. The Plan with modifications (Annex 5) includes a monitoring framework in Section 7 – Implementation and Monitoring. It is intended that the Core Strategy will be reviewed and rolled forward every five years. However, monitoring may indicate a need for review of part or whole of the Core Strategy sooner. For example, if it becomes clear that the provision for mineral supply is either insufficient or excessive, an earlier review of that part of the Core Strategy may be required.

Part 2 of Plan – Site Allocations

38. 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. Part 2 should be prepared in accordance with Part 1 of the Plan, including making provision for the minerals and waste requirements identified in policies in Part 1. Subject to the adoption of the Core Strategy, work will now start on the Site Allocations Plan. 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

39. 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 adoption process can be met from what remains in the reserve. There are no additional staff implications.

Legal Implications

40. 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

41. 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.

RECOMMENDATIONS

42. **Council is RECOMMENDED to:**
- (a) 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, the additional modifications at Annex 4 and any further minor additional modifications made under b) i below, in accordance with the Planning and Compulsory Purchase Act 2004 section 23(3) (as amended);**
 - (b) authorise the Director for Planning & Place to:**
 - (i) make any further minor additional modifications which may be necessary, such as formatting changes and typographical corrections, in order to publish the plan; and**
 - (ii) 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.**

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Background papers: Nil

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