

## **CABINET – 24 JANUARY 2017**

### **OXFORDSHIRE MINERALS AND WASTE LOCAL PLAN: PART 1 – CORE STRATEGY – PROPOSED MODIFICATIONS**

**Report by Interim Strategic Director of Communities**

#### **Introduction**

1. The County Council has a statutory duty to prepare a new Oxfordshire Minerals and Waste Local Plan, to provide an effective planning strategy and policies for the supply of minerals and management of waste in the county, consistent with environmental, social and economic needs.
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 and issued an Interim Report on 12 October, which has been published on the Council's website.
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**

4. The Inspector's Interim Report is attached at Annex 1. The main purpose of the Interim Report is to provide 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. It also reports on certain legal and procedural matters, including the need for further Strategic Environmental Assessment / Sustainability Appraisal work to be undertaken and states that modifications to the Plan will need to be proposed. The Inspector has provided a clear and thorough Interim Report which is most helpful to the Council in drawing up the modifications that now need to be made to the Plan and progressing it to adoption later in 2017.

#### *Provision for Mineral Working*

5. The Inspector has concluded that the Council's Local Aggregate Assessment 2014 is soundly based on the best available evidence at the time and is therefore robust. He has not agreed with the arguments of objectors to the

Plan that the provision figure for sharp sand and gravel should be lower, based solely on the 10 year sales average.

6. Accordingly he has concluded that the provision for mineral working over the plan period should be as the Council proposed in the submitted Plan, and this should be included in policy M2:
- Sharp sand & gravel: 1.015 mtpa giving a total provision requirement of 18.27 million tonnes;
  - Soft sand: 0.189 mtpa giving a total provision requirement of 3.402 million tonnes; and
  - Crushed rock: 0.584 mtpa giving a total provision requirement of 10.512 million tonnes.

### *Provision for Recycled and Secondary Aggregates*

7. The Inspector has concluded that a minimum provision figure for recycled and secondary aggregates of 926,000 tonnes per annum should be included in policy M1. This is as agreed between the Council and objectors in advance of the hearing.

### *Provision for Waste Management*

8. The Inspector has concluded that the forecasts of waste management capacity requirements for municipal and commercial & industrial wastes as put forward by the Council during the examination should be included in policy W1. For municipal waste these are the figures in the submitted Plan. For commercial & industrial waste they are lower figures; the Inspector has not agreed with objectors' arguments for the higher figures in the submitted Plan to be retained.
9. The figures that should now be included in policy W1 are:
- Municipal waste: increasing from 320,000 tonnes per annum in 2016 to 380,000 tonnes per annum in 2031; and
  - Commercial & industrial waste: increasing from 540,000 tonnes per annum in 2016 to 580,000 tonnes per annum in 2031.
10. For construction, demolition and excavation waste, the Inspector has concluded that there is a wide range of possible capacity requirement figures, due to uncertainties over data and therefore it would not be appropriate to include a figure for this waste stream in policy. Consequently, the Plan needs to provide for sites for the management of this waste stream to be brought forward in the absence of a set level of provision.

### *Duty to Co-operate and Legal Compliance*

11. The Inspector has found that the Council has met the duty to co-operate in the preparation of the Plan. The Inspector has concluded that no legal compliance issues are raised by the Council's decision to prepare a two-part plan (Core

Strategy followed by Site Allocations Document) or by compliance with the Statement of Community Involvement.

### *Proposed Modifications*

12. In accordance with the Interim Report, the Council must now bring forward suggested modifications to the Plan to give effect to the conclusions the Inspector has reached and respond to discussions at the hearing sessions and representations that were made on the Plan. The Inspector advises that this requires a review of the strategies for delivery of the minerals and waste visions and objectives and revised wording of key strategy policies.

### *Strategic Environmental Assessment / Sustainability Appraisal*

13. The Inspector has agreed with the Council's position put forward at the examination hearing that further Strategic Environmental Assessment / Sustainability Appraisal (SEA/SA) needs to be carried out to ensure that the Plan is both legally compliant and sound. This further SEA/SA should inform the modifications to the Plan. In addition, the whole Plan incorporating the proposed modifications should be subject to SEA/SA.

### **Strategic Environmental Assessment / Sustainability Appraisal**

14. The further SEA/SA work required is:
  - Consideration of all suggested alternatives for the minerals and waste strategies to establish the 'reasonable' alternatives that should be assessed;
  - SEA/SA of the 'reasonable' alternatives for the minerals and waste strategies;
  - SEA/SA of the proposed modifications; and
  - Preparation of a comprehensive updated SEA/SA report incorporating all relevant work.

### *Consideration of Alternatives*

15. In preparing the Plan and carrying out SEA/SA, it is the responsibility of the Council to decide what the 'reasonable' alternatives are; only the 'reasonable' alternatives need to be assessed. Annexes 2a and 2b set out the consideration of alternatives for the minerals and waste strategies respectively. All alternative strategy approaches that have been put forward either in representations on the Plan or during the examination have been considered.
16. Annexes 2a and 2b both include a table of the alternatives, listed against the relevant minerals or waste policies in the submitted Plan. In each table, the middle column lists the options that are considered to be 'reasonable' alternatives; and the right hand column lists those that are not considered to be 'reasonable' alternatives and gives the reasons for this.

17. For policy M2 on provision for working aggregate minerals, the only option that is considered to be 'reasonable' is to include the figures from the Local Aggregate Assessment 2014 in this policy, as concluded by the Inspector in his Interim Report. An alternative of provision being based just on the 10 year sales average has been considered but, for the reasons given in Table 1 in Annex 2a, this is not considered to be a 'reasonable' alternative; and consequently this alternative should not be assessed.
18. For policy M3, there are considered to be four 'reasonable' alternatives for the distribution of provision for sharp sand and gravel working between different parts of the county. Evidence which has been used to derive these alternatives is presented in Annex 3.

### *SEA/SA of 'Reasonable' Alternatives*

19. Annexes 4a and 4b contain the SEA/SA of the reasonable alternatives for the minerals and waste strategies respectively. To ensure independence from previous appraisal findings, this new appraisal work has been undertaken by a different firm of SEA/SA consultants (LUC) from that which carried out the previous SEA/SA of the Plan (TRL).
20. Annex 5 sets out information for the different sharp sand and gravel resource areas on the average area required to be worked per million tonnes and the average distance to main markets which has been used and is referred to in the minerals assessment. Annex 6 explains how the travel distances used in Annex 5 are derived.
21. The minerals assessment in Annex 4a is two parts. The first part assesses two alternatives for the locations for sharp sand and gravel mineral working identified in policy W3:
  - Option 1 – the strategic resource areas as in the submitted Plan;
  - Option 2 – addition of the Bampton/Clanfield area as a strategic resource area.
22. The assessment finds that Option 1 (the strategy in the submitted Plan) is the more sustainable option.
23. The second part of the minerals assessment assesses four alternatives for the distribution of additional provision for sharp sand and gravel working (in policy M4 in the submitted Plan but now proposed to be included in policy M3):
  - Option 1 – 0% in southern Oxfordshire, 100% in northern Oxfordshire;
  - Option 2 – 35% in southern Oxfordshire, 65% in northern Oxfordshire;
  - Option 3 – 75% in southern Oxfordshire, 25% in northern Oxfordshire;
  - Option 4 – 100% in southern Oxfordshire, 0% in northern Oxfordshire.
 (Southern Oxfordshire = South Oxfordshire and Vale of White Horse Districts; northern Oxfordshire = Cherwell and West Oxfordshire Districts.)

24. The assessment finds that Option 3 is the most sustainable option. Allocating 75% of the additional requirement of sharp sand and gravel to southern Oxfordshire and the remaining 25% to northern Oxfordshire would result in an approximately equal split of overall sharp sand and gravel provision (in terms of production capacity) between northern and southern Oxfordshire, taking into account existing permitted reserves. This would reflect the approximately 50:50 split in future demand for aggregates between northern and southern Oxfordshire that is indicated by the demand factors considered in Annex 3. This is the strategy in the submitted Plan.
25. For waste, the assessment in Annex 4b is in five parts.
- i. Policy W2 – targets for commercial and industrial waste recycling.
  - ii. Policy W2 – targets for construction, demolition and excavation waste recycling.
  - iii. Policy W3 – whether or not additional capacity requirements should be considered to be a cap on provision made.
  - iv. Policy W4 – five options for the strategy for locations of waste management facilities are assessed.
  - v. Policy W11 – whether policy on safeguarding waste management sites should include or exclude temporary sites where planning permission expires before the end of the Plan period.
26. For policy W2, the assessment finds that the options that include higher recycling targets are the more sustainable. For commercial and industrial waste, this is as in the submitted Plan. For construction, demolition and excavation waste, this is as in the suggested modifications to the submitted Plan put forward by the Council during the Examination.
27. For policy W3, the assessment finds that option 2 is the more sustainable, i.e. that the additional capacity requirement is considered to be the minimum provision, which can be exceeded if appropriate. Policy W3 in the submitted Plan is seen as being in line with option 1 and therefore this assessment indicates a need for a proposed modification.
28. For policy W4, the assessment of the five options finds that options 3 and 4 are the most sustainable, with option 4 being the slightly more sustainable of the two. This option differs from the strategy in policy W4 in the submitted Plan, indicating a need for a proposed modification; in particular it:
- includes wording taken from the supporting text of the Plan to clarify that locations beyond the zones identified for the named towns may be appropriate for waste facilities where there is access to the Oxfordshire lorry route network;
  - 'reclassifies' Banbury as a location suitable for strategic waste management facilities and expands the zone for such facilities around Oxford from 10km to 15km; and
  - adds smaller towns as possible locations for non-strategic waste management facilities.

29. For policy W11, the assessment finds that option 2 is the more sustainable, i.e. that the policy should safeguard all permitted waste sites. Policy W11 in the submitted Plan follows option 1 and therefore this assessment indicates a need for a proposed modification.

### *SEA/SA of Proposed Modifications*

30. Screening of the draft proposed modifications (see paragraphs 32 – 34) for SEA/SA and Habitats Regulations Assessment (HRA) has been carried out by consultants TRL, who undertook the previous SA/SEA of the Plan. The findings from this screening process are that in terms of SA/SEA there is the potential for a new significant positive effect in relation to policy M10 (Restoration) against the SA/SEA objective for soils and in addition some other minor positive effects across the policies for other SA/SEA objectives. No significant adverse effects have been identified. The screening found no implications for the HRA. Screening and assessment of the proposed modifications is included in the comprehensive updated SEA/SA report (sections 6 and 7) which is at Annex 7.

### *Comprehensive SEA/SA report*

31. The Inspector's Interim Report includes a requirement for a comprehensive updated SEA/SA of the modified Plan as a whole to be prepared, incorporating relevant previous SEA/SA and the new work that has now been carried out. A draft of this SEA/SA report is at Annex 7. (The SEA/SA report has a number of appendices but appendices D and G are not included here as they repeat Annexes 4a & 4b and Annexes 3, 5 & 6 to this report respectively.) The non-technical summary of the report is at Annex 7a. The updated SEA/SA supports the Plan as now proposed to be modified.

### **Proposed Modifications**

32. Following consultation with the Cabinet Member for Environment, officers put forward a set of suggested proposed modifications to the submitted Plan for consideration at the examination hearing in September 2016. These modifications were in response to what were considered to be valid points raised in representations. They have now been reviewed in the light of the Inspector's Interim Report, discussion at the hearing and the further SA/SEA of reasonable alternatives that has been undertaken. A revised schedule of draft proposed modifications is at Annex 8.
33. There are two types of modification: main modifications are changes to the Plan that relate to issues of soundness; additional modifications are more minor changes such as factual updates and corrections or textual changes for clarification. All modifications to policies are classed as main. Annex 8 includes both 'main' modifications and 'additional' modifications and identifies in the right hand column which type of modification each one is, with the main modifications being shaded. This column also gives reasons for the modification. The Council is only required to consult on main modifications, but it is common practice to invite comments on additional modifications as

well. The Plan is being checked again for the need for further updates and corrections and any that are required will be added to the 'additional' modifications before they are published.

34. Annex 8 includes suggested main modifications to most of the policies in the Plan. Many of these are small changes to policy wording but they include the following more significant changes:

Policy M1: Recycled and secondary aggregate

A figure of 0.926 mtpa is included as the minimum level of provision to be made; and changes are made to express more clearly a positive policy approach to provision of these facilities.

Policy M2: Provision for working aggregate minerals

The specific provision levels derived from the LAA 2014, and resultant tonnage requirements over the Plan period, are included in this policy rather than just in the supporting text.

Policy M3: Principal locations for working aggregate minerals

The distribution of the additional sharp sand and gravel requirement between northern and southern Oxfordshire is moved from policy M4 to policy M3 and is made more specific; and provision for quarry extensions outside the strategic resource areas to be allocated as sites for working is added.

Policy M5: Working of aggregate minerals

Provision for borrow pits to be permitted as exceptions is included; and the policy is reordered to make it more effective.

Policies Map

A policies map has been prepared, to replace the minerals key diagram, showing the strategic resource areas (policy M3), mineral safeguarding areas (policy M8) and safeguarded aggregate rail depots (policy M9) on an OS base; the policies map is in two parts, north and south, at Annexes 8a and 8b.

Policy W1: Oxfordshire waste to be managed

Forecasts for municipal and commercial & industrial wastes are included in this policy, rather than just in the supporting text.

Policy W3: Provision for waste management capacity and facilities required

Specific figures for additional capacity requirements are included in this policy, rather than just in the supporting text; changes are made to express more clearly a positive policy approach to provision of facilities that move waste up the waste hierarchy, with requirement figures not being a ceiling on provision; and the policy is reordered to make it relate more clearly firstly to allocation of sites in the subsequent Site Allocations Document and secondly to proposals at other sites.

Policy W4: Locations for facilities to manage the principal waste streams

Wording from the supporting text is included in this policy to clarify that locations beyond identified zones may be appropriate where there is access to the Oxfordshire lorry route network; Banbury is reclassified as a location suitable for strategic waste management facilities and the zone for such facilities around Oxford is expanded from 10km to 15km; and smaller towns are added as possible locations for non-strategic waste management facilities.

Policy W5: Siting of waste management facilities

The section of this policy on Green Belt is moved to a new core policy C12 and overlaps with other policies are removed.

Waste Key Diagram

The waste key diagram is amended to reflect changes to policy W4.

**Consideration by Minerals and Waste Cabinet Advisory Group**

35. The Inspector's Interim Report was reported to and discussed by the Minerals and Waste Cabinet Advisory Group on 27 October 2016. A programme for the work required in response to the Inspector's conclusions in the Interim Report and timetable for the proposed modifications process were also discussed.
36. On 6 January 2017 the Cabinet Advisory Group considered the new SEA/SA work that has been carried out and a schedule of suggested proposed modifications to the Plan. The Group had a discussion on these documents, focussing particularly on the level and geographic distribution of provision for mineral working, and a range of views were expressed.

**Consultation on Proposed Modifications and SA/SEA**

37. In order that when the Inspector makes his final report he can recommend modifications to the Plan to make it sound, the Council must make a formal request to him under section 20(7C) of the Planning and Compulsory Purchase Act 2004 to recommend modifications.
38. In the Interim Report, the Inspector asked to see the Council's suggested main modifications and the SEA/SA before they are put to the Cabinet for approval. Drafts of these have been sent to the Inspector and he has indicated that they can now be published for consultation.
39. The Council's proposed modifications and the SEA/SA report must be published for a 6 week period of public consultation. It is intended that the consultation period will be from 3 February to 17 March 2017.
40. Any representations received will be considered by the Inspector before he produces his final report on the examination of the Plan. If those representations raise new issues that have not already been considered, the Inspector may decide it is necessary to reopen the hearing before he can finalise his report. Upon receipt of a final Inspector's report that finds the modified Plan both legally compliant and sound, the Council can adopt the



Plan. It is hoped that the Council will be in a position to adopt the Plan in summer 2017 but if reopening of the hearing is necessary this is likely to be put back until later in 2017.

### **Financial and Staff Implications**

41. The new Minerals & Waste Local Plan is included within the work priorities of the Environment and Economy 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. £75,000 will be retained in that reserve at the end of this financial year for remaining costs of the plan examination and adoption processes that will fall in 2017/18. There are no additional staff implications.

### **Legal Implications**

42. 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.

### **Risk Management**

43. If a new Minerals and Waste Local Plan is not adopted (for example, if it were abandoned, or found to be "unsound" following completion of the examination), the County Council would 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 NPPF 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.

## RECOMMENDATIONS

44. The Cabinet is RECOMMENDED to:
- (a) agree the main modifications to the Oxfordshire Minerals and Waste Local Plan: Part 1 – Core Strategy in Annexes 8, 8a and 8b for publication for public consultation; and
  - (b) authorise the Strategic Director Communities in consultation with the Cabinet Member for Environment to finalise the additional modifications to the Oxfordshire Minerals and Waste Local Plan: Part 1 – Core Strategy in Annex 8 for publication for public comment; and
  - (c) authorise the Strategic Director Communities in consultation with the Cabinet Member for Environment to finalise the Strategic Environmental Assessment / Sustainability Appraisal report on the Oxfordshire Minerals and Waste Local Plan: Part 1 – Core Strategy, to include the work contained in Annexes 2 – 7, for publication for public consultation; and
  - (d) authorise the Strategic Director Communities to make a request to the Inspector who is carrying out the examination of the Oxfordshire Minerals and Waste Local Plan: Part 1 – Core Strategy to recommend modifications to the plan under section 20(7C) of the Planning and Compulsory Purchase Act 2004.

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