

COUNCIL BUSINESS COMMITTEE

Council Response to the Lancashire County Council consultation on the 'Review of the Joint Lancashire Minerals and Waste Local Plan' 22 November 2018

Report of the Planning Manager

PURPOSE OF REPORT

To inform members of the Minerals and Waste Local Plan consultation. This has been prepared jointly by Lancashire County Council, Blackburn with Darwen Borough Council and Blackpool Borough Council and is available for consultation until the 28st November 2018.

On adoption the Minerals and Waste Local Plan will set the planning policy framework for waste and mineral planning across the County and will effect decisions made by this council in relation to the determination of planning applications and future allocations of land.

This report sets out the proposed scope of the consultation and seeks approval from members to submit comments from the City Council as the formal response to the consultation.

RECOMMENDATIONS

- (1) That the comments raised in appendix 1 of the Report are submitted to Lancashire County Council as a formal response from the City Council.
- (2) That officers keep Members informed of the progress of the Review of the Joint Lancashire Minerals and Waste Local Plan and report back on the next stage of its preparation.

1.0 Introduction

- 1.1 Following adoption of the Minerals and Waste Site Allocation and Development Management Policies Development Plan Document (DPD) in 2013 Lancashire County Council commenced a review of the Joint Lancashire Minerals and Waste Local Plan. This is being prepared jointly by Lancashire County Council, Blackpool Borough Council and Blackburn Borough Council.
- 1.2 On adoption the revised Minerals and Waste Local Plan will provide the basis for future waste and minerals planning across the county until 2034. It will also form part of the Development Plan for Lancaster District. Allocations will be required to be shown on the proposals map prepared by this authority and the City Council will be responsible for ensuring that the planning applications

which it determines are consistent with the allocations and policies of the Minerals and Waste Local Plan.

- 1.3 The review seeks to extend the time period covered by the Plan, with the current Plan covering a period to 2021. Adoption of the new Minerals and Waste Local Plan would see this time period extended to 2034. In addition to the extended time period the review also seeks to ensure that the Local Plan is up to date, taking account of new evidence as well as changes to national planning policy. Some changes have therefore been proposed to the document, including the provision of new policies. These are discussed further below.
- 1.4 The Joint Authorities have requested comments on the document by the 28th November 2018.
- 1.5 This report describes Officers comments on the consultation document, which subject to this committees agreement, will be submitted to the Joint Authorities as Lancaster City Councils formal response to the consultation.

2.0 Proposal Details

- 2.1 The Joint Authorities of Lancashire County Council, Blackpool Borough Council and Blackburn with Darwen Borough Council are responsible for waste and mineral planning in Lancashire. As part of this role they are responsible for the preparation of the Lancashire Minerals and Waste Local Plan. The Local Plan establishes the planning policy framework for mineral and waste planning across the County.
- 2.2 Minerals and waste planning policy is currently provided in a number of planning policy documents. The most recent of which, the Minerals and Waste Site Allocation and Development Management Policies Development Plan Document (DPD), was adopted by the Joint Authorities in September 2013. The document identified the amount of waste to be dealt with during the plan period and the network of treatment facilities that would be required to deal with and manage this. The document also planned for future mineral needs across the county, identifying existing reserves and working quarries and protecting and safeguarding reserves which might be required in the future.
- 2.3 The Minerals and Waste Site Allocation and Development Management Policies DPD was prepared to support the already adopted Minerals and Waste Core Strategy which had already been prepared by the Joint Authorities. The Minerals and Waste Core Strategy was adopted in February 2009. This established the vision, the amounts and broad locations for future mineral extraction and waste management across the County.
- 2.4 Together the two documents form the Minerals and Waste Local Plan for the County and currently cover a plan period to 2021.
- 2.5 In preparing the Sites Allocation and Development Management Policies DPD the County Council had sought to align the document with the existing Core Strategy Plan period, 2021. Whilst this was supported by the Planning Inspector during the examination of the document it was noted that a review of the Local Plan would be required in order to ensure that a longer time frame could be planned for. National planning policy requires policies to cover a 15 year plan period from adoption, the Sites Allocation and Development Management Policies DPD only addresses a seven year plan period.
- 2.6 In view of this, and recognising advice in the National Planning Practice Guidance to review policies and their supporting evidence base every five years, the Joint Authorities determined that a review of the Local Plan was

necessary, extending the time period to cover a 15 year plan period to 2034 and allowing new evidence and guidance to be considered.

- 2.7 The text below provides an overview of the content of the consultation document.

Mineral Safeguarding

- 2.8 Policy MW7 'Safeguarding Minerals' continues to identify Mineral Safeguarding Areas (MSA) within the Plan area. The policy recognises that minerals are a finite resource and seeks to ensure that where reserves exist they are protected. The Policy recognises that the presence of MSA does not preclude other forms of development being permitted or confer any presumption that the mineral will be worked. Its intention is to alert the applicant that minerals may be sterilised by the proposed development and that this should be taken into account in the planning process.
- 2.9 Safeguarded areas are shown around known deposits of limestone, sand and gravel, gritstone (sandstone), shallow coal and brickshales. Within these areas the policy states that planning permission will only be supported where it is demonstrated that the mineral resource is not likely to be subject to commercial extraction either now or in the future; or development would not prejudice the working to the mineral resource; or there is an overarching need for development in that location, which outweighs the need to avoid the sterilisation of the mineral resource.

Sustainable Construction

- 2.10 The Plan quite rightly seeks to promote sustainable construction with all new developments expected to maximise the use of recycled and secondary materials.
- 2.11 The Plan also looks to ensure all new developments provide adequate space for the storage of recycling and waste.

Minerals

- 2.12 Dunald Mill quarry in Lancaster District continues to be identified as a potential location for additional wining and working of limestone for aggregate purposes. Importantly further development of this site would only be required if it is shown to be necessary to contribute to the continuity of supply or towards the end of the plan period to ensure the maintenance of a suitable landbank in line with national policy, and where it does not give rise to significant amenity or environmental impacts.
- 2.13 Policy MW12 'Limestone for Aggregate Purposes' states that proposals at Dunald Mill will only be permitted if they make satisfactory arrangements for the diversion of any highway affected; and that satisfactory arrangements are made for the management of traffic generated. It is acknowledged that this could include the provision of a haulage road through Back Lane and Leapers Wood quarries. The land required to provide this route is safeguarded under Policy MW26 'Safeguarding of Land for Access Improvements' of the Plan.
- 2.14 Land required for the potential re-alignment/diversion of Long Dales Lane at Dunald Mill is also safeguarded within the policy.

Onshore Oil and Gas

- 2.15 Policy MW17 'Onshore Oil and Gas' addresses the potential exploration of oil and gas across the county. The policy addresses the main activities relating

to onshore oil and gas developments providing advice on exploration, appraisal and production. This includes directional drilling and the process of hydraulic fracking which aims to improve hydrocarbon flow in rates on low permeability oil/gas reserves increasing the natural fracturing in rocks by creating artificial fractures.

- 2.16 The policy recognises the sensitivities of this issue with a number of generic criteria identified for the assessment of future proposals. This includes the consideration of cumulative impacts and the need to minimise environmental and amenity impacts.
- 2.17 Specific locations are not identified within the policy with this the identification of potential areas for extraction identified under a separate licensing system operated by the Department for Energy and Climate Change (DECC). The policy seeks to highlight the criteria against which the County Council will assess future proposals. The criteria reflect those set out in national planning policy. Officers are satisfied that the application of the criteria will ensure that appropriate safeguards are in place to protect the district.

Safeguarding Minerals Infrastructure

- 2.18 The Plan, via Policy MW25 'Safeguarding Minerals Infrastructure' identifies areas of land in proximity to known mineral infrastructure and operations identifying a 250 metre buffer around them, this is extended to 400 metres around hardrock aggregate quarries.
- 2.19 Within these areas the Plan states that proposals for incompatible development will only be supported where they are designed or located in such a way to be compatible with any impacts arising from the minerals infrastructure and they would not give rise to unacceptable impacts upon the operations of the minerals infrastructure.
- 2.20 The supporting text to Policy MW25 identifies incompatible developments as housing or other sensitive developments (such as hospitals or hotels) which may be impacted upon due to the early morning/late night operations of the mineral industry, or noisy/dusty nature of some of their operations.
- 2.21 Heysham Wharf is also safeguarded under this policy. The policy recognises the historic role that the Port of Heysham has played in importing marine dredged aggregate. Whilst it is noted that this use has recently ceased, should there be a future requirement for importation of marine aggregate or crushed rock then this site would appear to be the only site suitable for meeting such requirements.

Waste

- 2.22 Specific allocations for waste are not included within the Plan. Policy MW19 'Recycling, Sorting, Treatment and Recovery of Waste' instead establishes a criteria based approach with developments directed to appropriate industrial areas or on landfill sites. The policy recognises that waste management operations are generally similar to industrial activities, particularly when they are enclosed in purpose designed buildings. Whilst recognising the general suitability of such areas the policy correctly recognises that this remains subject to the scale and nature of the proposal, transport connections and existing industrial users and other neighbours as well as the proximity of other sensitive receptors.

3.0 Details of Consultation

- 3.1 The Consultation represents the publication version of the Minerals and Waste Local Plan. Following this consultation the Joint Authorities will look to finalise the document ahead of submission to the Secretary of State.
- 3.2 The Publication document is currently out for consultation with comments requested by the 28th November 2018. The submission document identifies potential allocations and the detailed development management policies for the determination of waste and mineral planning applications. The full document and accompanying documentation is available to view from the following link <http://lancashire-consult.limehouse.co.uk/portal/r19?tab=files>
- 3.3 The recommended formal response to the consultation from the City Council is set out in appendix 1.

4.0 Options and Options Analysis (including risk assessment)

	Option 1: To formally respond to the County Council with the comments provided in Section 5 of this report	Option 2: To formally respond to the County Council with any other comments	Option 3: To provide no comment to the consultation exercise
Advantages	That the views and opinions of the City Council are duly considered in the consultation process and preparation of the Submitted Local Plan.	That the views and opinions of the City Council are duly considered in the consultation process and preparation of the Submitted Local Plan.	No advantages
Disadvantages	That whilst the City Council submit comments there is no guarantee that these comments will be included and that amendments to the document will be made.	That whilst the City Council submit comments there is no guarantee that these comments will be included and that amendments to the document will be made.	That the views/opinions of the City Council will not be taken into account in the submitted document.
Risks	The Submitted document may not be revised in light of the comments received from the City Council.	The Submitted document may not be revised in light of the comments received from the City Council.	The Submitted Plan may not be revised in light of the comments received from the City Council.

5.0 Conclusion

- 5.1 It is recommended that the response set out in Appendix 1 is submitted to the Joint Authorities as the City Council's formal response to the consultation and that due consideration is given to any comments provided as the County Council continue to prepare the Local Plan in advance of submission to the Secretary Of State.

CONCLUSION OF IMPACT ASSESSMENT

(including Health & Safety, Equality & Diversity, Human Rights, Community Safety, HR, Sustainability and Rural Proofing):

The delivery of the Minerals and Waste Local Plan on adoption will form part of the Development Plan for the District. Policies in the document aim to ensure the sustainable and appropriate management of mineral and waste resources ensuring that opportunities for their management are provided whilst at the same time ensuring that environmental, social and economic impacts are addressed. The document contains appropriate policies to ensure that this is the case and as such is considered to be consistent with the City Council's own Local Plan and the priorities established in the Corporate Plan.

LEGAL IMPLICATIONS

There are no legal implications arising directly from the report.

FINANCIAL IMPLICATIONS

There are no financial implications resulting from the recommendations within this report.

OTHER RESOURCE IMPLICATIONS, such as Human Resources, Information Services, Property, Open Spaces:

There are no human resource or information service implications arising from the report.

The emerging Minerals and Waste Local Plan has potential to impact on property and open space within the district through the development of waste facilities, the potential future extraction of minerals within the district and through the protection and safeguarding of existing mineral resources. Whilst acknowledging these risks there are considered to be appropriate safeguards within the emerging Minerals and Waste Local Plan and indeed the City Council's own Local Plan to ensure that this is not the case.

SECTION 151 OFFICER'S COMMENTS

The Section 151 Officer has been consulted and has no further comments.

MONITORING OFFICER'S COMMENTS

The Monitoring Officer has been consulted in the drafting of the report and has no further comments

BACKGROUND PAPERS

Available to view from the following link
<http://lancashire-consult.limehouse.co.uk/portal>

Review of the Joint Lancashire Minerals and Waste Local Plan (Autumn 2018)

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Appendix 1 – Proposed City Council response to the consultation

The City Council is generally supportive of the reviewed Joint Lancashire and Minerals and Waste Local Plan and note its commitment to extend the Plan period to 2034. The principle of combining the Core Strategy, Site Allocations and Development Management Policies is welcomed as a way of reducing duplication and helping to simplify the process.

Notwithstanding this support the City Council does have a number of concerns regarding several elements of the Local Plan. These are described in more detail below.

Consistency between the main Policy Document and Proposals Map

Whilst it is acknowledged that the Local Plan is now a more concise and succinct document it has in doing so lost some of the detail and clarity through which relevant allocations can be understood and interpreted. The policies would benefit from making clear which allocated sites they relate to with additional information provided on them.

Similarly it is not clear on the Policy Map Inserts which policies the allocations relate to with no policy references or labels provided. Greater cross referencing between the two documents would be useful.

Development in the Countryside

Draft paragraph 2.1.13 advises that the Plan will give great weight to conserving the highest categories of landscape (e.g. AONBs, National Parks), aligning to much of the wording of paragraph 172 of the National Planning Policy Framework (NPPF). This does not however appear to be reflected in the actual wording of Policy MW4 'Development in the Countryside' in the Plan.

It is recommended that an additional bullet point is included within Policy MW4 making specific reference to those areas that benefit from the highest status of protection, explaining that major development will be resisted unless there are proven exceptional circumstances and where it is also demonstrated that the development would be within the public interest.

Consultation Zones

The insert maps make reference to consultation zones. Reference to these zones and what is required within them and their implications appear to be absent within the main Plan.

Mineral Safeguarding Areas

Policy MW7 'Safeguarding Minerals' seeks to safeguard unworked mineral deposits across the County. Under this policy unworked minerals would be protected from development which would sterilise their potential exploitation in the future.

Whilst supporting the principle of this policy the City Council have concerns regarding the implementation of this policy and the potential it has to impact on the ability of

local communities within the district to meet their future development needs.

These concerns were raised during preparation of the 2013 Site Allocations and Development Management document whereby the City Council requested that the policy be reworded to acknowledge that the presence of minerals is just one of a number of considerations to be taken into account in the determination of planning applications. The City Council reiterates these concerns with additional clarity on the implementation of this policy requested within the main policy wording.

The supporting text to this policy notes that in order to assess proposals in safeguarded areas additional information in the form of a Mineral Resource Assessment (MRA) will be required. The Plan defines a MRA as an assessment which should contain sufficient information regarding the mineral resource, to allow the Local Planning Authority to determine planning application proposals within a Mineral Safeguarded Area. Appendix F of the Plan sets out an example of such an Assessment.

It would therefore appear that the MRA is being proposed as a local validation requirement. National Planning Practice Guidance requires a formally adopted, up-to-date (no less than 2 years) 'Local List' of validation requirements to be maintained by the Local Planning Authority. The Local List has no bearing upon whether a planning application is valid unless the requirements are set out on such a list. A MRA is not set out on Lancaster's Local Validation List.

Whilst the level of information required via a MRA may be proportionate for minerals-related development and thus necessary for inclusion in the County Council Local Validation List, the City Council consider that it would not be proportionate to require this level of detail (e.g. assessment of the mineral recovery potential and desk top study of geological information) to accompany proposals for non-minerals development within a Mineral Safeguarding Area. It is instead incumbent on the statutory consultee (in this case, the Minerals Safeguarding Policy Group), to advise of the potential for mineral workings and geological potential when consulted on individual planning proposals by the City Council.

Local Planning Authorities do not have the information or expertise to assess planning applications in relation to the first two bullet points of Policy MW7. As worded the Policy requires an applicant for all types of development to provide evidence to the Local Planning Authority sufficient to allow them to assess the impact of the proposal upon the mineral resource. The City Council maintain that this will be overly onerous for many small scale developers or individuals to carry out. Given the scale of Safeguarded Areas in Lancaster District a significant amount of applications for relatively small development, even an agricultural building, would be caught by this policy.

The onus should not be on the applicant and Local Planning Authority to make this assessment with such an assessment falling under the remit and expertise of the County Council as Minerals and Waste Authority. The advice of the County Council would then be taken into account by the Local Planning Authority on determining the application. This is considered to be consistent with National Planning Practice Guidance which requires Local Planning Authorities to consult the mineral planning authority and take account of their response and policy.

The City Council would also request that additional wording be added to Policy MW7 to specifically exempt sites allocated for development within Local Plans from the safeguarded requirements. The assessment with regard to overarching need will have been taken into account at the time of allocation. There will be no need to duplicate this at the planning application stage.

Dunald Mill Quarry

Dunald Mill quarry in Lancaster District continues to be identified as a potential location for additional wining and working of limestone for aggregate purposes. Importantly further development of this site would only be required if it is shown to be necessary to contribute to the continuity of supply or towards the end of the plan period to ensure the maintenance of a suitable landbank in line with national policy, and where it does not give rise to significant amenity or environmental impacts.

Policy MW12 also states that proposals at Dunald Mill will only be permitted if it makes satisfactory arrangements for the diversion of any highway affected; and satisfactory arrangements are made for the management of traffic generated. It is acknowledged that this could include the provision of a haulage road through Back Lane and Leapers Wood quarries. The land required to provide this route is safeguarded under Policy MW26 'Safeguarding of Land for Access Improvements'.

Opportunity to improve residential amenity is supported and Officers welcome the continued commitment to safeguard land for highway improvements. Additional information on the trigger points likely to result in the requirement for highway improvements is however requested.

Safeguarding Minerals Infrastructure

The Plan identifies areas of land in proximity to known mineral infrastructure and operations identifying a 250 metre buffer around them, this is extended to 400 metres around hardrock aggregate quarries.

Within these areas the Plan states that proposals for incompatible development will only be supported where they are designed or located in such a way to be compatible with any impacts arising from the minerals infrastructure and they would not give rise to unacceptable impacts upon the operations of the minerals infrastructure.

The supporting text to Policy MW25 'Safeguarding Minerals Infrastructure' identifies incompatible developments as housing or other sensitive developments (such as hospitals or hotels) which may be impacted upon due to the early morning/late night operations of the mineral industry, or noisy/dusty nature of some of their operations.

Whilst acknowledging the principle of the safeguarded areas the City Council is concerned regarding the implications of this policy for existing residents and businesses located within the identified zones.

The identification of safeguarded areas is also noted to have potential to impact on the delivery of the City Council's own Local Plan which includes proposals for

significant residential growth at South Carnforth, part of which is located within a safeguarded area.

Whilst recognising the need to consider the operation of existing mineral practices within this area and other safeguarded areas in the district the City Council would not wish to see the ability of its residents to meet their own development needs restricted.

It is recommended that the policy be reworded to state that whilst the presence of adjacent mineral infrastructure is a material consideration this is just one of a number of considerations to be taken into account in the determination of planning applications.

Waste

Specific allocations for waste are not included within the Plan. Policy MW19 'Recycling, Sorting, Treatment and Recovery of Waste' instead establishes a criteria based approach with developments directed to appropriate industrial areas or on landfill sites. The policy recognises that waste management operations are generally similar to industrial activities, particularly when they are enclosed in purpose designed buildings. Whilst recognising the general suitability of such areas the policy correctly acknowledges that this remains subject to the scale and nature of the proposal, transport connections and existing industrial users and other neighbours as well as the proximity of other sensitive receptors.

The City Council welcome this policy and the acknowledgement that not all industrial areas may be suitable.