

**TO: EXECUTIVE  
15 NOVEMBER 2016**

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**REVISED LOCAL DEVELOPMENT SCHEME FOR A JOINT MINERALS AND WASTE  
LOCAL PLAN**

**Director of Environment, Culture and Communities**

**1 PURPOSE OF REPORT**

- 1.1 The purpose of this report is to seek the Executive's approval to bring a revised Local Development Scheme (LDS) for a Joint Minerals and Waste Local Plan (JMWP) into effect.
- 1.2 In addition to the Comprehensive Local Plan (CLP), the current LDS (June 2015) sets out a timetable for the preparation of a 'Joint Waste and Minerals Local Plan' and associated Policies Map (covering Bracknell Forest, Wokingham Borough, Royal Borough of Windsor and Maidenhead and Reading Borough) (the Authorities). Since the 2015 LDS was agreed, the Authorities have investigated various options for preparing a new JMWP. As a result, it has been decided to commission Hampshire Services (professional services provided by Hampshire County Council (HCC)) to prepare the JMWP and the contract is currently being finalised. In the meantime, staff at HCC have compiled a project plan for the preparation of the JMWP bearing in mind the need to set realistic timescales based on local circumstances (including available resources and the democratic processes required at various stages of plan preparation for each of the four Authorities involved).
- 1.3 Since the revised timetable is different to that in the 2015 LDS, it is necessary to supersede that element of the 2015 LDS that deals with the 'Joint Waste and Minerals Local Plan'.

**2 RECOMMENDATIONS**

**2.1 That the Executive:**

- (i) Approves the Local Development Scheme for a Joint Minerals and Waste Plan (Appendix A) to come into effect on 23rd November 2016, in respect of Bracknell Forest Borough; and**
- (ii) Agrees the withdrawal of that element of the Bracknell Forest Local Development Scheme (June 2015), that refers to a Joint Waste and Minerals Local Plan.**

**3 REASONS FOR RECOMMENDATIONS**

- 3.1 The Council is required to maintain an up to date LDS on its website. An up to date LDS gives residents, landowners, commercial operators and potential investors a clear indication that the Council remains committed to having an effective planning policy framework in place. Existing policies in the Replacement Minerals Local Plan for Berkshire and the Waste Local Plan for Berkshire pre-date current planning legislation, policy and guidance and therefore need to be reviewed in the light of these in order to provide a robust planning policy framework.

## **4 ALTERNATIVE OPTIONS CONSIDERED**

- 4.1 The option of not updating the 2015 LDS has been considered but as set out in this report the current timetable pre dates the decision to commission HCC to prepare the plan. Failure to update the LDS would result in misleading information regarding the timetable for plan preparation for local residents, landowners and commercial operators, concerning the Council's intended approach to producing planning policies to guide future minerals and waste development.

## **5 SUPPORTING INFORMATION**

### Background

- 5.1 As a Unitary Authority, Bracknell Forest Council has responsibility for planning for the future provision of minerals and disposal of waste in its area. However, the nature of minerals and waste development means that there are often implications beyond an individual Authority's boundary and as such the matter is better planned for on a more extensive geographical basis. As such, the four Authorities have decided to pursue a JMWP. This would be produced by HCC, on behalf of the Authorities. HCC has experience in this area of work, having recently adopted its own Minerals and Waste Local Plan.

### Existing minerals and waste policy

- 5.2 Existing policies are set out in the Replacement Minerals Local Plan for Berkshire (2002) and the Waste Local Plan for Berkshire (1998). Policies in these plans were designed to guide development until 2006. Although the 'saved' policies are still used, they have become less effective due to inconsistencies with national policy. The JMWP will cover the period 2020-2036 and will be prepared, submitted and adopted by the four Authorities as a joint document replacing or 'superseding' the existing minerals and waste local plans referred to above, for the specified Authorities.

### Local Development Scheme agreed in 2015

- 5.3 The 2015 LDS makes provision for the preparation of a 'Joint Waste and Minerals Local Plan' covering Bracknell Forest, Reading, Royal Borough of Windsor and Maidenhead and Wokingham Borough. However, at the time of writing it was assumed that internal resources would be used. Due to the level of expertise required and competing work, other options for carrying out the work were subsequently investigated, culminating in the appointment of HCC to undertake the work. As a result, the timetable in the 2015 LDS no longer reflects the current state of play and needs amending. The 2015 LDS also refers to the CLP and sets out a timetable for the preparation of that plan. The Council will continue to prepare the CLP in line with that timetable. The CLP focuses on areas of planning that are not related to minerals and waste.

### The Central and Eastern Berkshire Authorities Minerals and Waste Development Scheme

- 5.4 HCC has prepared a new project plan covering the period 2016 – 2020 in respect of producing a JMWP. It is important that the project plan for preparation of the JMWP is realistic, 'fit for purpose', and that the timescales are justified based on local circumstances (including available resources). The timetable reflects:
- Available resources;
  - The need to build upon previous minerals and waste plans;
  - The Statement of Community Involvement requirements for each Authority;
  - The need to produce a robust and up-to-date evidence base;

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- The need to undertake Sustainability Appraisal and a detailed Habitats Regulations Assessment;
- New guidance and emerging best practice; and
- The need to allow for democratic processes at the various plan preparation stages for each of the four Authorities.

5.5 The following table outlines the timetable for the preparation of the JMWP.

JMWP Key Milestones	Timescale	Description
Regulation 18 (Stage One - Issues & Options Preparation)	Sept 2016 – March 2017	Call for Sites Draft Plan Vision & Objectives Proposed content Evidence Base (Initial findings) <ul style="list-style-type: none"> <li>• Initial review of sites</li> <li>• Scoping Report (SA/SEA)</li> <li>• Screening (HRA)</li> <li>• Draft Minerals Background Study</li> <li>• Draft Waste Data</li> </ul>
Regulation 18 (Issues & Options Consultation)	March 2017– Sept 2017	Consultation on the initial work and the various options
Regulation 18 (Stage Two - Preferred Options Preparation)	July 2017 – Dec 2017	Draft Evidence Base Draft Plan based on Evidence Base and Consultation
Regulation 18 (Preferred Options Consultation)	Jan 2018 – May 2018	Consultation on the options selected as preferred
Regulation 19 (Proposed Submission Document Preparation)	May 2018 – Oct 2018	Update Evidence Base Revise Plan based on Evidence Base and Consultation
Regulation 19 (Proposed Submission Document Consultation)	Nov 2018 – March 2019	Consultation on the Plan to be submitted to the Secretary of State
Regulation 22 (Preparation)	March 2019 – Sept 2019	Update Evidence Base Proposed Modifications based on Evidence Base and Consultation
Regulation 22 (Submission to SoS)	Winter 2019	Submitting the Plan to the Secretary of State who appoints a Planning Inspector
Regulation 24 (Public Examination)	Spring 2020	Pre- Examination Hearing Planning Inspector examines the Plan

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Regulation 25 (Inspector's Report)	Summer 2020	Planning Inspector delivers his report on the Plan
Regulation 26 (Adoption)	Winter 2020	All Authorities adopt the Plan, as modified by Planning Inspector

### Evidence base

- 5.6 Gathering evidence is an ongoing process and must be continued throughout the plan preparation process. Data will be required on matters such as municipal waste arisings, transfer, treatment and disposal, capacity of waste operations, site appraisals, minerals resources and demand for minerals.

### Policies Map

- 5.7 A Policies Map will form part of the JMWP and will be prepared simultaneously with the Plan. The Policies Map illustrates geographically how the policies of the Local Plan are to be applied.

### Governance

- 5.8 Consideration will be given to the governance of joint work and decision making at each milestone, prior to the commencement of work. In order to facilitate the production of the JMWP, the principle of forming a Joint Committee will be explored. It is envisaged that initially a Joint Board will act as a sounding board for decisions. Although it is currently envisaged that decisions regarding key milestones of the plan making process will be dealt with in accordance with the internal governance arrangements for each Authority, this matter is still being negotiated. These key milestones will include the draft plan for publication, the draft Plan for submission to the Secretary of State for examination and the adoption of the Plan. It is acknowledged that whatever arrangement is put in place, the final adoption of the Plan would need to be by each Council. Officers are due to work up Terms of Reference in the near future.
- 5.9 HCC is well versed in producing a plan which has complex governance arrangements as staff at HCC have been working on behalf of the County, Southampton, Portsmouth and the South Downs National Park.

## **6 ADVICE RECEIVED FROM STATUTORY AND OTHER OFFICERS**

### Borough Solicitor

- 6.1 The recommendation of the report is to seek the Executive's approval to bring a revised Local Development Scheme (LDS) for a Joint Minerals and Waste Local Plan (JMWP) into effect in substitution for the references to the Joint Minerals and Waste Local Plan in the extant Local Development Scheme.
- 6.2 Local Planning Authorities are required to prepare and maintain a LDS in accordance with Section 15 of the Planning and Compulsory Purchase Act 2004 (as amended by the Localism Act 2011). This must specify (among other matters) the documents which, when prepared, will comprise the Local Plan for the area. It must be made available publically through publication on a web-site and kept up-to-date.
- 6.3 A Local Plan must be prepared in accordance with the LDS pursuant to Section 19 (1) Planning and Compulsory Purchase Act 2004 ("PCPA"). The National Planning

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Practice Guidance states that *“local planning authorities with minerals and waste planning responsibilities should also produce plans to provide a framework for decisions involving these uses. Local planning authorities can produce combined minerals and waste plans and, where relevant, may also prepare one Local Plan combining policies on minerals, waste and other planning matters”*.

- 6.4 Section 28 of the PCPA enables two or more Local Planning Authorities to agree to prepare a joint Local Plan, which can be an effective means of addressing cross-boundary issues, sharing specialist resources and reducing costs. The Local Planning Authority is required to adhere to the statutory criteria set out under the Town and Country Planning (Local Planning) (England) Regulations 2012 and the statutory duty to co-operate pursuant to s33A PCPA (as amended by the Localism Act 2011) in preparing and consulting upon the joint plan. This duty requires Local Planning Authorities and certain other public bodies to cooperate with each other in preparing a Local Plan, where there are matters that would have a significant impact on the areas of two or more Authorities. The extent of collaborative working required between the respective Authorities to deliver the JMWP would satisfy this statutory duty.
- 6.5 Further, Regulation 18 of the Town and Country Planning (Local Planning) (England) Regulations 2012 sets out the statutory requirements that a Local Planning Authority must adhere to with regards to consultation at key stages of the plan making process as set out in the Table at paragraph 5.5 of the report. This must be undertaken in accordance with the commitments set out in the Local Planning Authority's Statement of Community Involvement.
- 6.6 Paragraph 5.8 of the report sets out the initial governance arrangements for decision making relating to the JMWP. This will entail the creation of a Joint Board including representatives from all four Authorities. It is envisaged that all decisions at the key stages of the statutory plan making process will be made by each of the separate Authorities involved through their own governance arrangements. This approach will assist in minimising the strategic risk of delay identified in paragraph 6.11 of the report which will be safeguarded through the inclusion of robust provisions to protect each Authority's respective interests.
- 6.7 Negotiations concerning the terms of reference for the JMWP are still at a formative stage. The preferred option at this stage in the process is for the Authorities to enter into an agreement pursuant to Section 113 Local Government Act 1972 to formalise the shared service arrangement. This provision, enables Local Authorities to make their staff available to another Local Authority. This power is particularly useful when two or more Local Authorities participate in a shared services arrangement, perhaps using a joint committee structure, which does not constitute a separate legal entity. The staff could be seconded with one authority acting as the "lead authority", as the host or new employer. The lead Authority may then make those staff available to each of the participating Authorities, with the benefit that the staff are then treated as employees of the borrowing Authority when they are working on its behalf, so being covered by the borrowing Authority's insurance and indemnity arrangements.
- 6.8 The recommendation of the report is reserved to the Executive in accordance with Schedule 4 (1) and 4 (4)(a) (ii) of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000. This provides that the the function of amending, modifying, varying or revoking any plan or strategy of a description referred to in paragraph 4(1) concerning the formulation or preparation of any plan or strategy included in Column 1 of Schedule 3 such as “plans and alterations which together comprise the Development Plan,” shall be the responsibility of an Executive of the Authority. This is prefaced upon to the extent that the making of the

amendment, modification, variation or revocation is authorised by a determination made by the Authority when approving or adopting the plan or strategy, which is the case in this instance.

#### Borough Treasurer

- 6.9 The costs of the service will be shared equally between the four Authorities. It is anticipated that the work will be commissioned in this financial year. The Council's Budget makes adequate provision for the delivery of the work outlined in this report with the exception of the consultancy requirements detailed in paragraph 5.3, and as such a budget pressure of £70,000 has been included for consideration in the 2017/18 budget proposals. This pressure would exist until the completion of the plan which is anticipated to be at the end of four years (in line with the timetable set out in the attached LDS).

#### Equalities Impact Assessment

- 6.10 Since this report concerns the amendment of a timetable for a committed Local Plan, rather than a new Local Plan, it is not necessary to complete an Equalities Screening Record Form.

#### Strategic Risk Management Issues

- 6.11 The Strategic Risk Register (2016) includes Risk 10 which identifies the risk of not working effectively with key partners or residents in the development of services. Such a risk could mean that community needs are not met. This could have a negative impact on community cohesion. The production of an up to date JMWP as specified in the LDS will involve extensive engagement with stakeholders and residents in order to identify local needs. Risk 12 identifies the risk of being unable to implement legislative changes. As set out in Section 6 such changes may mean some delays to the Local Plan preparation process.

## **7 CONSULTATION**

#### Principal Groups Consulted

- 7.1 No groups have been consulted in the preparation of this report. As the JMWP makes progress, relevant consultation bodies and the community will be engaged in the process. Consultation will need to be in line with relevant legislation and with the Council's adopted Statement of Community Involvement (February 2014) which sets out how and when the Council will engage with the public and stakeholders in preparing Local Plans. A specific Consultation Strategy for the JMWP will also be prepared at the relevant milestones, the first being Issues and Options.

#### Method of Consultation

- 7.2 Local Plans have to go through prescribed procedures and are subject to wide public consultation and ultimately an independent public examination before they can be adopted. Various methods of engagement will be used, including the Council's web site, letters and press releases, as appropriate

#### Background Papers

APPENDIX A Local Development Scheme 2015 – 2020

Local Development Scheme 2015 – 2018

<http://www.bracknell-forest.gov.uk/local-development-scheme.pdf>

#### Contact for further information

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