

To: **EXECUTIVE**
14th JULY 2020

**JOINT CENTRAL AND EASTERN BERKSHIRE MINERALS AND WASTE LOCAL PLAN
PROPOSED SUBMISSION CONSULTATION AND SUBMISSION
REGULATIONS 19 AND 22 OF THE TOWN AND COUNTRY PLANNING (LOCAL
PLANNING) (ENGLAND) REGULATIONS 2012**

Director of Place Planning and Regeneration

1 Executive Summary

- 1.1 The Central and Eastern Berkshire Joint Minerals and Waste Plan is being prepared jointly by Bracknell Forest Council, Reading Borough Council, the Royal Borough of Windsor and Maidenhead and Wokingham Borough Council. It will provide an up to date planning framework for minerals and waste development in Central and Eastern Berkshire to 2036 and will replace the Replacement Minerals Local Plan for Berkshire (incorporating the alternations adopted in December 1997 and May 2001) and the Waste Local Plan for Berkshire (adopted 1998).
- 1.2 The plan has already been through several stages of consultation, starting with an Issues and Options consultation in 2017. It contains delivery strategies for minerals and waste management together with Development Management policies that will be used when assessing planning applications for minerals and waste developments. It is proposed to consult on the Proposed Submission version for six weeks commencing on 3rd September and ending on 15th October. The plan will then be submitted to the Secretary of State for examination together with a Policies Map, representations received to this consultation and a range of supporting documents.

2 Purpose of Report

- 2.1 The Unitary Authorities in Berkshire are responsible for planning for the future production of minerals and management of waste disposal in their areas. Bracknell Forest Council is working in collaboration with Reading Borough Council, the Royal Borough of Windsor and Maidenhead and Wokingham Borough Council in preparing the Central and Eastern Berkshire Joint Minerals and Waste Plan (JMWP). It will guide minerals and waste decision-making in the plan area up to 2036. Hampshire Services of Hampshire County Council (HCC) have been commissioned to provide the technical support and draft the plan and supporting documents
- 2.2 The plan is now at an advanced stage, various consultations and 'calls for sites' having already been undertaken, including 'Issues and Options' in Summer 2017, a draft version of the plan in Summer/Autumn 2018 and a focussed consultation in the Spring of this year.
- 2.3 The purpose of this decision is to seek the Executive's recommendation to Council to publish the Proposed Submission version of the Central and Eastern Berkshire JMWP and related changes to the Policies Map for a six week consultation starting on Thursday 3rd September and running to Thursday 15th October 2020. Pursuant to this recommendation the Executive's recommendation is also sought to submit the Joint Central and Eastern Berkshire JMWP and related changes to the Policies Map together with supporting documents to the Secretary of State for examination by an

independent Inspector. Section 23 of the Planning and Compulsory Purchase Act 2004 (as amended) (PCPA) allows an appointed Inspector to make any main modifications necessary to make a plan sound and/or legally compliant, provided that a local planning authority (LPA) has formally requested that such modifications be recommended by the Inspector. It is considered appropriate to make such a request in this case.

3 Recommendation(s)

That Executive

- 3.1 Approves the Proposed Submission Central and Eastern Berkshire Joint Minerals and Waste Plan at Appendix A (along with the supporting documents and Policies Map) for publication for a statutory six week period of consultation commencing on Thursday 3rd September and closing on Thursday 15th October 2020.**
- 3.2 Under the provisions of Section 22 of the Planning and Compulsory Purchase Act 2004 (as amended), recommends to Council that the Proposed Submission Central and Eastern Berkshire Joint Minerals and Waste Plan, the Policies Map and all supporting documents be formally submitted to the Secretary of State for independent examination.**
- 3.3 Under the provisions of Section 23 of the Planning and Compulsory Purchase Act 2004 (as amended), recommends to Council that the appointed Inspector be requested to recommend main modifications to the submitted Plan, in the event that the Inspector considers that such modifications are necessary to make the Plan sound.**
- 3.4 Agrees that any minor changes to the Proposed Submission Central and Eastern Berkshire Joint Minerals and Waste Plan and supporting documents (relevant to Bracknell Forest), following Council, are agreed by the Director of Place Planning and Regeneration in consultation with the Executive Member for Planning and Transport.**

4 Reasons for Recommendation(S)

- 4.1 It is important that the Council has an up to date and robust planning framework to guide development which reflects current national policy and guidance. The preparation of a JMWP will help achieve this aim.
- 4.2 The joint plan must be prepared in consultation with the local community and other stakeholders. Several information gathering consultations and 'calls for sites' have been completed that form the preparation stage of plan-making (Regulation 18¹). Responses to these have informed the content of the plan.

5 Alternative Options Considered

- 5.1 The Council could have sought to provide plan coverage for minerals and waste in its Local Plan, rather than preparing a separate plan. However, due to the strategic

¹ The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended)

nature of minerals and waste issues and the specialist knowledge required in this area, such an approach was ruled out at an early stage. Creating a joint plan creates economies of scale and enables the Council to deal with minerals and waste issues strategically.

6 Supporting Information

- 6.1 Minerals and waste planning is strategic in nature and is therefore better planned on a wider geography than at the level of an individual unitary authority. As such Bracknell Forest, Reading, the Royal Borough and Windsor and Maidenhead and Wokingham Councils are pursuing a JMWLP which will guide minerals and waste decision making in the plan area up to 2036.
- 6.2 The Councils currently rely on the saved policies in the Replacement Minerals Local Plan for Berkshire (Adopted in 1995 but subject to Alterations in 1997 and 2001) and the Waste Local Plan for Berkshire (1998). These were prepared and adopted by the former Berkshire County Council and are now out of date. The policies in the existing minerals and waste plans for Berkshire were designed to guide development until 2006. Although the 'saved' policies are still used, their effectiveness is now limited.
- 6.3 The four authorities have commissioned Hampshire Services of HCC to produce the plan. HCC is the Minerals and Waste Authority for Hampshire and has a dedicated in-house team of specialist planners

Project progress

The emerging plan

- 6.4 Various consultations and 'calls for site' have taken place as part of the plan preparation process. These are summarised below:
- 'Issues and Options' consultation was undertaken to gather technical information and confirm the evidence base (Summer 2017);
 - Draft Plan consultation setting out the proposed approach for the Joint Minerals and Waste Plan (Summer/Autumn 2018);
 - Bray Quarry extension consultation (Summer 2019);
 - Focussed consultation on criteria for defining an 'Area of Search' for sand and gravel provision, two new sites for sand and gravel (Land west of Basingstoke Road, Spencers Wood in Wokingham Borough and land between Horton Brook and Poyle Quarry in the Royal Borough of Windsor and Maidenhead), and a possible policy on past performance of minerals and waste operators (Spring of 2020).
 - Various 'calls for sites' for minerals and waste uses due to the limited number of site options (Spring 2017, Autumn 2017, Winter 2018/19 and Autumn 2019).

Current stage

- 6.5 The Proposed Submission JMWLP sets out the proposed planning framework for minerals and waste development in the plan area for the period up to, and including, the year 2036. It includes:

- A long-term Spatial Vision and Strategic Objectives.
- Delivery strategies for minerals and waste management.
- Development Management policies that will be used when assessing planning applications for minerals and waste developments. For example, protection of habitats and species, conserving the historic environment and flood risk. A policy is also included that seeks to ensure that past performance of minerals and waste operators forms part of the material considerations taken into account in decision-making.
- Details of how each policy will be implemented and monitored to ensure their effectiveness.

6.6 A Policies Map has also been compiled which shows allocations and specific policy designations on a geographical basis.

Minerals strategy

6.7 The only minerals of more than local significance in the area are sand and gravel which is comprised of sharp sand and gravel and soft sand (which is rarer in the plan area). These minerals are used by the construction industry and are therefore important to the health of the economy. National policy and guidance requires us to take account of geographical imbalances in terms of both need and the geological occurrence of appropriate resources by making an appropriate contribution both locally and nationally of any significant sources of minerals i.e. sand and gravel in the case of Central and Eastern Berkshire.

6.8 Provision must therefore be made in the plan for the release of land to allow a steady and adequate supply of sand and gravel. A 'Landbank' is used to forecast whether a steady and adequate supply can be maintained through assessing the stock of mineral planning permissions. The National Planning Policy Framework requires mineral planning authorities to make provision for the maintenance of a landbank of at least seven years for sand and gravel. Due to the limited number of site options (new sites are proposed in Windsor and Maidenhead), the ability of the plan to provide such a steady and adequate supply of sand and gravel is challenging.

6.9 In order to provide flexibility in supply and to allow the industry to bring forward further appropriate sites, if necessary, Policy M4 (3) (Locations for sand and gravel extraction) outlines a contingency approach to ensure that the landbank is maintained and that a steady and adequate supply is maintained. This involves the identification of an 'Area of Search'. Whilst the presence of sand and gravel is the basis for defining the 'Area of Search', a number of criteria have been applied to exclude certain parcels of land. For example, areas designated as Special Protection Areas, Special Areas of Conservation and Ramsar sites, Sites of Special Scientific Interest, Ancient Woodland and areas that are already built up. Land within the Green Belt has not been excluded. As far as Bracknell Forest is concerned, the main 'Areas of Search' fall within the northern part of the Borough. Whilst the policy approach is supportive of proposals in 'Areas of Search' in principle (subject to certain criteria), it is important to note that any proposal submitted is not guaranteed planning permission.

6.10 A lack of provision, may result in demand for sand and gravel having to be met from elsewhere, such as neighbouring mineral planning areas which have such resources. However, as Central and Eastern Berkshire contains sharp sand and gravel resources, neighbouring authorities are likely to be reluctant to accept the burden of supply in the long term. 'Duty to Cooperate' discussions have taken place and

Statements of Common Ground are being finalised with neighbouring authorities with suitable resources to demonstrate that the burden of supply is not being placed on any single neighbouring mineral planning area.

- 6.11 In view of the above, it is also important to safeguard viable or potentially viable mineral deposits from sterilisation by surface development such as housing. Safeguarding will be achieved by encouraging extraction of the underlying minerals prior to development proceeding, where practicable. Policy M2 deals with safeguarding sand and gravel resources.

Waste strategy

- 6.12 The plan must identify sufficient opportunities to meet the identified needs of the area for waste management for all waste streams. The majority of non-hazardous waste is produced mainly from municipal solid waste (sometimes referred to as 'household waste') and commercial and industrial waste sources, while inert waste is derived mainly from construction, demolition and excavation activities. Although a minor contribution to the overall arisings, hazardous waste is produced from all three waste sources.
- 6.13 Waste can be managed in different ways, but the waste (management) hierarchy sets out the order in which options for waste management should be considered based on environmental impact (with disposal as the lowest priority). Waste planning has a role to play in driving waste 'up the hierarchy' by ensuring the right amount of appropriate facilities for each part of the hierarchy are planned for in the right places at the right times.
- 6.14 The Central and Eastern Berkshire Authorities have a network of waste treatment and transfer facilities which will play a critical role in helping to meet the long-term waste management needs of the plan area. It is also recognised that there are some significant movements of waste for treatment in and out of the plan area. Given the extent of these movements, it is recognised that they may be difficult to prevent. Discussions have been taking place with other Waste Planning Authorities through the 'Duty to Cooperate' process and Statements of Common Ground are being drafted. The long-term ambition is to achieve waste net self-sufficiency.
- 6.15 Overall, treatment capacity within the plan area is less than the waste arisings generated. As such, it is considered that all waste management capacity facilities, including treatment and transfer facilities and those which provide a temporary function should be safeguarded from encroachment or loss to other forms of development, particularly in the light of increasing pressure on land for competing uses such as housing. Policy W2 (Safeguarding of waste management facilities) deals with this matter. Existing facilities to be safeguarded in Bracknell Forest are Planners Farm, Bracknell Road, Winkfield for composting, Longshot Lane Household Waste Recycling Centre and various waste water treatment works.
- 6.16 Modern waste management facilities can be located on different types of land, if the location is appropriate for the proposed activity. In Central and Eastern Berkshire, the existing network of facilities is generally focused on the main urban areas, although some facilities such as composting tend to be in more rural areas. Recycling and recovery facilities enclosed in buildings are typically of an industrial nature and deal with largely segregated materials. Activities including preparing or sorting waste for re-use, require materials recovery facilities, waste transfer stations, dis-assembly and

re-manufacturing plants together with reprocessing industries. Potential nuisances such as dust and noise can be mitigated.

- 6.17 Since existing and proposed sites are not sufficient to meet the future waste management requirements of Central and Eastern Berkshire up to the end of the plan period, it is expected that further new sites will come forward through market-led delivery. A review of industrial estates and employment land has identified industrial estates and/or employment sites that are potentially suitable for waste uses ranging from 'Activities requiring a mix of enclosed buildings/plant and open ancillary areas (possibly involving biological treatment)' to 'Activities requiring enclosed building with stack (small scale)'. Policy W4 Locations and sites for waste management includes these Preferred Waste Areas. Parts of the Western Employment and Eastern Employment Areas in Bracknell and Vulcan Way Employment Area in Sandhurst are covered by this approach.

Supporting work

- 6.18 The JMWLP is supported by a number of supporting documents, including: Sustainability Appraisal (including Strategic Environmental Assessment), Habitats Regulations Assessment (Appropriate Assessment), Minerals Background Study and Waste Background Study.

Next stages

- 6.19 As the plan is being prepared across the four authorities, each of the authorities will need to agree to the consultation and submission of the plan. Section 20(2) of the PCPA states that a LPA must not submit a plan unless it thinks it is ready for independent examination. The Planning Inspectorate's Procedure Guide on Local Plan Examinations (June 2019) states that the plan that is published for consultation at Regulation 19 stage should therefore be the plan that the LPA intends to submit to the Secretary of State/Planning Inspectorate for examination.
- 6.20 Consulting on the Proposed Submission version of the JMWLP is a requirement under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended), and allows members of the public, landowners, developers and minerals and waste operators the opportunity to comment on the proposed plan (Regulation 20) before it is submitted for independent examination (Regulation 22). Consultation must run for a statutory period of six weeks and is open to everybody (including those who have not made representations to date). At this stage, to be effective, any objections must be based on legal compliance (whether the correct procedures have been followed during the preparation of the plan) and the 'tests of soundness' as set out in legislation and national policy which are concerned with whether the plan is:
- a) Positively prepared
 - b) Justified
 - c) Effective
 - d) Consistent with national policy
- It is not therefore a completely open-ended consultation process, but rather an objector must state why the plan is 'unsound' and what needs to be done to address the matter.
- 6.21 Once the consultation has closed, officers will summarise the key issues raised and 'submit' the plan, policies map, representations and all supporting documents to the Secretary of State (or, in practice, to the Planning Inspectorate). A Planning Inspector will be appointed to 'examine' the JMWLP and after considering all representations received, may hold a number of 'Hearing' sessions as part of the examination where

those who wish to verbally raise their objections will get their chance to do so. Ultimately, the Inspector will prepare a Report which (if requested) will contain a list of any necessary main modifications.

Impact of Coronavirus outbreak on consultation

- 6.22 Regulation 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) deals with the availability of consultation documents. Regulation 35(1a) refers to the need to make documents available for inspection at a LPA's principal office and at such other places within its area as the LPA considers appropriate, during normal office hours. This is in addition to publishing them on the LPA's web site. The current public health guidelines on social distancing make it difficult to fully comply with the legislation due to the need for the physical deposit of the relevant documents. The Council would normally make documents available for inspection at Time Square, local libraries (which are currently closed) and parish council offices, as set out in the Statement of Community Involvement (SCI). By delaying the consultation until September, it is hoped that these difficulties can be overcome. By then it is possible that public health guidance will have been relaxed further or that the Government will have put temporary legislation in place covering the deposit of documents. Planning Practice Guidance² has recently been updated on reviewing SCIs on a temporary basis to comply with COVID-19 guidance so that plan-making can progress since the Government sees local plans as having a vital role to play in supporting economic recovery. It is intended to follow this guidance and to pursue a temporary update to the Bracknell Forest SCI. By September it may also be possible to find a means of depositing the plan at Time Square and/or to offer to send paper copies of the plan to stakeholders, on request. A consultation strategy and mandate are attached as Appendix B.

7 Consultation and Other Considerations

Legal Advice

- 7.1 Local Plan documents are produced under the PCPA. The process for producing local plans is set out in the Town and Country Planning (Local Planning) (England) Regulations 2012. Publication and submission of a local plan are dealt with under Regulations 19 and 22. Regulation 35(1a) refers to the need to make documents available for inspection at a LPA's principal office and at such other places within its area as the LPA considers appropriate, during normal office hours. The current public health guidelines on social distancing make it difficult to fully comply with the legislation due to the need for the physical deposit of the relevant documents. It is hoped that this issue can be resolved due to delaying the start of the consultation until 3rd September 2020 (see paragraph 6.22). Current Government Guidance in the light of the pandemic specifically states that local plans are required to progress through the system, whilst recognizing the challenges that local authorities face. The Government is working on ways to address this which include potential online inspection of documents and the reviewing and temporary updating of Statements of Community Involvement.

Financial Advice

² Paragraph: 078 Reference ID: 61-078-201200513

- 7.2 The cost of preparing the JMWP is being shared equally amongst the four commissioning authorities. The budget for this project was agreed at Council and an allocation is identified in the 2020/21 budget.

Consultation Responses

- 7.3 Responses to previous consultations have been reviewed and taken account of in developing the Proposed Submission version of the plan. Whilst consultation at this stage is statutory and confined to legal compliance and soundness, it will be undertaken with a range of stakeholders, including general and specific consultation bodies, landowners, consultants, developers, minerals and waste operators and Town and Parish Councils. The front page of the Council's web page will include notification of the publication of the Proposed Submission JMWP, a press release will be given to local newspapers and use will be made of social media. Once the consultation has closed, officers will summarise the key issues raised and 'submit' representations received to the Secretary of State. The appointed Inspector will consider the content of the representations.

Equalities Impact Assessment

- 7.4 See attached

Strategic Risk Management Issues

- 7.5 The Strategic Risk Register (2015) 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 and a negative impact on community cohesion. The production of an up to date JMWP has involved extensive engagement with stakeholders (including neighbouring minerals and waste planning authorities, and, minerals and waste management operators) and residents in order to identify local needs. Risk 11 identifies the risk of being unable to implement legislative changes. The production of the JMWP allows legislative changes to be reflected.

Background Papers

Planning and Compulsory Purchase Act 2004 (as amended)

Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended)

Policies Map

Sustainability Appraisal/Strategic Environmental Assessment (SA/SEA)

Habitats Regulation Assessment (HRA)

Statement of Consultation

Minerals Background Study

Minerals Proposal Study

Waste Background Study

Waste Proposal Study

These documents are available via the following link

TO BE INSERTED

Contact for further information

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Appendix A: Proposed Submission Joint Central and Eastern Berkshire Minerals and Waste Local Plan

Appendix B: Consultation Strategy and Consultation Mandate