

To: **Executive**
8th February 2022

**Proposed Main Modifications to the Central and Eastern Berkshire Joint Minerals and
Waste Local Plan (Submission Version)**

Director of Place, Planning and Regeneration

1 Purpose of Report

- 1.1 The Central and Eastern Berkshire Joint Minerals and Waste Local Plan (CEBJMWP), was submitted to the Secretary of State on 25th February 2021. This marked the beginning of the examination phase. Public hearings were held in September and October 2021.
- 1.2 During the examination process, a number of Main Modifications have been identified that are considered necessary to make the plan sound and legally compliant. These Main Modifications (attached as Appendix 1). need to be subject to consultation They are supported by a Habitats Regulation Assessment (HRA) Addendum, Sustainability Appraisal (incorporating Strategic Environmental Assessment) (SA/SEA) Addendum and Revised Policies Map.
- 1.3 A further category of proposed changes termed Additional (Minor) Modifications have also been produced which cover factual updates, textual corrections and points of clarification. These are being published for information as there is only a legal requirement to consult on the Main Modifications.
- 1.4 It is suggested that the Proposed Main Modifications and supporting documents be published for consultation for a six week period during February and March 2022, subject to the final agreement of the Inspectors.

2 Recommendation(s)

- 2.1 **That the Proposed Main Modifications (attached as Appendix 1) to the Central and Eastern Berkshire Joint Minerals and Waste Local Plan (Submission version), Policies Map and supporting documents together with the schedule of Additional Modifications be approved.**
- 2.2 **That consultation on the Proposed Main Modifications (attached as Appendix 1) to the Central and Eastern Berkshire Joint Minerals and Waste Local Plan (Submission version), Policies Map and supporting documents for a period of at least six weeks be approved.**
- 2.3 **That the Executive Director Place Planning and Regeneration in consultation with the Executive Member for Planning and Transport agree any further changes to the Proposed Main Modifications that are recommended by the Inspectors, prior to public consultation.**

3 Reasons for Recommendation(S)

- 3.1 As part of the examination process, the Inspectors must judge whether the CEBJMWP is 'sound' as set out in paragraph 35 of the National Planning Policy Framework 2021 (positively prepared, justified, effective and consistent with national policy). It is now clear that Main Modifications are required in order to make the the plan sound and ultimately ensure that the Council has an up to date and robust planning framework to guide development which reflects current national policy and guidance.
- 3.2 All Proposed Main Modifications and associated SA/SEA and HRA documents must be subject to public consultation before the Inspectors can make recommendations on them. Whilst the the Policies Map is not a development plan document, it illustrates geographically the application of policies in the plan. As certain proposed main modifications have geographical consequences, it is necessary to draw the proposed change to what is shown on the Policies Map. To ensure fairness, such proposed changes need to be subject to consultation alongside the Proposed Main Modifications.

4 Alternative Options Considered

- 4.1 The alternative options are to:
- (i) reject some or all of the identified Proposed Main Modifications to the plan; or
 - (ii) suggest different or more wide-ranging modifications, beyond those required for soundness.
- 4.2 The result of option (i) would almost certainly be that the Inspectors would find the plan unsound and recommend non-adoption of the plan. In practice, the Authorities would be asked to consider withdrawing the plan before any such recommendation was made. This would mean reliance on policies in existing documents that are out of date, making it difficult to resist inappropriate development, and potentially resulting in planning by appeal.
- 4.3 Option (ii) would carry the significant risk of the Inspectors needing to re-open the hearings. As well as the resource and time implications, it is not possible to guarantee that different proposed modifications would result in a sound plan. This could result in further delays to the process, leaving the Authorities without up to date policies for an extended period.

5 Supporting Information

- 5.1 The Unitary Authorities in Berkshire have responsibility for planning the future production of minerals and the management of waste disposal within the Berkshire area. Minerals and waste is an area of planning which is strategic in nature and as such is better planned on a larger geography than on an individual unitary authority basis. As such, the Royal Borough of Windsor and Maidenhead (RBWM), Wokingham Borough Council (WBC), Bracknell Forest Council (BFC) and Reading Borough Council (RBC) are aiming to produce a Central and Eastern Berkshire Joint Minerals and Waste Plan (CEBJMWP). The new plan will provide an effective and up to date planning strategy and policies for the supply of minerals and management of waste in the area, consistent with current national legislation, planning policy and guidance.
- 5.2 The production of the CEBJMWP began in 2016 with the approval by the four Authorities of joint working arrangements and the decision to commission Hampshire Services of Hampshire County Council (HCC) to produce the plan. HCC is the

Minerals and Waste Authority for Hampshire and has a dedicated in-house team of specialist planners.

- 5.3 Various consultations and 'calls for sites' have taken place as part of the plan preparation process. These are summarised below:
- 'Issues and Options' consultation 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).
 - Regulation 19 consultation on the Proposed Submission Draft of the CEBJMWP, (September and October 2020).
- 5.4 Following the final consultation stage, the plan was submitted to the Secretary of State on 25th February 2021. This marked the beginning of the examination phase Rachael Bust was appointed as the Lead Inspector, assisted by Nicholas Palmer. Their role is to assess whether the plan has been prepared in accordance with legal and procedural requirements, and, whether or not it is sound. Matters, Issues and Questions were published in August 2021 and public hearings were held in Maidenhead Town Hall during September and October 2021.
- 5.5 During the examination process, a number of Main Modifications have been identified by the Authorities, representors and the Inspectors that are considered necessary to make the plan sound and legally compliant. These have been assessed to establish whether or not there are any consequences for the SA/SEA and HRA. Furthermore, any necessary proposed changes to what is shown on the Submission Policies Map have been drawn up as if the geographical illustration of a policy is flawed, the policy will be unsound.
- 5.6 There is now a need for the Authorities to consult on the Proposed Main Modifications, Policies Map and supporting documents before the Inspectors can make recommendations on them. The nature and duration of the consultation must reflect held at the Regulation 19 stage. This means that it should last at least six weeks and that documents must be made available to view on the Council's website with paper copies being made available at certain local libraries, subject to guidance in place at that time regarding rules relating to the Covid 19 Pandemic.
- 5.7 A schedule of the Proposed Main Modifications is attached as Appendix 1. Many of these represent quite small changes to wording, but there are some more significant changes that are summarised below.

- To reflect revised wording and references in the National Planning Policy Framework 2021 (NPPF) and the content of the Environment Act 2021.
- To clarify the suitability of minerals and waste development in the Green Belt.
- To ensure that the treatment of historic assets is consistent with the NPPF.
- To clarify what restoration information is required in the restoration of minerals and waste developments.
- To ensure that minerals and waste development in areas at risk of flooding is assessed in accordance with national policy and planning guidance.
- To change the focus of policy DM15 from considering the past performance of an operator to issues that have arisen with specific minerals or waste sites.
- To clarify the likely scale of imports of sand and gravel from outside the plan area.
- To clarify the application of the minerals safeguarding areas.
- To amend the wording of some indicators so that they provide a better indication of policy performance.
- To revise/clarify various requirements for individual allocations, particularly with reference to flood risk and the Green Belt. This also includes the removal of two of the industrial areas identified as preferred areas for waste management facilities due to flood risk.

- 5.8 The Authorities have also compiled a list of Additional (Minor) Modifications which cover factual updates, textual corrections and points of clarification. These will not be considered by the Inspectors as they are not considered to affect the soundness of the CEBJMWP. They are being published for information.
- 5.9 Consultation on the Proposed Main Modifications (without prejudice to the Inspectors' final conclusions) is planned to take place during February and March 2022. It will be concerned with the Proposed Main Modifications only, and not the remainder of the plan. At the time of writing the Proposed Main Modifications are awaiting final comment from the Planning Inspectors. Once received there may be some further amendments to the modifications set out in Appendix 1. Depending upon when these are received the delegation set out at Para 2.3 may or may not be required.
- 5.10 Following the consultation, the Inspectors will consider all representations received before finalising the examination report and the schedule of recommended Main Modifications to the CEBJMWP. Further hearing sessions are not usually held, unless the Inspectors consider them essential to deal with substantive issues raised in the representations, or to ensure fairness.
- 5.11 The final report will summarise the outcome of the examination and, where appropriate, the principal changes to the plan made by the Main Modifications and why these are necessary. Assuming incorporation, the CEBJMWP can then proceed to adoption.

6 Consultation and Other Considerations

Legal Advice

- 6.1 Local plans are produced under the Planning and Compulsory Purchase Act 2004 (as amended) and the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended).. Under Section 20 (7C) of the Act, an Inspector can recommend main modifications, if requested to do so by a local planning authority. Such a request was included in the Council's resolution to submit the CEBJMWP on

22nd July 2020. Regulations 24 and 25 cover the process of examination and publication of an Inspector's Report.

Financial Advice

- 6.2 The cost of preparing the CEBJMWP is being shared equally amongst the four commissioning authorities. The budget for this project was agreed by Council at £61k per annum and to date £244k of costs have been incurred.. This is intended to include the costs of the examination, and will cover the costs of preparing and consulting on the Proposed Main Modifications attached as Appendix 1 to this report. However, the cost of the examination will not be known in full until the Planning Inspectorate has produced a final invoice and will depend on the length and complexity of the examination. The budget requirements for the Local Development Framework are assessed each year and the budget amended accordingly through the commitment process, at this point it is assumed that sufficient budget is available to cover costs.

Other Consultation Responses

- 6.3 Responses to the Proposed Submission Version of the CEBJMWP have been taken into account in compiling the list of Proposed Main Modifications. Consultation at this stage is statutory; 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 Main Modifications . Once the consultation has closed representations received will be passed to the Inspectors who will consider the content.

Equalities Impact Assessment

- 6.4 The Scoping Assessment, included at Appendix 2 identifies that an Equality Impact Assessment (EqIA) is not relevant to this consultation. A full EqIA is not therefore required.

Strategic Risk Management Issues

- 6.5 There are no direct financial risks associated with the report.

Climate Change Implications

- 6.6 The Proposed Main Modifications to the CEBJMWP has been subject to Sustainability Appraisal, which assesses the effect of the plan and proposals on environmental, social and economic objectives, and is a statutory requirement of plan making. The Sustainability Appraisal Addendum, which will be published alongside the Proposed Main Modifications, has identified that the modified policies will have either neutral or positive effects on the identified sustainability objectives, which cover environmental objectives relating to biodiversity, water quality, landscape and heritage, ground conditions, air quality, emissions/climate change and flood risk.

Background Papers

- Planning and Compulsory Purchase Act 2004
- The Town and Country Planning (Local Planning) (England) Regulations 2012
- National Planning Policy Framework, 2021
[National Planning Policy Framework \(\[publishing.service.gov.uk\]\(https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/91212/nppf-2021.pdf\)\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/91212/nppf-2021.pdf)
- Proposed Submission Draft Central and Eastern Berkshire Joint Minerals and Waste Plan (2020) and Policies Map (see web link below)
- Environmental Report Sustainability Appraisal/Strategic Environmental Assessment Main Modifications addendum November 2021 (see web link below)

- Habitats Regulation Assessment Addendum December 2021 ((see web link below)
- A wide range of background information is available on [Examination Library | Hampshire County Council \(hants.gov.uk\)](https://www.hants.gov.uk/examination-library)

Contact for further information

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