

To: **EXECUTIVE**  
**13<sup>th</sup> DECEMBER 2022**

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**ADOPTION OF CENTRAL AND EASTERN BERKSHIRE JOINT MINERALS AND WASTE LOCAL PLAN**

**Executive Director of Place Planning and Regeneration**

**1 Purpose of Report**

- 1.1 Bracknell Forest Council, Reading Borough Council, the Royal Borough of Windsor and Maidenhead and Wokingham Borough Council (collectively referred to as the Authorities from here on) have been working together to provide an up to date planning framework for minerals and waste development in Central and Eastern Berkshire to 2036.
- 1.2 The Authorities submitted the Central and Eastern Berkshire (CEB) Joint Minerals and Waste Plan and accompanying Policies Map to the Secretary of State for Examination in February 2021. Hearings were held in September and October 2021 and a consultation on Main Modifications took place between February and April 2022. The Inspector's Final Report was received on 20<sup>th</sup> October and concludes that the CEB Joint Minerals and Waste Plan is capable of adoption with Main Modifications to make the Plan sound, as set out in the Final Report.
- 1.3 On adoption, the Plan replaces the saved policies in 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).
- 1.4 The purpose of this decision is to seek the Executive's recommendation to Council to adopt the CEB Joint Minerals and Waste Plan incorporating Main Modifications and non-material additional modifications together with the accompanying Policies Map.

**3 Recommendations**

**That Executive:**

- 3.1 **Recommends that Council adopts the Central and Eastern Berkshire Joint Minerals and Waste Plan incorporating the Main Modifications recommended by the Inspector and non-material additional modifications (see Appendix A).**
- 3.2 **Agrees to make the alterations to the Policies Map (see Appendix B) that are necessary to give effect to the policies of the Central and Eastern Berkshire Joint Minerals and Waste Plan as modified.**
- 3.3 **Agrees that on adoption, the Central and Eastern Berkshire Joint Minerals and Waste Plan will become part of the development plan for the Borough and that its policies will supersede all saved policies in the Replacement Minerals Local Plan for Berkshire (incorporating the alterations adopted in December 1997 and May 2001) and the Waste Local Plan for Berkshire (adopted 1998) for the purposes of decision making in Bracknell Forest.**

**3.4 Agrees that any other non-material additional modifications to the Central and Eastern Berkshire Joint Minerals and Waste Plan, can be agreed by the Director of Place Planning and Regeneration in consultation with the Executive Member for Planning and Transport as considered necessary ahead of publication and publicity.**

#### **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 CEB Joint Minerals and Waste Plan helps achieve this aim.

#### **5 Alternative Options Considered**

5.1 The CEB Joint Minerals and Waste Plan can only be adopted with all of the Main Modifications recommended by the Inspectors. Not adopting the CEB Joint Minerals and Waste Plan would result in a waste of resources incurred in preparing the Plan and the existing out of date saved Minerals and Waste Plan policies would remain in place. It could also provoke intervention by the Secretary of State (Section 27(5) empowers the Secretary of State to (a) approve the Plan with the Main Modifications recommended by the Inspectors, or (b) direct the Council to consider adopting the Plan by resolution of the authority) and legal challenges by site promoters.

#### **6 Supporting Information**

6.1 The unitary authorities in Berkshire have responsibility for planning for the future production of minerals and for the management of waste disposal within the Berkshire area. 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 have prepared a Minerals and Waste Local Plan which will guide minerals and waste decision making in the plan area up to 2036.

6.2 The Authorities commissioned 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.

6.3 To date the Authorities have relied 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 originally prepared and adopted by the former Berkshire County Council and are now out of date. Although the 'saved' policies have been used, their effectiveness is now limited.

##### *Plan making process*

6.4 This comprises three distinct and sequential stages, as set out under Part 2 of the Planning and Compulsory Purchase Act 2004 ('the 2004 Act'). These are as follows:

- The preparation stage which ends when the Plan is submitted to the Secretary of State for independent examination.
- The examination stage when independent planning inspectors ascertain whether the submitted plan is sound and legally compliant. This ends when the inspectors deliver their final report to the local planning authorities.

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- The adoption stage, when the local planning authorities decide whether to accept the recommendations made by the inspectors in their final report.

6.5 The process of producing the CEB Joint Minerals and Waste Plan has involved various consultations and 'calls for sites'. These are summarised below:

- Summer 2017 – 'Issues and Options' consultation undertaken to gather technical information and confirm the evidence base.
- Summer/Autumn 2018 – consultation on Draft Plan setting out the proposed approach for the Joint Minerals and Waste Plan.
- Summer 2019 - consultation on an extension to Bray Quarry.
- Spring 2020 - 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 2017, Autumn 2017, Winter 2018/19 and Autumn 2019 - various 'calls for sites' for minerals and waste uses.
- Autumn 2020 – consultation on Proposed Submission version of the Plan.
- February 2021 - submission of documents to the Secretary of State for Examination. Independent Planning Inspectors, Rachael A Bust (Lead Inspector) and Nicholas Palmer appointed to undertake the examination of the Plan.
- September and October 2021 - hearing sessions held.
- February and April 2022 - publication of Schedule of Proposed Main Modifications for public consultation for six weeks.
- October 20th 2022 - Inspectors' Final Report received. The Report concludes that the CEB Joint Minerals and Waste Plan is capable of adoption with the Main Modifications recommended by the Inspectors to make the Plan sound.

6.6 The Main Modifications recommended by the Inspectors are substantially the same as the Proposed Main Modifications published for consultation in February 2022, with some small amendments. The most significant of the Main Modifications are set out below:

- Amendment of Spatial Strategy to include addressing the causes of climate change and mitigating and adapting to its effects.
- Changes to Policy DM6: Green Belt, DM7: Conserving the Historic Environment and DM10: Water Resources to ensure consistency with national policy;
- Changes to Policy DM15, which originally proposed taking past operator performance into account. This now refers to consideration of site history.
- Additional statements in DM4 about development that affects Areas of Outstanding Natural Beauty and their setting;
- Inclusion of a requirement for submission of a restoration and after-care scheme for minerals extraction and landfill proposals;

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- Clarification regarding aggregate material that is not available within the Plan area and its anticipated rates of provision.
- Clarification as to rates of delivery of sand and gravel from allocated sites and future reliance on new sites coming forward within the Area of Search. The criteria used for defining the Area of Search are set out.
- A Minerals Safeguarding Area is defined and safeguarding of waste facilities is covered separately. Amendments are made to mineral safeguarding policy and its monitoring.
- Clarification regarding consultation on developments that could affect mineral resources.
- Policy on chalk and clay extraction is modified to require consideration of recycled and secondary materials as alternatives.
- Amendment to policy on sustainable waste management to ensure that development follows the waste hierarchy.
- Clarification of policy on the safeguarding of waste facilities to ensure that this relates to lawful or permitted development.
- Equal priority is given to waste management facilities on allocated sites and within Preferred Waste Areas.
- Development considerations for the allocated sites to ensure adequate consideration of Green Belt policy, flood risk, ecology and other matters.
- The Preferred Waste Areas listed in Appendix C of the Plan are amended, and an additional site has been added to the list of safeguarded sites in Appendix E.
- A number of other modifications to ensure that the plan is positively prepared, justified, effective and consistent with national policy.

6.7 The proposed adoption version of the CEB Joint Minerals and Waste Plan incorporating the Main Modifications and non-material additional modifications together with the accompanying updated Policies Map are attached as Appendix A and Appendix B, respectively.

### *Next stages*

6.19 Following adoption, Section 26 of the Town and Country Planning (Local Planning) (England) Regulations 2012 ('2012 Regulations') requires the Council to make the Joint Minerals and Waste Plan, Sustainability Appraisal Report, and Adoption Statement available in accordance with Regulation 35 (this will involve placing documents on the Council's website and making paper copies available at the Council's offices at Time Square and Bracknell Library. There is also a requirement to notify those who asked to be notified of adoption of the Plan.

6.20 Following the adoption of the Plan, the Mineral and Waste Plan will form part of the Development Plan for Bracknell Forest and will sit alongside and complement other Development Plan Documents. The Plan will be used by industry, agents and landowners who wish to submit planning applications for minerals and waste developments. Such applications will be assessed against the policies contained within the Plan and the relevant supporting text (together with any other relevant policies in the Development Plan) to determine whether planning permission should be granted. It will supersede the saved policies in 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) will no longer be of relevance in decision making.

## **7 Consultation and Other Considerations**

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### Legal Advice

- 7.1 Local Plans documents are produced under the '2004 Act', as amended by the Localism Act 2011. The process to be followed in producing local plans is set out in the '2012 Regulations'.
- 7.2 Pursuant to Section 23 of the '2004 Act', a local planning authority may only adopt a submitted Development Plan Document (such as the CEB Joint Minerals and Waste Plan) in accordance with the Inspectors' Main Modifications and additional modifications if the 'additional modifications (taken together) do not materially affect the policies that would be set out in the document if it was adopted with the main modifications but no other modifications'. The decision to adopt under Section 23(3)(b) must be taken by Full Council.
- 7.3 Following adoption, the Council will need to comply with the requirements of Regulations 26 and 35 of the '2012 Regulations' relating to making documents available and notifying people who asked to be notified (and other consultees) as soon as reasonably practicable.
- 7.4 On adoption of the CEB Joint Minerals and Waste Plan, any person aggrieved may, under Section 113 of the '2004 Act', make an application to the High Court to legally challenge the Plan. This application must be made during the six-week period starting with the date of adoption. The High Court may quash the Plan wholly, or in part.

### Financial Advice

- 7.5 The cost of preparing the JCEB Mineral and Waste Plan is being shared equally amongst the four commissioning authorities. Bracknell Forest Council's share is being paid from within the budget for this project that was agreed by Council at £0.061m per annum, and to date £0.244 of costs have been incurred. This has covered the costs of the consultation stage, submission and part of the Examination process. This has covered the costs of the consultation stage, submission and part of the Examination process (the Planning Inspectorate has not yet produced a final invoice). The adoption process itself does not carry significant costs. However, if the Council was faced with one or more legal challenges to the CEB Joint Minerals and Waste Plan after its adoption, defending these would need to be funded and may impact on resources available

### Other Consultation Responses

- 7.6 Extensive public consultation has taken place during the preparation of the Plan. The Examination was also conducted in a very thorough and considered manner by the appointed independent planning inspectors.

### Equalities Impact Assessment

- 7.7 The Scoping Assessment identifies that an Equality Impact Assessment (EqIA) is not relevant to this document. A full EqIA is not therefore required.

### Strategic Risk Management Issues

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

### Climate Change Implications

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- 7.9 The Joint Minerals and Waste Plan includes a number of strategic objectives around the environmental effects of minerals and waste development, including objective 4, which is to:  
“Help mitigate the causes of, and adapt to, climate change by; positive design of development; developing appropriate restoration of mineral workings; prioritising movement of waste up the waste hierarchy; reducing the reliance on landfill; maximising opportunities for the re-use and recycling of waste; and facilitating new technologies to maximise the renewable energy potential of waste as a resource”.
- 7.10 There are a number of policies in the plan which implement the elements referred to in the objective, as well as other measures. In particular, Policy DM2 deals with climate change mitigation and adaptation, and requires a Climate Change Assessment to be submitted with all minerals and waste proposals.
- 7.11 The CEB Joint Minerals and Waste Plan (including the Proposed Main Modifications) has also been subject to Sustainability Appraisal, which assesses the effect of the plans and proposals on environmental, social and economic objectives. This Sustainability Appraisal has identified that the minerals, waste and development management policies have a predominantly neutral or positive effect on the objectives. Some of the identified sites would have the potential to negatively impact biodiversity and nature conservation, water quality, landscape and ground conditions and flood risk, but these issues could be addressed by mitigation via the application of the development management policies.

### Health & Wellbeing Considerations

- 7.12 The Plan acknowledges that minerals and waste development can adversely impact upon the health and amenity of the surrounding environment and communities unless appropriate suitable mitigation measures are used to reduce the risk of unacceptable adverse impacts to health such as pollution and the attraction of vermin. Policy DM9 specifically deals with protecting health safety and amenity. Part 2 of the Policy contains a number of criteria that will be considered in assessing planning applications including matters such as dust, noise, vibration and odour. The supporting text explains that consultation with other bodies such as the Environment Agency, Health and Safety Executive and Environmental Health will ensure that the impacts within their remit are satisfactorily addressed.
- 7.13 The Sustainability Appraisal referred to in para 7.11 above included an objective concerned with quality of life. In assessing the policies in the Plan against this objective, it was concluded that they would have a predominantly neutral or positive effect on this objective.
- 7.14 Para 11 of the Inspectors' Report deals with the Public Sector Equality Duty and confirms that the Inspectors have considered the protection of health, safety and amenity and ensuring sustainable accessibility for all persons including those with relevant protected characteristics during the Examination. This has fed into their conclusion that the Plan is legally compliant.

### Background Papers

Planning and Compulsory Purchase Act 2004 (as amended)

[Planning and Compulsory Purchase Act 2004 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

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

[The Town and Country Planning \(Local Planning\) \(England\) Regulations 2012 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

Inspectors' Report and Schedule of Proposed Modifications

[Joint Minerals and Waste Plan | Bracknell Forest Council \(bracknell-forest.gov.uk\)](https://bracknell-forest.gov.uk)

Sustainability Appraisal/Strategic Environmental Assessment (SA/SEA)

[Central and Eastern Berkshire - Joint Minerals & Waste Plan | Hampshire County Council \(hants.gov.uk\)](https://hants.gov.uk)

### Contact for further information

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### **APPENDICES**

Appendix A: Joint Central and Eastern Berkshire Minerals and Waste Local Plan incorporating Inspectors' Main Modifications **and** non-material additional modifications

Appendix B: Updated Policies Map