
South East Waste Planning Advisory Group and Joint Central and Eastern Berkshire Statements of Common Ground

Committee considering report:	Individual Executive Member Decisions
Date of Committee:	29 July 2021
Portfolio Member:	Councillor Richard Somner
Report Author:	Elise Kinderman
Forward Plan Ref:	ID4109

1 Purpose of the Report

1.1 The purpose of this report is to present the following Statements of Common Ground for signing by the Executive Member for Planning and Housing:

- Central and Eastern Berkshire Authorities Joint Minerals and Waste Local Plan Statement of Common Ground on Sharp Sand and Gravel Supply.
- Central and Eastern Berkshire Authorities Joint Minerals and Waste Local Plan Statement of Common Ground on Soft Sand Supply.
- Central and Eastern Berkshire Authorities Joint Minerals and Waste Local Plan Statement of Common Ground with West Berkshire Council
- South East Waste Planning Advisory Group Statement of Common Ground

2 Recommendations

2.1 That the following Statements of Common Ground are signed on behalf of West Berkshire Council by the Executive Member for Planning and Housing:

- Central and Eastern Berkshire Authorities Joint Minerals and Waste Local Plan Statement of Common Ground on Sharp Sand and Gravel Supply.
- Central and Eastern Berkshire Authorities Joint Minerals and Waste Local Plan Statement of Common Ground on Soft Sand Supply.

- Central and Eastern Berkshire Authorities Joint Minerals and Waste Local Plan Statement of Common Ground with West Berkshire Council
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3 Implications and Impact Assessment

Implication	Commentary			
Financial:	There are no financial implications			
Human Resource:	There are no HR implications			
Legal:	Compliance with the Duty to Cooperate is required to be evidenced at examination of the Minerals and Waste Local Plan. By not signing the Statements of Common Ground, the Duty to Cooperate may be called into question and could mean that the Minerals and Waste Local Plan is not found to be sound or legally compliant.			
Risk Management:	The risk of not signing the statements of common ground is that West Berkshire may not be found to evidence the Duty to Cooperate on strategic cross-boundary issues required by the National Planning Policy Framework (paragraph 24). This could mean that the Minerals and Waste Local Plan is not found to be sound or legally compliant at examination.			
Property:	There are no property implications			
Policy:	The Duty to Cooperate is required by paragraph 24 of the National Planning Policy Framework and s.33A of the Planning and Compulsory Purchase Act 2004. Statements of Common Ground are required in line with paragraph 27 of the National Planning Policy Framework			
	Positive	Neutral	Negative	Commentary
Equalities Impact:				

A Are there any aspects of the proposed decision, including how it is delivered or accessed, that could impact on inequality?		X		
B Will the proposed decision have an impact upon the lives of people with protected characteristics, including employees and service users?		X		
Environmental Impact:		X		No environmental impact identified
Health Impact:		X		No health impact identified
ICT Impact:		X		No ICT impact identified
Digital Services Impact:		X		No digital services impact identified
Council Strategy Priorities:		X		Statutory requirement
Core Business:		X		Statutory requirement
Data Impact:		X		No data protection impact.
Consultation and Engagement:	West Berks Legal Team, Democratic Services, Planning and Transport Policy Manager, Head of Development and Planning, Executive Director - Place.			

4 Executive Summary

- 4.1 The National Planning Policy Framework requires strategic policy making authorities, such as local planning authorities, to produce, maintain and keep up to date a Statement of Common Ground (SoCG) to highlight agreement on cross boundary strategic issues with neighbouring authorities and other relevant bodies. The SoCG also forms part of the evidence required to demonstrate compliance with the Duty to Cooperate.

4.2 This report is to inform the portfolio member for planning and housing that West Berkshire has been identified as a signatory to the following Statements of Common Ground, and to recommend that they are signed on behalf of West Berkshire Council by the Executive Member for Planning and Housing:

- Central and Eastern Berkshire Authorities Joint Minerals and Waste Local Plan Statement of Common Ground on Sharp Sand and Gravel Supply.
- Central and Eastern Berkshire Authorities Joint Minerals and Waste Local Plan Statement of Common Ground on Soft Sand Supply.
- Central and Eastern Berkshire Authorities Joint Minerals and Waste Local Plan Statement of Common Ground with West Berkshire Council
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4.3 Officers have reviewed these Statements of Common Ground and implications for West Berkshire Council and recommend that West Berkshire Council be included as a signatory in order to fulfil our duties under the Duty to Cooperate. The main areas of agreement are outlined in this report and the full Statements of Common Ground are included as background papers.

4.4 Compliance with the Duty to Cooperate is required to be evidenced at the examination of the Minerals and Waste Local Plan. By not signing the Statements of Common Ground, West Berkshire's compliance with the Duty to Cooperate may be called into question and could mean that the Minerals and Waste Local Plan is not found to be sound and/or legally compliant.

5 Supporting Information

Background

5.1 The main outcomes and implications from the specified statements of common ground are as follows:

Central and Eastern Berkshire Authorities Joint Minerals and Waste Local Plan Statement of Common Ground on Sharp Sand and Gravel Supply

5.2 This SCG has been produced to support the preparation of the Central and Eastern Berkshire Authorities Joint Minerals and Waste Local Plan. The identified signatories are:

- Buckinghamshire Council
- Hampshire County Council
- Oxfordshire County Council
- Surrey County Council
- West Berkshire Council
- Wiltshire Council

5.3 The Central and Eastern Berkshire Joint Minerals and Waste Plan is unable to provide the sharp sand and gravel aggregate requirement in full over the Plan period due to insufficient sites being nominated for development. A sand and gravel area of search

has therefore been included in the Plan, along with a criteria based policy should any appropriate proposals come forward.

- 5.4 In addition, due to the shortfall and uncertainty of supply, neighbouring mineral planning authorities (including West Berkshire) have been identified as potential future sources of sharp sand and gravel. The SCG aims to recognise that due to the identified shortfall, movements from neighbouring authorities may continue to supply the Central and Eastern Berkshire Area area over the Plan period.
- 5.5 Movements of aggregates between authorities have long been acknowledged due to the fact that market forces generally dictate where aggregate minerals will be used, rather than authority boundaries.
- 5.6 The specific agreements are as follows:
- i. The Central & Eastern Berkshire Authorities will continue to monitor sharp sand and gravel supply through the Duty to Cooperate.
 - ii. This SoCG will be updated regularly as new data on sharp sand and gravel supply becomes available.
 - iii. To plan positively in order to continue existing supply sources, where sustainable and in compliance with national policy.
 - iv. A shortfall in sharp sand and gravel supply in Central and Eastern Berkshire may result in supply being sourced from other locations which may include those areas, party to this agreement. However, it is recognised that those located at a greater distance may have result greater transport impacts.
 - v. The Parties will take into consideration the sharp sand and gravel supply needs of Central & Berkshire when reviewing and updating their Plans.
- 5.7 The agreements concerning West Berkshire are (iii) and (v). With regards to agreement (iii), the aggregate mineral provision in the West Berkshire Minerals and Waste Local Plan has been determined using the 2018 LAA rate, which is based on the previous 10 years' sales average. These sales will include movements to other authority areas, and so continuing to maintain this level of supply means that West Berkshire is already undertaking this measure. With regards to agreement (v), this would 'kick-in' when West Berkshire comes to review the emerging MWLP, which it is required to do every 5 years once adopted. At that stage, West Berkshire can take into consideration the sharp sand and gravel supply needs of Central and Eastern Berkshire, although if West Berkshire is not in a position to make specific provision, then there is no commitment to do so. Therefore it is considered that signing the SCG will not commit West Berkshire to meeting the sharp sand and gravel requirements of the Central and Eastern Berkshire Area in future if it is unable to do so, and will demonstrate compliance with the Duty to Cooperate.

Central and Eastern Berkshire Authorities Joint Minerals and Waste Local Plan
Statement of Common Ground on Soft Sand Supply

- 5.8 This SCG has also been produced to support the preparation of the Central and Eastern Berkshire Authorities Joint Minerals and Waste Local Plan. The identified signatories are:

- Buckinghamshire Council
- Central Bedfordshire Council
- Hampshire County Council
- Oxfordshire County Council
- Surrey County Council
- South Downs National Park Authority
- West Berkshire Council
- West Sussex Council
- Wiltshire Council

5.9 The Central and Eastern Berkshire Joint Minerals and Waste Plan is unable to provide soft sand over the Plan period due to lack of workable soft sand resources in the Plan area. A criteria based policy has therefore been included in the CEB Joint Minerals and Waste Plan as a means of allowing soft sand development should any appropriate proposals come forward.

5.10 In addition, due to the shortfall and uncertainty of supply, neighbouring mineral planning authorities (including West Berkshire) have been identified as potential future sources of sharp sand and gravel. The SCG aims to recognise that due to the identified shortfall, movements from neighbouring authorities may continue to supply the Central and Eastern Berkshire area over the Plan period. The SCG recognises that sources of soft sand from West Berkshire have now ceased, and that any future provision will depend on future agreement between the authorities.

5.11 The specific agreements are as follows:

- i. That the Central & Eastern Berkshire Authorities will continue to monitor soft sand supply through the Duty to Cooperate.
- ii. That this SoCG will be updated regularly as new data on soft sand supply becomes available.
- iii. To plan positively in order to continue existing supply sources, where sustainable and in compliance with national policy.
- iv. When the current sources of supply cannot be maintained, alternative sources will be explored, in discussion with the relevant Parties, taking into account environmental constraints.
- v. That the Parties will take into consideration the soft sand supply needs of Central & Eastern Berkshire when reviewing and updating their Plans.

5.8 The agreements concerning West Berkshire are (iii) and (v). With regards to agreement (iii), the aggregate mineral provision in the West Berkshire Minerals and Waste Local Plan has been determined using the 2018 LAA rate, which is based on the previous 10 years' sales average. These sales will include movements to other authority areas, and so continuing to maintain this level of supply means that West Berkshire is already undertaking this measure. With regards to agreement (v), this would 'kick-in' when West Berkshire comes to review the emerging MWLP, which it is required to do every 5 years once adopted. At that stage, West Berkshire can take into consideration the soft sand needs of Central and Eastern Berkshire, although if West Berkshire is not in a position to make specific provision, then there is no commitment to do so. Therefore it is considered that signing the SCG will not commit West

Berkshire to meeting the soft sand requirements of the Central and Eastern Berkshire Area in future if it is unable to do so, and will demonstrate compliance with the Duty to Cooperate.

Central and Eastern Berkshire Authorities Joint Minerals and Waste Local Plan
Statement of Common Ground with West Berkshire Council

5.8 This SCG is specifically between the Central and Eastern Berkshire Authorities and West Berkshire Council. It has been produced to support the preparation of the Central and Eastern Berkshire Authorities Joint Minerals and Waste Local Plan.

5.9 The two main issues for consideration are:

- Safeguarding of the aggregate rail depots in Theale, in the acknowledgement that subsequent road movements supply the wider Berkshire Area.
- Some inert waste from the Central and Eastern Berkshire Area is understood to be processed in West Berkshire and, due to a shortfall in permanent aggregate recycling capacity in the Central and Eastern Berkshire Area, these movements are likely to continue over the Plan period unless additional capacity is granted.

5.11 The specific agreements are as follows:

- i. The Central & Eastern Berkshire Authorities will share appropriate information on their reliance on crushed rock imports to support the safeguarding of relevant minerals infrastructure in West Berkshire.
- ii. West Berkshire will monitor sales and capacity at rail depots and share this information with the Central & Eastern Berkshire Authorities through the Duty to Cooperate.
- iii. The Central & Eastern Berkshire Authorities will continue to monitor the movement of inert waste to West Berkshire through the Duty to Cooperate.
- iv. This SoCG will be updated regularly as new data on inert waste movements to West Berkshire and aggregate recycling capacity within Central and Eastern Berkshire becomes available.

5.12 The agreement that specifically concerns West Berkshire is agreement (ii). This commits West Berkshire to monitoring sales and capacity at rail depots and share this information through the Duty to Cooperate. This will be done anyway, as part of the preparation of the Local Aggregates Assessment and so it is considered that this agreement will not commit West Berkshire to doing anything that it is not already required to do.

South East Waste Planning Advisory Group (SEWPAG) Statement of Common Ground

5.13 The South East Waste Planning Advisory Group (SEWPAG) is comprised of all South East Waste Planning Authorities. It exists to help Waste Planning Authorities to plan for waste management taking account of the wider strategic cross boundary waste issues in the south east and in doing so helps them fulfil their statutory plan making 'Duty to Co-operate' responsibilities.

5.14 The SCG outlines various points of agreement about strategic waste issues in the South East.

5.15 In particular, the SCG confirms agreement of the South East Waste Planning Authorities on the principle of 'net self-sufficiency' for waste management, whereby authorities plan for the management of an amount of waste which is equivalent to the amount arising in that Plan area. This is the approach followed by the West Berkshire Minerals and Waste Local Plan and has underpinned the justification for not allocating any waste management sites. Therefore it is of particular importance that this Statement of Common Ground is supported and signed in order for the MWLP to be found sound at examination.

5.16 The specific agreement regarding net self-sufficiency is as follows:

- The Parties agree that they will plan for net self-sufficiency which assumes that within each waste local plan area the planning authority or authorities will plan for the management of an amount of waste which is equivalent to the amount arising in that plan area. For the avoidance of doubt, the Parties agree that they will plan on the basis that no provision has to be made in their waste local plans to meet the needs of any other waste local plan area which are basing their waste policies on achieving the principle of net self-sufficiency.

5.17 This and the other areas of agreement of the SEWPAG SCG are outlined in Appendix A.

6 Other options considered

6.1 The only alternative identified is to not sign the identified Statements of Common Ground which would risk the West Berkshire Minerals and Waste Local Plan being found unsound and/or not legally compliant at examination.

7 Conclusion

7.1 For the reasons already described, it is recommended that the identified Statements of Common Ground are signed by the executive member for planning and housing.

8 Appendices

8.1 Appendix A – SEWPAG Statement of Common Ground Statements of Agreement

Background Papers:

- Central and Eastern Berkshire Authorities Joint Minerals and Waste Local Plan Statement of Common Ground on Sharp Sand and Gravel Supply.
- Central and Eastern Berkshire Authorities Joint Minerals and Waste Local Plan Statement of Common Ground with West Berkshire Council
- South East Waste Planning Advisory Group Statement of Common Ground

Subject to Call-In:

Yes: ☒ No: ☐

The item is due to be referred to Council for final approval ☐

Delays in implementation could have serious financial implications for the Council ☐

Delays in implementation could compromise the Council's position ☐

Considered or reviewed by Overview and Scrutiny Management Committee or associated Task Groups within preceding six months ☐

Item is Urgent Key Decision ☐

Report is to note only ☐

Wards affected: The Statements of Common Ground apply to West Berkshire so all wards affected although no specific impacts are identified.

Officer details:

Name: Elise Kinderman
Job Title: Team Leader – Minerals and Waste
Tel No: 01635 519814
E-mail: elise.kinderman1@westberks.gov.uk

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Appendix A

SEWPAG Statement of Common Ground Points of Agreement

- The Parties agree that they will plan for net self-sufficiency which assumes that within each waste local plan area the planning authority or authorities will plan for the management of an amount of waste which is equivalent to the amount arising in that plan area. For the avoidance of doubt, the Parties agree that they will plan on the basis that no provision has to be made in their waste local plans to meet the needs of any other waste local plan area which are basing their waste policies on achieving the principle of net self-sufficiency.
- The Parties agree that they will therefore prepare plans which provide for the development of facilities that will manage waste produced within, and beyond, their areas based on net self-sufficiency and in accordance with the waste hierarchy.
- The Parties agree that provision for unmet requirements from other authority areas may be included in a waste local plan but any provision for facilities to accommodate waste from other authorities that cannot or do not intend to achieve net self-sufficiency will be a matter for discussion and agreement between authorities and is outside the terms of this SCG.
- The Parties agree that provision for some kinds of wastes, including hazardous and radioactive waste, from other authority areas may be included in a waste local plan but that any provision for facilities to accommodate this waste from other authorities that cannot or do not intend to achieve net self-sufficiency will be a matter for discussion and agreement between authorities and is outside the terms of this SCG.
- In order to avoid impediments to the normal functioning of the waste management market, the Parties agree that they will seek to avoid preparing planning policy that might hinder the movement of waste between areas (e.g. through the use of 'catchment' conditions) while recognising the proximity principle expectation that waste will be managed at the nearest appropriate facility.
- Notwithstanding, the agreement in paragraph 2.4, the Parties agree that they can rely on ongoing movements of waste to other areas provided there are no conditions related to the planning permission for any particular site which might hinder the receipt of waste from other areas.
- Where movements of waste between areas are taking place which are of such a size and nature that separate provision would need to be planned for if they were to cease, the Parties agree that there will be a need for dialogue between areas to establish the existence of any planning matter which might hinder such an arrangement in future. Such waste movements are considered to be 'strategic'. The Parties agree that what constitutes a 'strategic' level of waste movements will vary between authorities, however the levels set out below provide a starting point for considering whether dialogue is required:
 - Non-hazardous waste – 5,000 tonnes per annum
 - Hazardous waste 100t per annum
 - Inert waste - 10,000t inert per annum

- The Parties agree that agreement on ongoing waste movements between authorities may be achieved by an exchange of letters and that a separate SCG may not be required.
- The Parties agree that when any WPA is updating waste planning policy that might affect the ongoing import of waste from another area that is considered to be 'strategic' in nature, it will notify the affected authority at related stages of consultation.
- Regardless of the need for specific dialogue between individual authorities on strategic matters, the Parties agree that they will notify all other waste planning authorities at those stages of plan-making which involve publication of draft approaches and plans.
- The Parties agree that any WPA which seeks the management of waste on the basis of net export would need to provide robust evidence that clearly demonstrated that plans to meet needs within its area would not be consistent with the NPPF and NPPW.
- The Parties agree that they will work together in the consideration of how to plan for the implications arising from the management of waste from London and any other authority areas that are not party to this SCG.
- The Parties agree that the use of inert excavation waste arising in London is not discouraged. Indeed, the achievement of timely restoration of mineral workings is important and the availability of appropriate material, which may not be produced in sufficient quantities locally, is key to this. The Parties agree that available inert waste voidspace in the south east should continue to be monitored and will be taken into account when preparing related planning policy.
- The Parties agree that while not all inert excavation waste can be recycled, close to 100% can be put to some beneficial use and this should be the starting point when setting targets in plans.
- The Parties agree to safeguard waste management capacity in their own areas through robust policies in their respective development plans on waste management. The Parties agree that this means their Plans will include a presumption against granting permission for other forms of development which could result in reductions in physical or operational capacity (either by reductions in numbers and size of sites or by reduction in site throughput or restrictions on operation). The Parties agree that, when preparing local plans, where development is proposed that would result in a reduction in capacity, the need for that capacity in meeting the needs of other local plan areas will be taken into account.
- The Parties agree that it may be appropriate to allow the development of land that is permitted or allocated for waste management for a non-waste use where ongoing management of waste in that location would not be consistent with the principles of sustainable development as set out in the NPPF and NPPW.
- Whilst it is recognised that waste management constitutes inappropriate development in the Green Belt, the Parties agree that the inability of the waste to be practically managed in other locations outside of the Green Belt, including those outside of the WPA area, may be one factor that would go toward comprising very special circumstances.
- The Parties agree that the presence of AONBs within the areas of the parties to this SCG is a constraint for the management of waste. The Parties agree that any proposal (including allocations in Plans) within an AONB would be considered against the existing development plan, national policy and guidance. The Parties

agree that smaller scale waste development may be suitable in an AONB, in particular where it requires a countryside location or would serve a specific local need.

- The Parties agree that smaller scale waste development may be suitable in a National Park, in particular where it requires a countryside location or would serve a specific local need. The Parties agree that any proposal (including allocations in Plans) would be considered against the existing development plan, national policy and guidance.
- The Parties agree that despite the management of waste at higher levels of the waste hierarchy (in accordance with NPPW) there will continue to be a need for some landfill capacity to deal with waste in the South East and that this matter will therefore need to be addressed in their Local Plans.
- When planning for non-hazardous landfill, the Parties agree that such facilities are regional in nature and will therefore receive waste from beyond the area within which they are located. The Parties agree that they will therefore consider the ability of their own area to accommodate new non-hazardous landfill capacity as well as the ability of other areas to meet their own needs over the period being planned for (in line with the agreement in paragraph 2.4).
- The Parties agree that the assessment of need for any new non-hazardous landfill will also consider impacts associated with vehicle movements of waste across the South East.
- The Parties agree that the greatest challenge to be addressed is to implement the waste hierarchy and promote the circular economy by enabling better, more sustainable, ways of dealing with waste and to reduce the current dependence on landfill.
- The Parties agree to continue to positively plan to meet any shortfalls in waste management capacity in their areas and to enable the delivery of new facilities. This includes making appropriate provision in their local plans, including, as required, the allocation of sites for new recycling and other recovery facilities.
- The Parties agree that they will seek to ensure that the matters in this SCG are reflected in the waste local plans that they prepare (including, in the case of unitary authorities, any local plans that include waste policies); this includes the allocation of sites.