
Minerals and Waste Local Plan – Main Modifications Consultation

Committee considering report:	Council
Date of Committee:	10 th May 2022
Portfolio Member:	Councillor Richard Somner
Date Portfolio Member agreed report:	17 th February 2022
Report Author:	Elise Kinderman
Forward Plan Ref:	C4182

1 Purpose of the Report

- 1.1 Following the submission of the West Berkshire Minerals and Waste Local Plan (MWLP) for Independent Examination under Regulation 22 of the Town and Country Planning (Local Planning) (England) Regulations 2012 in July 2021, and the subsequent examination Hearing Sessions in February 2022, the Inspector has, at the request of the Council, recommended a number of Main Modifications to the plan in order for it to be found sound.
- 1.2 The purpose of this report is to present the Schedule of Proposed Main Modifications to the MWLP and supporting documentation and outline recent advice from Natural England affecting the MWLP examination. Approval is also sought for the Main Modifications and supporting documents to be subject to public consultation, prior to the Inspector making final recommendations on whether the MWLP can be adopted.

2 Recommendation(s)

- 2.1 That Council grant delegated authority to the Service Director (Development and Regulation) to:
 - i. Agree any necessary amendments to supporting documentation for consultation and any other typographical, presentational, and consequential wording changes to the Minerals and Waste Local Plan prior to publication, in consultation with the Portfolio member for Planning, Transport and Countryside.
 - ii. Publish the Schedule of Proposed Main Modifications to the Minerals and Waste Local Plan and supporting documents for a six week period in accordance with the West Berkshire Statement of Community Involvement and Section 20 (7C) of the Planning and Compulsory Purchase Act 2004 (as amended).

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iii. Following public consultation on the Proposed Main Modifications, consider and summarise the responses received and forward to the Inspector for consideration.

2.2 That following the receipt of a favourable report from the Inspector recommending adoption of the Minerals and Waste Local Plan, the Plan be brought back to full Council for adoption.

3 Implications and Impact Assessment

Implication	Commentary
Financial:	The Council is committed to producing the Minerals and Waste Local Plan. Budgetary provision has been made to carry out the relevant work.
Human Resource:	No HR implications identified.
Legal:	<p>The Minerals and Waste Local Plan is being prepared in line with the Town and Country (Local Planning) (England) Regulations 2012, the Planning and Compulsory Purchase Act (2004) and other relevant legislation.</p> <p>Legal representation has been secured for the examination of the MWLP.</p>
Risk Management:	In the absence of an up to date development plan relating to minerals and waste, planning applications received have to be considered against a dated local policy framework and national policy, increasing the possibility of the authority not being able to consider all relevant local circumstances when making a determination.
Property:	No property implications identified.
Policy:	<p>The Minerals and Waste Local Plan is being prepared in line with the National Planning Policy Framework (NPPF).</p> <p>The Minerals and Waste Local Plan will provide the planning framework for Minerals and Waste development in West Berkshire.</p>

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	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?		✓		See Equalities Impact Assessment to the MWLP. No equalities impacts identified.
B Will the proposed decision have an impact upon the lives of people with protected characteristics, including employees and service users?		✓		See Equalities Impact Assessment to the MWLP. No impacts on those with protected characteristics identified.
Environmental Impact:	✓			See updated Strategic Environmental Assessment /Sustainability Appraisal to the MWLP. This has concluded that overall the MWLP should have a positive impact on all strands of sustainability, economic, environmental and social.
Health Impact:		✓		The MWLP includes policy on public health and amenity. Strategic Environmental Assessment/Sustainability Appraisal of this policy shows a predominantly neutral effect.
ICT Impact:		✓		The Council already has in place the consultation software for carrying out consultations of this nature. Some ICT support will likely be required but not additional to business as usual.
Digital Services Impact:		✓		Digital services will be employed during consultation. These services are already

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				in place and no additional impacts identified.
Council Strategy Priorities:	✓			<p>The MWLP is expected to support the following Council Priorities:</p> <p>Develop local infrastructure to support and grow the local economy.</p> <p>Maintaining a steady and adequate supply of aggregate minerals directly provides raw materials to deliver essential infrastructure.</p> <p>Maintain a green district.</p> <p>Policies to protect the environment from the effects of mineral and waste activities and requiring high standard restoration of temporary activities will minimise the impact on the environment of delivering services and achieve long-term environmental gains.</p> <p>Policies prioritising sustainable transport will help to develop more sustainable transport solutions.</p>
Core Business:		✓		The Council is required to produce a Minerals and Waste Local Plan.
Data Impact:		✓		Data will be handled in line with Council's Privacy Policy on the Development Plan.
Consultation and Engagement:	All relevant statutory consultation and non-statutory engagement has now taken place. An Independent examiner will now assess the soundness and legal compliance of the MWLP.			

4 Executive Summary

- 4.1 The West Berkshire Minerals and Waste Local Plan (MWLP) 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) and will provide an up to date planning framework for minerals and waste development in West Berkshire to 2037.

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- 4.2 The process of developing the MWLP has already been through several stages of public consultation, starting with the Issues and Options consultation in early 2014, a sites consultation on all sites submitted for consideration in the plan in summer 2016, consultation on the Preferred Options in spring 2017 and a 'Proposed Submission' consultation under Regulation 19 of the Town and Country (Local Planning) (England) Regulations 2012 in early 2021.
- 4.3 The MWLP was submitted to the Secretary of State for Independent Examination in line with Regulation 22 of Town and Country (Local Planning) (England) Regulations 2012 in July 2021 and the appointed Inspector is Brian J Sims BSc (Hons) CEng MICE MRTPI. Examination hearing sessions took place virtually from 1st - 3rd February 2022.
- 4.4 Based on the outcomes of the hearing sessions and additional post hearings work undertaken, the Inspector issued his preliminary findings in a Post Hearings Note on 01st March 2022. The findings are without prejudice to the final report but the Post Hearings Note recommends a number of modifications to the plan ("Main Modifications") suggested by the Council which the Inspector believes are necessary for the plan to be found sound. A copy of the Post Hearings Note is included at Appendix A. The Schedule of Proposed Main Modifications is set out in Appendix B.
- 4.5 On 16th March 2022, Natural England advised a total of 42 Local Authorities (including West Berkshire Council), that projects and plans affecting protected sites in unfavourable condition due to nutrient pollution are required to provide mitigation, in order to meet the requirements of the Conservation of Habitats and Species Regulations 2017 (as amended). The advice includes the River Lambourn Special Area of Conservation (SAC) within West Berkshire and the affected catchment also includes a site proposed for allocation in the MWLP – 'Chieveley Services'. The particular nutrient of concern in this catchment is phosphorous.
- 4.6 Therefore, an update to the Habitats Regulations Assessment (HRA) has been undertaken to take account of this advice, although the overall conclusion remains unchanged - that there will be no likely significant effect on European sites as a result of the MWLP. Factual updates have also been made to the SA/SEA. The examining Inspector has agreed that the updates to evidence documents as a result of the NE advice can be consulted upon alongside the consultation on Proposed Main Modifications, where there are few or no changes.
- 4.7 Officers anticipate that the current approach and amendments to the supporting documents will be sufficient to address the recent Natural England advice. However, there is a possibility that Natural England will require further work to be undertaken or require additional changes to the HRA. In this case, in order to progress the MWLP examination in a timely fashion, it is recommended that delegated authority be granted to the Service Director (Development and Regulation) in consultation with the Portfolio Member for Planning, Transport and Countryside to agree any necessary amendments to the supporting documents and consequential changes to the MWLP prior to publication for consultation.
- 4.8 Any delay to the MWLP examination timetable, will result in a consequential delay to the adoption of the Minerals and Waste Local Plan.

- 4.9 The Council are required to publically consult on the Main Modifications and revisions to supporting documentation prior to the close of the examination process and receipt of the Inspector’s final report into whether the plan can be adopted. The consultation is required to reflect that of the consultation held at Regulation 19 (Proposed Submission) Stage, including that it should last for at least six weeks. Therefore, it is proposed to consult on the Schedule of Proposed Main Modifications for just over six weeks between **Monday 23rd May and Wednesday 06th July 2022** to take into account the two bank holidays in June.
- 4.10 In addition to ‘Main Modifications’, the Council may propose ‘Additional (minor) Modifications’ to the Plan that do not materially affect the Plan’s policies. However, these modifications are not subject to examination and are not required to be consulted upon. The Council has also prepared a Schedule of Additional Modifications, and these are included at Appendix C.
- 4.11 A ‘Tracked Changes’ version of the MWLP as proposed to be modified that includes all Main and Additional Modifications is included in Appendix D.

5 Supporting Information

Introduction

- 5.1 The MWLP sets out the Council’s proposed planning framework for minerals and waste development in West Berkshire to 2037, based on the evidence collected, site assessment work and the outcomes of earlier consultations.
- 5.2 The MWLP sets out comprehensive policies to guide minerals and waste development and proposes the allocation of sites for mineral development to meet the Council’s mineral need over the plan period.

Background

- 5.3 On 03rd December 2020, Council resolved:

That Full Council grant delegated authority to the Head of Development and Planning to:

1. Agree any minor typographical and presentational changes and factual updates to the Proposed Submission Minerals and Waste Local Plan and supporting information prior to publication for consultation.
2. Publish the Minerals and Waste Local Plan Proposed Submission consultation document, and supporting evidence base documents for a six week consultation period in accordance with the West Berkshire Statement of Community Involvement and Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012.
3. Following public consultation, consider and summarise the responses received, and submit the Proposed Submission Minerals and Waste Local Plan and supporting evidence base to the Secretary of State for independent examination

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in line with Regulation 22 of the Town and Country Planning (Local Planning) (England) Regulations 2012.

- 5.4 Consequently, the Regulation 19 (Proposed Submission) Consultation on the Minerals and Waste Local Plan was undertaken and the MWLP was submitted to the Secretary of State for Independent Examination in line with Regulation 22 of Town and Country (Local Planning) (England) Regulations 2012 in July 2021.
- 5.5 The Examination process considers whether the MWLP is legally compliant (meets all legal requirements set out in the legislation) and is ‘sound’ (positively prepared, justified, effective and consistent with national policy). The appointed Inspector is Brian J Sims BSc (Hons) CEng MICE MRTPI, and the examination hearings took place virtually from 1st – 3rd February 2022.
- 5.6 The Inspector’s role is to assess whether the Plan has been prepared in accordance with the Duty to Cooperate, legal and procedural requirements and whether it is ‘sound’ (positively prepared, justified, effective and consistent with national policy). If the Inspector concludes that the MWLP is sound and meets the necessary tests, it can then be adopted by Council and will form part of the Local Plan for the District.
- 5.7 Section 20(7C) of the Planning and Compulsory Purchase Act 2004 (as amended) provides for an Inspector to recommend modifications to a Development Plan Document (where requested to do so by the Local Planning Authority) if they are required in order to make the Plan sound. These are commonly referred to as ‘Main Modifications’.
- 5.8 During the initial stages of examination, the Inspector identified that Main Modifications could be necessary to address the soundness of the MWLP and the Council was invited to make a formal request under section 20(7C) of the Planning and Compulsory Purchase Act 2004 (as amended) for him to recommend Main Modifications to the MWLP, if required, in order for it to be found sound. The Council made this formal request on 03rd November 2021.
- 5.9 The Inspector also requested that a travelling draft Schedule of Proposed Modifications be prepared for his consideration. The Schedule of Proposed Modifications was considered alongside all of the other evidence at the examination hearings sessions.
- 5.10 At the close of the hearing sessions, the Inspector asked the Council to undertake additional work on a number of issues. This work was completed and submitted to the Inspector in February 2022.
- 5.11 Based on the outcomes of the hearing sessions and post hearings work undertaken, the Inspector issued his preliminary findings in a Post Hearings Note on 01st March 2022. The findings are without prejudice to the final report but the Post Hearings Note recommends a number of modifications to the plan (“Main Modifications”) suggested by the Council which the Inspector believes are necessary for the plan to be found sound. A copy of the Post Hearings Note is included at Appendix A.
- 5.12 In most cases it is the Council that has proposed the Main Modifications which have been agreed by the Planning Advisory Group before the examination began, but in

some cases the Inspector has amended them in order to make the MWLP capable of adoption. The Schedule of Proposed Main Modifications is included at Appendix B.

- 5.13 On 16th March 2022, Natural England advised a total of 42 Local Authorities (including West Berkshire Council), that projects and plans affecting protected sites in unfavourable condition due to nutrient pollution are required to provide mitigation, in order to meet the requirements of the Conservation of Habitats and Species Regulations 2017 (as amended). The advice includes the River Lambourn Special Area of Conservation (SAC) within West Berkshire and the affected catchment also includes a site proposed for allocation in the West Berkshire Minerals and Waste Local Plan MWLP – ‘Chieveley Services’. The particular nutrient of concern in this catchment is phosphorous.
- 5.14 Therefore, an update to the Habitats Regulations Assessment has been undertaken to take account of this advice, although the overall conclusion remains unchanged - that there will be no likely significant effect on European sites as a result of the MWLP. Factual updates have also been made to the SA/SEA. The examining Inspector has agreed that the updates to evidence documents as a result of NE advice can be consulted upon alongside the consultation on Proposed Main Modifications, where there are few or no changes.
- 5.15 Officers anticipate that the current approach and amendments to the supporting documents will be sufficient to address the recent Natural England advice as there are no expected sources of phosphorus from mineral working. However, there is a possibility that Natural England will require further work to be undertaken or require additional changes to the HRA. In this case, in order to progress the MWLP examination in a timely fashion, it is recommended that delegated authority be granted to the Service Director (Development and Regulation) in consultation with the Portfolio Member for Planning, Transport and Countryside to agree any necessary amendments to the supporting documents and consequential changes to the MWLP prior to publication for consultation.
- 5.16 It is also necessary for the Main Modifications to be subject to Sustainability Appraisal/Strategic Environmental Assessment, and undergo Habitats Regulations Assessment (HRA) where necessary. Therefore, the Council has produced a SA/SEA & HRA Review Document and updated relevant sections of the SA/SEA, which accompany the Main Modifications. These documents are provided at Appendices E and F.
- 5.17 In addition to these documents the Inspector has requested that the following documents relating to post hearings work required by the Inspector are also provided with the consultation:
- EXAM 8 – Richard Anstis for Tyle Mill – Consultation Note
 - EXAM 9 – Grundon Note on Mortar Sand Supply
 - EXAM 10 – WBC Covering Letter – Post Hearings Tasks
 - EXAM 11 – AM2014 and AM2019 Comparison Note
 - EXAM 12 - Note on Policy 31 – Chieveley Services
 - EXAM 13 – Environment Strategy and MWLP Preparation
 - EXAM 14 – Inert Fill Availability Note

- EXAM 15 – Council Response to Richard Anstis for Tyle Mill Consultation Note

N.B. These documents are all available on the Minerals and Waste Local Plan Examination Library Website (under ‘Examination Documents’):
<https://info.westberks.gov.uk/mwel>

5.18 The Council are required to publically consult on the Main Modifications and updates to supporting documentation prior to the close of the examination process and receipt of the Inspector’s final report into whether the plan can be adopted.

Proposals

5.19 The Main Modifications generally refer to how the policies or supporting text have been worded and do not substantially change the meaning or the direction of the policy. In most cases it is the Council that has proposed the Main Modifications but in some cases the Inspector has amended them in order to make the MWLP capable of adoption.

5.20 The Schedule of Proposed Main Modifications is set out in Appendix B, with the form of:

- a) ~~bold strikethrough~~ for deletions; and
- b) **bold underlined** for additions of text.

5.21 A ‘Tracked Changes’ version of the MWLP has also been prepared to show the modifications in context, which is included at Appendix D.

5.22 The main changes are summarised as follows:

- a) Inclusion of specific reference to Climate Change within the vision and objectives of the plan (Vision and Objectives 2, 4, 8).
- b) Changes requested by Oxfordshire County Council in relation to aggregate supplies.
- c) Commitment to monitor waste management capacity by waste management type in order to determine future need.
- d) Clarification that the MWLP will cover equine waste.
- e) Clarification of Minerals Safeguarded Infrastructure.
- f) Clarification of the ‘agent of change’ principal in relation to waste management safeguarding.
- g) Deletion of the ‘setting of the AONB’ from policies relating to the AONB, to ensure compliance with the NPPF (Policies 12, 19).
- h) Changes to several policies to change their emphasis from a ‘presumption in favour’ with exceptions, to a criteria for compliance (Policies 4, 5, 7, 15).
- i) Changes to the supporting text to reflect changes made to policies.
- j) Changes to the supporting text for Policy 20 to provide further details in relation to protection of local Biodiversity and Geodiversity in agreement the Environment Agency.

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5.23 As a result of the Main Modifications and Natural England advice of March 2022, Officers have reviewed the evidence base and updated the documents where required. The only evidence base documents where updates are required is the SA/SEA & HRA. Changes to these documents have been marked as:

(a) Underlined for additions; and

(b) ~~Strikethrough~~ for deletions.

5.24 In addition to 'Main Modifications', the Council is also proposing a number of 'Additional (minor) Modifications' to the Plan that do not materially affect the Plan's policies. However these modifications are not subject to examination and are not required to be consulted upon. They mainly relate to typographical errors or factual updates to the plan. The Council has also prepared a Schedule of Additional Modifications, and these are included at Appendix C. Additional Modifications are identified in the Tracked Changes version of the plan (Appendix D) as:

(a) Underlined for additions; and

(b) ~~Strikethrough~~ for deletions.

5.25 The Policies Map has also been updated to reflect changes to Safeguarded Site Boundaries since the publication of the Proposed Submission version of the plan. These changes are considered to be additional modifications as they relate to factual changes regarding existing permitted sites. All relevant changes are outlined in the Schedule of Additional Modifications (Appendix C).

5.26 The Main Modifications and supporting documents are now required to be subject to public consultation, and the consultation should reflect that of the consultation held at Regulation 19 (Proposed Submission) Stage, including that it should last for at least six weeks. Therefore, it is proposed to consult on the Schedule of Main Modifications and supporting documentation for just over six weeks between **Monday 23rd May and Wednesday 06th July 2022** to take into account the two bank holidays in June.

5.27 Copies of the Schedule of Proposed Main Modifications and supporting information will be made available for inspection on the Council's website and at the Main Offices at Market Street in line with the Council's Statement of Community Involvement.

5.28 Following the consultation, the Council has been asked by the Inspector to make a brief written response to any representations received. All representations and the Council's response will then be sent to the Inspector so that he can prepare his final report. If the Inspector concludes that the MWLP is sound and meets the necessary tests, it can then be adopted by the Council and form part of the Local Plan for the District.

5.29 The proposed recommendations for Council are:

1. That Council grant delegated authority to the Service Director (Development and Regulation) to:

i. Agree any necessary amendments to supporting documentation for consultation and any other typographical, presentational, and consequential

wording changes to the Minerals and Waste Local Plan prior to publication, in consultation with the Portfolio member for Planning, Transport and Countryside.

- ii. Publish the Schedule of Proposed Main Modifications to the Minerals and Waste Local Plan and supporting documents for a six week period in accordance with the West Berkshire Statement of Community Involvement and Section 20 (7C) of the Planning and Compulsory Purchase Act 2004 (as amended).
 - iii. Following public consultation on the Proposed Main Modifications, consider and summarise the responses received and forward to the Inspector for consideration.
2. That following the receipt of a favourable report from the Inspector recommending adoption of the Minerals and Waste Local Plan, the Plan be brought back to full Council for adoption.

6 Other options considered

- 6.1 No other options considered. The Council is required to have an up to date Minerals and Waste Local Plan and consultation forms a legislative requirement in the development of the Plan.

7 Conclusion

- 7.1 It has been demonstrated that the Inspector of the Minerals and Waste Local Plan believes the Main Modifications put forward by the Council to be necessary in order for the Plan to be found sound, and that these modifications and updates to supporting documentation must be subject to the necessary consultation process.
- 7.2 Additional work has also been undertaken to address the Natural England advice of March 2022, which relates to the River Lambourn SAC, and proposed allocation 'Chieveley Services'. The revisions to the HRA as a result of this will also be consulted upon alongside the Proposed Main Modifications.
- 7.3 It is anticipated that consultation on the Proposed Main Modifications and updates to supporting evidence will take place for just over six weeks between **Monday 23rd May and Wednesday 06th July 2022** to take into account the two bank holidays in June.
- 7.4 Following the consultation all representations will be sent to the Inspector for him to determine whether the MWLP can be recommended for adoption.

8 Appendices

- 8.1 Appendix A – Inspector's Post Hearings Note
- 8.2 Appendix B - Schedule of Main Modifications
- 8.2 Appendix C – Schedule of Additional Modifications

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8.3 Appendix D - Minerals and Waste Local Plan (Proposed Modifications) Tracked Changes Version

8.3 Appendix E – SA/SEA & HRA Review Document

8.4 Appendix F – Updated HRA & SA/SEA (relevant sections)

Background Papers:

N/A

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: All wards

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