

Lancashire County Council

Joint Advisory Committee for Strategic Planning

Friday, 28th February, 2014 at 2.00 pm in Cabinet Room 'B' - The Diamond Jubilee Room, County Hall, Preston

Agenda

Part 1 (Open to Press and Public)

No. Item

1. Apologies for Absence

2. Disclosure of Pecuniary Interests

Members are asked to consider any Pecuniary Interests they may have to disclose to the meeting in relation to matters under consideration on the Agenda.

3. Minutes of the Meeting held on 4 April 2012 (Pages 1 - 8)

The Committee are asked to note the minutes of the last meeting, held on 4 April 2012.

4. Joint Lancashire Minerals and Waste Development Framework: Supplementary Planning Document on Onshore Oil and Gas Exploration, Production and Distribution (Pages 9 - 18)

5. Joint Lancashire Minerals & Waste Local Plan - Local Plan Review (Pages 19 - 26)

6. Urgent Business

An item of urgent business may only be considered under this heading where, by reason of special circumstances to be recorded in the Minutes, the Chairman of the meeting is of the opinion that the item should be considered at the meeting as a matter of urgency. Wherever possible, the clerk should be given advance warning of any Member's intention to raise a matter under this heading.

7. Date of Next Meeting

To be confirmed.

I M Fisher
County Secretary and Solicitor

County Hall
Preston

Agenda Item 3

Joint Advisory Committee for Strategic Planning

Minutes of the Meeting held on Wednesday, 4th April, 2012 at 10.00 am in Cabinet Room 'B' - County Hall, Preston

Present:

Chair

County Councillor Michael Green, Lancashire County Council

Committee Members

County Councillor Albert Atkinson, Lancashire County Council
County Councillor Malcolm Barron, Lancashire County Council
County Councillor Howard Henshaw, Lancashire County Council
County Councillor Jennifer Mein, Lancashire County Council
County Councillor Paul Rigby, Lancashire County Council
Councillor Dave Harling, Blackburn with Darwen Borough Council
Councillor Gary Coleman, Blackpool Council

Officers

Jill Anderson, Lancashire County Council
Louise Nurser, Lancashire County Council
Ms Rea Psillidou, Blackburn with Darwen Borough Council
Ms Jane Saleh, Blackpool Council
Niamh O'Sullivan, Lancashire County Council

1. Apologies for Absence

Apologies for absence were received from County Councillors Miles Parkinson and Tim Ashton.

2. Disclosure of Personal and Prejudicial Interests

None.

3. Minutes of the Meeting held on 7 December 2011

The minutes of the previous meeting held on 7 December 2011 were agreed as an accurate record.

4. Joint Lancashire Minerals & Waste Development Framework: Report Back on Proposed Major Changes Consultation for Site Allocations and Development Management Development Plan Documents

Niamh O'Sullivan, Lancashire County Council, presented the report. Niamh explained that a consultation had taken place relating to the Proposed Major Changes of the Site Allocations and Development Management Policies for the Minerals and Waste Development Framework. The consultation took place between 19 January 2012 and 1 March 2012.

Niamh explained the process that had been followed and that a briefing note was sent to Chief Executives, Chief Officers, and directly affected Parish Councils to inform them about the consultation and availability of documents.

Officers sent out over 2107 letters to residents and businesses that had previously shown an interest in the Minerals and Waste Local Development Framework. These letters drew peoples' attention to the consultation, and where documents could be found, the link to the dedicated website, and gave a phone number to call.

Press releases were sent to targeted media contacts. Public notices were put in eight main papers covering the Plan area.

The Schedule of Proposed Major Changes document was put on the dedicated consultation website together with all the supporting documents. During the consultation period this received over 573 hits from 269 visitors.

Paper copies of the documents were also placed on deposit at all the libraries in the County and in Blackpool and Blackburn with Darwen libraries, as well as the deposit points of the County Information Centres, Town Halls, District Planning Departments, and County Hall. Additional hard copies of documents were sent out on request.

All those who had been consulted on the Proposed Major Changes were also made aware of the relevant minor changes which had been discussed at the hearings in September and October of last year.

Officers contacted the Land Registry for information regarding land ownership to ensure that the issues of deliverability were explored. However, there were over 400 titles registered to the sites making it unlikely that each of the individual sites were in one controlling the ownership. To have confirmed this by getting detailed records from the Land Registry would have been prohibitively expensive and not proportionate to the consultation. Niamh highlighted the officers view that where the owners of the sites have not made representations relating to the consultation, that it is likely that there are a number of controlling interests of the site, and therefore it would be unlikely that an unwilling owner would prevent the deliverability of the level of waste facilities required in the East Lancashire and Lancaster catchment areas.

Success of the Consultation

The Joint Planning Authorities have taken the approach throughout the development of the Minerals and Waste Development Framework to be as transparent as possible.

The approach of directly contacting the public has been successful in raising awareness. Officers within the Minerals and Waste Policy team were on call to answer enquiries, and help people fill in the Representation form.

In response to a request from Middleton Parish Council for a public meeting, officers held a drop-in session at Middleton Village Hall to provide information on the proposals, explain what will happen next and to help fill in the representation forms. This exhibition was well attended having been well publicised by the Parish Council. Officers from Lancaster City were in attendance to help answer any questions.

Officers have examined over 89 representations from over 73 separate individuals, or organisations. The content of these representations is considered in a separate report.

Next Steps

This Consultation on the Proposed Major Changes took place to allow other parties to express their views on the soundness of the proposals, in terms of the proposal's effectiveness, justification and compliance with national policy; and their reasons for finding the proposal's sound or unsound. All those who responded to the consultation have been asked if they wish to rely on written representations or to appear in person or be represented at a hearing session during the examination. Where Proposed Major Changes that are subsequently recommended via the Joint Committee to go to the Full Councils of the Joint Authorities, and then to the Inspector for his consideration, these will be accompanied by the relevant representations.

The consultation has provided the opportunity for the Councils to consider the content of representations and to take a view on any matters of significance that may warrant additional work, evidence gathering or partner consideration by the authorities, or any other matter that may warrant small changes that might improve or clarify the content or meaning of the proposals. The matters raised by representations received during this time are reported separately.

It is anticipated that the Proposed Changes, together with supporting information and the relevant representations will be submitted to the Secretary of State in early June. This will recommence the Examination in Public. The Hearing in Public, if it is to take place, is scheduled for 24 to 26 July 2012 with proposed adoption in early 2013.

Resolved: The Joint Advisory Committee for Strategic Planning agreed to note the report, and consultation that has taken place and approved the proposed next steps.

5. Joint Lancashire Minerals & Waste Development Framework: Proposed Major Changes to Site Allocation and Development Management Policies Consultation Outcomes and consequential formal request under Section 20 (7C) to Inspector to recommend any necessary modifications to the Development Plan Document

Before commencing her presentation Louise Nurser, Lancashire County Council, gave an update on the National Planning Policy Framework and stated that the inspector has asked that the planning authorities write to all involved and give a further 6 weeks for suggestions to be made regarding changes to the plan. The officers view expressed was that this should not pose a risk to getting the plan approved as it is not a consultation on the whole plan, only the amendments made since it's previous submission.

Louise then presented the report regarding the proposed major changes to site allocation and development management policies consultation outcomes.

Louise explained that following the Joint Authorities' request to suspend the Examination in Public, and the Joint Committee for Strategic Planning's approval, the Proposed Major Changes were published for the statutory 6 week consultation. This was to allow representations to be made by people affected by, or concerned with, the implementation of the development plan.

This report summarises the issues raised in representations to the consultation, and sets out some changes that have been made to the Proposed Major Changes in response to these representations. Louise explained that the Consultation Outcomes Report attached as Appendix 'A' and the Proposed Major Changes following the consultation attached at Appendix 'B' were submitted for the Committees approval, and, that subject to the Committees approve these documents would then require approval at the Full Councils of the three constituent Waste and Mineral Planning Authorities before submission to the Planning Inspector on behalf of the Secretary of State for Communities and Local Government.

Louise highlighted the principal issues raised following the 6 week consultation period as follows:

Matter 7 Non-Hazardous Landfill (LF1)

Three representations were been received, from two consultees. Support was received for the changes in support of extensions to time frames for filling permitted voids at existing landfill sites (MajPC/39).

Matter 11 Heysham Port (WM2 WM4)

12 representations were been received, from seven consultees.

Lancaster West Business Park

Representations were been received relating to Lancaster West Business Park (MajPC/24). These referred to the increase in size and range of appropriate technologies allowed, and possible increase in traffic levels on Middleton Road; impacts on residents and wildlife; proliferation of waste facilities in the area, and that local residents did not want site identified. Comment was also received stating these changes are premature given the hearing session outcomes have not been published yet. Support was received for the removal of Heysham Port from the policy. There was a request for more clarity in the policy to give a clearer indication of what and how much would be expected to be built.

Safeguarding of Aggregate Wharf Heysham Port

Louise explained that as Members were aware the Joint Authorities have not proposed changes to Policy M3 which relates to the Safeguarding of the Aggregate Wharf at Heysham Port. However, as Heysham Port has been deleted as a strategic built waste facility the detailed site description in Part Two of the document was required to be moved, and amended to remove reference to the waste uses, but to keep references to the safeguarding of aggregates. This was advertised as a Major Change. As a result of this, similar representations to those made previously were received. These included possible impact on the development of the port for other port related activities which should have priority, and that the existing permitted development rights make the policy ineffective.

Matter 12 Huncoat/Whinney Hill (WM2 WM4)

16 representations have been received, from nine consultees.

Burnley Bridge

Representations were received to the Burnley Bridge allocation; most notably from an unwilling landowner. Reference was made to specific historic assets close to the site.

Lomeshaye Industrial Estate

A representation was received that the policy does not contain any restrictions on the nature of activities that could be accommodated, to protect visual intrusion and bad neighbours. The policy should require activities to be wholly contained within the fabric of buildings with no outside storage of materials.

Moorfields Industrial Estate

Concerns were expressed about the allocation relating to the high volumes of traffic already experienced in the area and the limited access to the site from the Hare and Hounds junction. Support was expressed for the allocation, provided there was no adverse impact on the Hare and Hounds junction and that the air quality issues could be resolved.

Altham Industrial Estate

Louise reported that representations were received stating that the site is one of Hyndburn's premier employment sites and waste uses would not encourage new employers to locate to the area and also have a detrimental impact on the confidence of companies already present on the site. Reference was made to lack of direct access to M65 concern there is an over reliance on local road network. Reference was made to specific historic assets close to the site, suggesting that they be referred to within the detailed site plans within Part Two of the Site Allocation and Development Management Policies DPD.

The Chair of the Joint Advisory Committee, County Councillor Green, also noted that correspondence had been received from County Councillor Miles Parkinson who, in his capacity as Leader of Hyndburn Borough Council reconfirmed Hyndburn Borough Councils opposition to Altham Industrial Estate being allocated in the Joint Lancashire Minerals & Waste Development Framework.

Matter 14 Lancaster West Business Park (WM2 WM4)

Two representations were been received from two consultees. Support has been received for the change to the southern boundary which increased the distance between the village and the identified site. There was continued objection to the continued inclusion of the Biological Heritage Site. This was previously discussed at the hearings under Matter 14. Additional comments were reported under Matter 11 above.

Matter 17 Whitemoss (LF3)

44 representations were received, from 41 consultees. Representations were received to support the removal of the Whitemoss allocation (MajPC/43). However, representations were also raised to the criteria based policy's perceived lack of robustness; specifically that the policy should require that local need should be demonstrated, and the

requirement that residues should be treated at a suitable landfill nearer their origin be made more explicit.

Representations were also received objecting to the removal of the Whitemoss allocation and the revised policy wording (MajPC/43) as it is argued that the landfill site provides jobs in the area; is a valuable resource locally, to Lancashire, and to the region and beyond, and that the policy is not deliverable without the allocation, nor is it flexible or able to be monitored.

Representations stated that the site is of regional/national importance, a physical extension is required, no analysis has been carried out to consider if Ineos Chlor is the best alternative option, no other proposals have been submitted in the North West, the site is referred to in Greater Manchester and Merseyside's development plan documents, the policy is a prohibitive policy which seeks to push hazardous waste facilities out of the sub-region, the approach would give a clear commercial advantage to a single existing operator, a criteria based policy does not provide the certainty necessary for investment, the policy should favour extensions to existing sites, the criteria are unsound: need has been demonstrated by the operator and nationally in the National Planning Statement; the policy favours one commercial interest over another; there is no support nationally for a local application of the proximity principle.

Louise also highlighted a number of other responses (detailed in the report) from District Councils, Parish Councils, National Bodies, Industry and Neighbouring Authorities which the Committee noted.

Louise then summarised the suggested proposals in the report as follows:

- To continue with the Proposed Change to Policy LF3.
- To continue with the Proposed Changes relating to Heysham Port. None of the representations relating to the safeguarding of the land for the importation of mineral aggregates raise new issues to those previously made. Whilst the issues raised relating to the change in range, type and capacity of waste facilities at Lancaster West Business Park can be adequately mitigated by the policies in the Development Plan Document, as well as being covered by the Environment Agency's permitting process.
- Not to progress the Burnley Bridge allocation (BWF27). This is due to the land owners being unwilling to allow waste uses on their site. This would risk the deliverability of the plan.
- Altham, Lomeshaye Industrial Estates and Lancaster West Business Park to be taken forward, with a proposed minor change to the justification of policies WM2 and WM3 to make clear that all operations and stockpiles would be required to be contained within buildings to ensure that the highest amenity standards are maintained (policies WM2 and WM3). This is important to underline that well designed high quality built waste facilities can, and do, coexist with good quality employment sites and to provide reassurance that the historic poor perception of waste is misplaced. This is evidenced by the recent proposal by Sainsbury's to invest in a new store located next door to the Thornton Waste Recovery Park (see Appendix F).

- To make specific reference to historic assets relating to Altham Industrial Estate in Part Two of the Development Plan Document.
- Not to progress Moorfield Industrial Estate as this site does not provide the transport advantages of Altham and Lomeshaye Industrial sites in serving an East Lancashire catchment area, and raises concerns due to air quality issues.
- To take forward the criteria based policy to determine applications for hazardous waste landfill and amend the third criterion in Policy LF3 to delete "accords with the principle of net self sufficiency," to "contributes to the objective of net self sufficiency". This is a more accurate representation of the objectives of the Core Strategy.

It was also noted that due to changes proposed there will be consequential changes to the Proposal Map which will include the removal of sites no longer taken forward and to include the new sites recommended.

Louise also highlighted that since the submission of the Development Plan Document to the Secretary of State planning permission has been granted for the extension of the Household Waste Recycling Centre at Farrington following the demonstration of very special circumstances. This now means that as the proposal is a commitment no purpose is served in keeping the site within the Development plan. Therefore it was suggested that MPC/202 will be tabled to the Inspector not to take the site forward.

Resolved:

The Joint Advisory Committee for Strategic Planning noted the report and the responses received and agreed to recommend to the Joint Committee for Strategic Planning that:

- i. The Proposed Major Changes to the Site Allocations and Development Management Policies Development Plan Document, and the associated minor proposed modifications, and associated supporting documents, the Additional Sites Sustainability Appraisal, Additional Sites Habitat Regulations and Additional Sites Health and Equality Impact Assessment (Appendices C-E to the report) be referred to the Full Councils of the three constituent Waste and Mineral Planning Authorities with a recommendation for approval and submission to the Planning Inspector on behalf of the Secretary of State for Communities and Local Government;
- ii. The Planning Inspector be formally requested to recommend any necessary modifications to the Development Plan Document to make the Plan sound under section 20(7C) of the Planning and Compulsory Purchase Act 2004; and
- iii. Chief Officers of Lancashire County Council, Blackpool and Blackburn with Darwen after consultation with the relevant Portfolio holder, be given delegated authority to propose minor amendments to improve the clarity of the documentation referred to under Recommendation (i), and which do not alter the substance of the documents when submitting the Proposed Major Changes to the Inspector on behalf of the Secretary of State. These amendments are to be collated in a list form.

6. Urgent Business

None.

7. Date of Next Meeting

To be confirmed.

Ian Fisher
County Secretary and Solicitor

County Hall
Preston

Joint Advisory Committee for Strategic Planning
Meeting to be held on 28th February 2014

Electoral Division affected: All

Joint Lancashire Minerals and Waste Development Framework: Supplementary Planning Document on Onshore Oil and Gas Exploration, Production and Distribution

(Appendix 'A' refers)

Contact for further information:

Richard Sharples, (01772) 534294, Environment Directorate,
Richard.Sharples@lancashire.gov.uk

Executive Summary

This report sets out the justification for, and the processes of, producing a supplementary planning document to assist developers and the public in interpreting existing planning policy contained in the Joint Lancashire Minerals and Waste Local Plan, as it would apply to onshore oil and gas developments, including those using hydraulic fracturing (fracking).

Recommendation

That the Joint Advisory Committee recommend to the joint authorities that officers commence the preparation of an onshore oil and gas supplementary planning document.

Background and Advice

As members are aware in recent years there have been considerable developments in the onshore oil and gas industry, specifically in connection with the proposal for the exploitation of shale gas.

Lancashire is at the forefront of the national commercial interest for onshore oil and gas exploration, particularly for the shale gases found in the Bowland shales. Appendix 'A' provides further detail.

At a national level the Government has produced a planning practice guidance document, and commenced the production of secondary legislation, on on-shore oil and gas exploration appraisal and production.

At a local level when a local planning authority considers a planning application the determination must be made in accordance with the development plan unless material considerations indicate otherwise. The development plan includes the criteria-based policies in the Joint Lancashire Minerals and Waste Local Plan¹ which set out a comprehensive list of development management criteria for consideration when determining planning applications; these policies are generic and do not generally refer to specific types of development or uses of land.

Given the complexity and controversial nature of onshore oil and gas developments, and the fact that Lancashire is likely to receive further applications for both exploration and exploitation it is considered that there would be benefits, to both developers, residents, and other stakeholders, from the production of guidance on the existing policy as it relates to the emerging area of onshore oil and gas developments in the plan area, in particular the exploration for shale gas.

There is an opportunity under the planning system to provide further guidance on particular issues through the production of a Supplementary Planning Document (SPD).

Supplementary planning documents add further detail to the policies in the development plan. They can be used to provide guidance for development on specific sites or on particular issues. Supplementary planning documents are capable of being a material consideration in planning decisions but are not part of the development plan. The proposal is that the guidance would provide clarity as to the information required to accompany a planning application, how to present it so that those consulted can have confidence in the process, and the main issues and considerations necessary to satisfy the policy tests contained in the local plan. It would be a material consideration².

An SPD cannot provide development management or site allocation policies and so cannot state whether developments are acceptable or not, and the National Planning Policy Framework states that it should not be used to add unnecessarily to the financial burdens on development. As set out in the separate report to Members referring to the proposed review of the Local Plan, the opportunity to formulate a policy position on onshore oil and gas exploration, appraisal and exploitation can only be undertaken through the development of planning policy in a local plan.

Timeline

It is anticipated that an SPD will be presented for a decision on adoption in November 2014. The decision to report to the Joint Advisory Committee for Strategic Planning recommending the production of an SPD has been delayed until the content of the national planning and legislative changes, which began to emerge in early 2013, became clear.

Supplementary planning documents are subject to statutory preparation procedures under Part 5 of the Town and Country Planning (Local Planning) (England)

¹ The Joint Lancashire Minerals and Waste Core Strategy (2009) and the Joint Lancashire Minerals and Waste Site Allocation and Development Management Policies Local Plan (2013)

² A factor to be taken into account when a decision on a planning application is reached.

Regulations 2012. The Regulations specify that the consultation on SPDs should last for at least 4 weeks: however given the degree of public interest in current onshore gas activities within the Plan area it is suggested that the consultation on this SPD last for 6 weeks.

A proposed production programme is described below.

- March- April: A targeted consultation with key stakeholders on the proposed scope of the SPD, to assist in its preparation
- During the drafting of the SPD it may be necessary to consult statutory consultees when screening the SPD as part of the Environmental Assessment of Plans and Programmes Regulations 2004 and the Conservation of Habitats and Species Regulations 2010.
- July: Report to JAC/cabinet members for approval to consult on the draft SPD
- July-August: Public consultation on the draft SPD itself and on the consultation statement (containing a summary of the main issues raised in the previous consultation, and how those issues have been addressed in the SPD)
- November: Report to JAC for decision to recommend adoption

Scoping consultation

It is considered good practice to consult on the scope of documents, and that these consultations are targeted to groups whom the planning authority considers to be most relevant. Given the complex and controversial nature of this subject it is proposed that the Environment Agency, English Nature, onshore oil and gas operators, local action groups, Friends of the Earth, Greenpeace, Parish and District Councils will be defined as key stakeholders and contacted directly as part of the scoping consultation. In addition the scoping consultation will be publicised on the Joint Authorities web pages to ensure that other interested parties can be involved.

Once the responses to the proposed scoping consultation described above have been received and assessed a draft version of the SPD will be brought to the Joint Advisory Committee for Strategic Planning for approval.

Recommendations

That the Joint Advisory Committee recommend to the Joint Committee for Strategic Planning that officers commence the preparation of an onshore oil and gas supplementary planning document.

Consultations

N/A

Implications:

This item has the following implications, as indicated:

Risk management

Given the growing public interest in onshore oil and gas developments (particularly hydraulic fracturing activities) it would be very useful for the Joint Authorities to have published pre-application advice and guidance, in the form of an SPD.

A delay in commencing work on the supplementary planning document would result in a potential lack of clarity for operators and the public and may mean that Local Plan policies (as they apply to onshore oil and gas) may be interpreted inconsistently.

Government has published planning practice guidance for onshore oil and gas, and consulted on secondary legislation to amend planning regulations as they relate to onshore oil and gas during 2013. These have delayed the production of a Joint Authorities response, which was initially planned for early 2013. There may be further publications which could affect the content of an SPD, and the timetable for production.

Financial

The costs of the production of the SPD can be contained within existing budgetary provisions.

List of Background Papers

Paper	Date	Contact/Directorate/Tel
N/A	N/A	N/A

Reason for inclusion in Part II, if appropriate

N/A

Background Information on Unconventional hydrocarbons and hydraulic fracturing

This document sets out an overview of the current situation in the UK in relation to unconventional hydrocarbons. It is not a statement of the County Council's position on the subject and has been put together to inform members of the JAC/JC, considering the proposal to begin with as a Supplementary Planning Document (SPD).

Unconventional Reservoirs

In the UK, as elsewhere, hydrocarbons (gas and oil) are predominantly extracted from “conventional” hydrocarbon reservoirs in permeable rock formations such as sandstones. In these reservoirs gas or oil can flow through the structure of the rock and collect in a pocket where the upward migration of the hydrocarbon is stopped by a low permeability cap rock above it. These conventional reservoirs do not generally require hydraulic fracturing to stimulate the flow of gas.

Hydrocarbon reservoirs with low permeability (i.e. does not allow gas to flow) are described as 'unconventional', because hydrocarbon production in commercial quantities requires the rock structure to be fractured to provide permeability and thus stimulate the flow of hydrocarbons. These reservoirs are predominantly shale and coal seams. The process to achieve this is known as hydraulic fracturing.

Hydraulic fracturing (“fracking”) is a generic term for various oilfield operations which aim to improve hydrocarbon flow rates in low permeability oil/gas reservoirs by increasing the natural fracturing in the rocks, or by creating artificial fractures. These operations vary in choice and volume of fluid injected, pressures and rates, depending on specific reservoir attributes.

The process is that fracking fluid is pumped into the shale to enlarge or create fractures. The fluid consists of water, fine sand particles and a combination of non-hazardous chemicals chosen relative to geology type to act as a proppant. As the pressure is released, pressurised fluid returns to the surface (flow back water) but leaving some within the shale, including the sand which resides within the fractures creating a migratory path way so that the gas can flow to the surface via the borehole. Vertical and horizontal drilling is often used with shale gas wells to enable the creation of a very large fracture network within the shale.

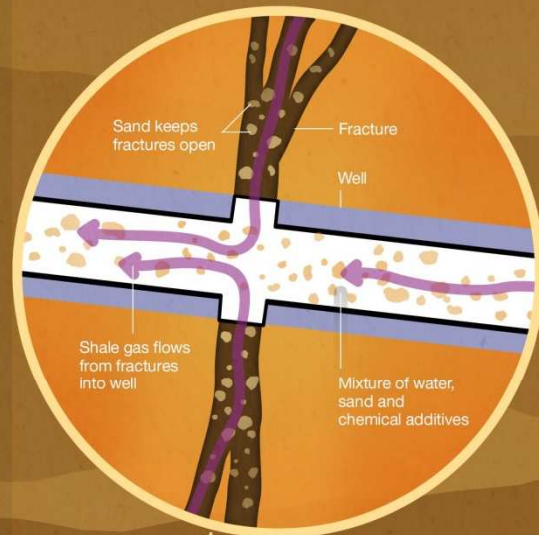
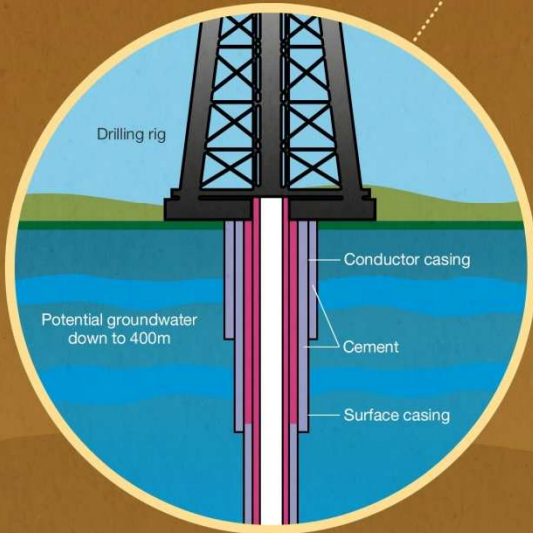
Operations of this type were conducted by Cuadrilla in Lancashire in April and May 2011, when approximately 2 million gallons of fluid were used.

The diagram below, provided by DECC, shows the mechanics of fracking.

What is shale gas and fracking?

Pad size is 2 hectares – 100*200m

Potential groundwater down to 400m



Intervening layers of rock stop fracking fluids / gas from escaping

Shale gas rock

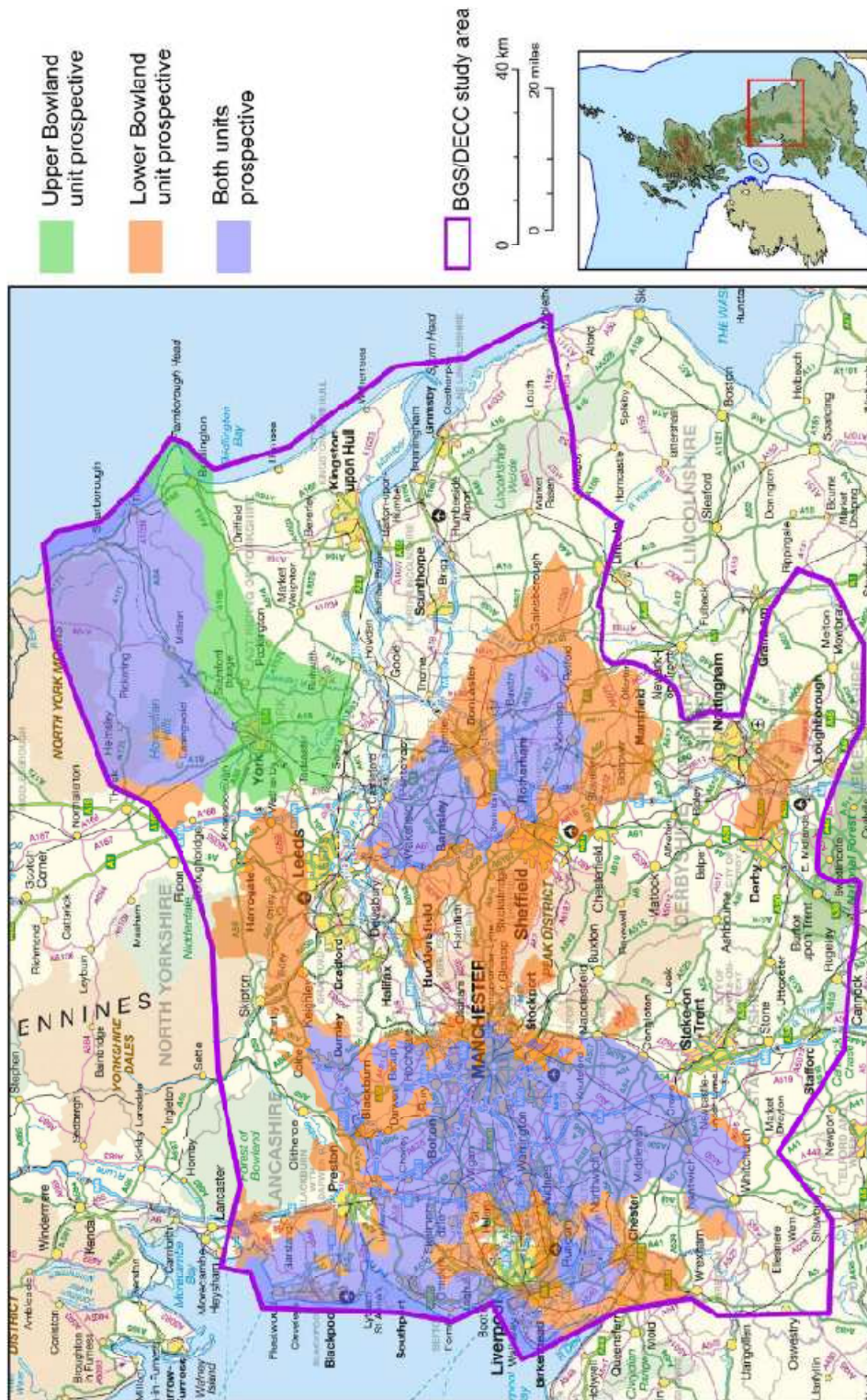
Shale rock in the UK is present at all depths, but gas only starts to be produced between 1500m-4200m and the rock can be up to 3000m thick in some areas.

© Crown Copyright The Department of Energy & Climate Change (DECC)

Source: DECC

Bowland Shale

The Lancashire Bowland Shales have been identified by the British Geological Survey as having potential to hold shale gas which could be exploited for commercial purposes. The extent of these Bowland Shales is illustrated below.



Source: Bowland shale gas report – media summary (BGS) (Contains Ordnance Survey data)

The Nature of Operations

Site development works and drilling activities are common for exploratory well sites and involve three main phases:

The construction of the drilling platform: stripping of top soils, some sub soil levelling and storing, the laying of an impervious and stabilising membrane followed by the construction of a sealed stoned working platform. The removed topsoil and subsoil is stored as bunds along the sides of each of the sites and which assist in providing temporary screening of plant and equipment during the drilling operations.

The site preparation works take up to six weeks.

The drilling operations: a borehole is drilled to the depth of the target rock formation. Of the permissions that had been granted in Lancashire the variation in depth of the shale is between 2470 metres (8100 ft.) and 3505 metres (11500 ft.) below ordnance datum. The drilling operations are undertaken 24 hours per day, 7 days per week over a period of eight to twelve weeks or more. The drilling rig can be up to 36m high. The borehole is lined with steel tubing (“casing”) to prevent the escape of drilling or fracking fluids and to control the flow of hydrocarbons if encountered.

Testing for the presence of hydrocarbons (gas): this is undertaken on completion of drilling operations and during normal daytime hours. To allow the gas to flow, the shale is fractured (see above), the gas will then flow from the fractured rock up the borehole to the surface where it is sampled, tested and managed by either flaring off, or closing, the borehole. This can take around twelve weeks.

If no gas is detected or not detected in commercially exploitable quantities the borehole will be plugged and the site restored over a period of up to six weeks. If testing is successful, the borehole will be temporarily sealed with a control valve and the rig and other temporary buildings removed. The land would not be restored immediately as further testing or production facilities may be required. However, further planning permission would be required for the retention of the platform and for any further testing or subsequent production facilities.

Current Activities in Lancashire

Cuadrilla have submitted a request for a scoping opinion to Lancashire County Council for proposals to explore for shale gas by drilling, hydraulically fracturing and testing the flow of gas at two sites:

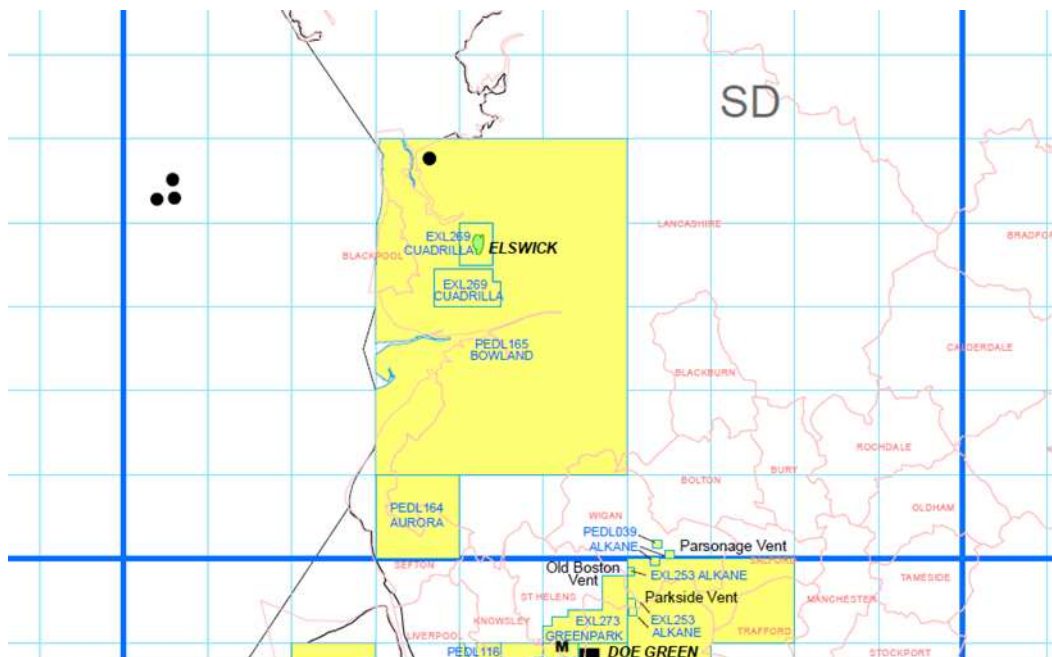
- **Roseacre Wood - Roseacre, Fylde East.** The Roseacre Wood site is located to the south of the village of Roseacre.
- **Preston New Road – Little Plumpton, Fylde West.** The site is located north of Preston New Road (the A583), to the west of Little Plumpton.

Cuadrilla currently has planning permission for temporary boreholes and testing for hydrocarbons at the following locations in Lancashire:

- Anna's Road, Westby
- Preese Hall, Weeton

- Grange Road, Singleton
- Banks Enclosed Marsh, Becconsall
- Norris Farm, Down Holland

In this current 13th round only two operators hold licenses for parts of Lancashire. Cuadrilla's PEDL165 and Aurora's PEDL164 are current 13th Round licences. At this moment we can only speculate what further interest there may be in the Bowland shale under the next round.



Source: Onshore Licensing 1 October 2013 (DECC) (Contains Ordnance Survey data. Crown copyright and database right 2013)

Current Activities Nationally

The Regulatory Road Map

The Government has published a regulatory roadmap for shale oil and gas developers. The "*Regulatory Roadmap: Onshore oil and gas exploration in the UK regulation and best practice*" (17 December 2013) is available at the following link:

<https://www.gov.uk/government/publications/regulatory-roadmap-onshore-oil-and-gas-exploration-in-the-uk-regulation-and-best-practice>

The roadmap for shale gas sets out the series of permits and permissions developers need to obtain prior to drilling for onshore oil and gas. This is to provide certainty to investors and local communities about what the permitting process entails.

The Strategic Environment Assessment (SEA) for further onshore oil and gas licensing.

DECC published for consultation *The Strategic Environment Assessment (SEA) for further onshore oil and gas licensing*. This is available from the following link:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/266330/environmental_report.pdf

The Strategic Environmental Assessment (SEA) report, produced by AMEC, sets out the potential economic and environmental effects of further oil and gas activity in Great Britain, including shale oil and gas production, comparing a 'low activity' and 'high activity' scenario. The assessment was carried out in preparation for the launch of the next round of licenses being made available for onshore oil and gas exploration and production. A consultation will run until March to consider the findings of the SEA and how this affects shale gas production in the UK.

Areas under consideration for the 14th onshore licensing round

Licensing is awarded by DECC and gives a developer exclusive rights to an area, but it should be noted that planning permission and permits will still be required before activity can take place. Further information on the extent of the Bowland shales, the current licensed areas and areas under consideration for the next round, can be found in the SEA report. The '*Bowland Shale Gas Study*', undertaken The British Geological Society, is also a useful source of information, particularly for its diagrams, and can be accessed at the following link: <https://www.bgs.ac.uk/shalegas/#ad-image-0>

Joint Advisory Committee for Strategic Planning
Meeting to be held on 28th February 2014

Electoral Division affected: All

**Joint Lancashire Minerals & Waste Local Plan
Local Plan Review**

Contact for further information:
Niamh O'Sullivan, (01772) 530695, Environment Directorate,
niamh.O'sullivan@lancashire.gov.uk

Executive Summary

The Joint Authorities adopted the Minerals and Waste Core Strategy in February 2009 and the Site Allocations and Development Management Policies Local Plan in September 2013. The plan period for these documents is until 2021.

There is a need to review the Local Plan to address the short plan period, and to resolve issues around the uncertainty of long term provision for non-hazardous landfill. The Inspector of the recently adopted Local Plan suggested that this update should occur as soon as possible to ensure that the most up to date policies are in place to accurately assess planning applications and guide development at the later end of the plan period.

The review also represents an opportunity to develop policies to reflect emerging issues such as onshore oil and gas exploration.

Recommendation

That the Joint Advisory Committee recommends to the joint authorities that approval be given to review the minerals and waste Core Strategy and Local Plan.

Background and Advice

The minerals and waste industries make a significant contribution to the local economy, both directly through the employment of people and investment in infrastructure, and indirectly through providing raw materials and services to the other businesses and industries in Lancashire, in particular the construction industry. They make a vital contribution to the delivery of the Governments and the Local Economic Partnership's economic growth aspirations.

However, they can generate significant levels of public concern, and significant numbers of objections to planning applications (as an example the planning

application for Euxton sand and gravel quarry attracted over 5,000 letters of objection).

The determination of planning applications for minerals and waste developments, and the preparation of minerals and waste planning policy, is the responsibility of minerals and waste planning authorities. In counties, such as Lancashire, where there are two tiers of local authority (district and county authorities), the County Council is the minerals and waste planning authority, whereas the District Council is the local planning authority. In unitary areas, such as Blackburn with Darwen and Blackpool, the Council is both the local planning authority and the minerals and waste planning authority. Lancashire County Council, Blackburn with Darwen and Blackpool Council have worked together to produce Joint Plans.

The development plan is the principal consideration against which the Joint Authorities will assess planning applications for the expansion or development of new minerals or waste facilities. It also allows the Joint Authorities to be much more proactive in planning development, rather than reacting to ad-hoc planning applications, improving the manageability of consultations and public engagement.

The Minerals and Waste Local Plan

The development plan for the area consists of documents prepared by the local planning authority and the minerals and waste planning authority. The Joint Authorities, as minerals and waste planning authorities, are responsible for the preparation of minerals and waste planning policy to form part of the development plan. The importance of the development plan stems from s70(2) of the Town and Country Planning Act which states that "*in dealing with...an application the authority shall have regard to the provisions of the development plan, so far as they are material to the application*", and s38(6) of the Planning and Compulsory Purchase Act (2004) which states that "*determination must be made in accordance with the development plan unless material considerations indicate otherwise*".

Whether a document in the development plan is up to date or not will influence the degree to which the relevant policy is material to an application. Furthermore, the need for an up to date development plan is reiterated in the National Planning Policy Framework (NPPF) which states that "*It is highly desirable that local planning authorities should have an up to date plan in place*". The presumption in favour of sustainable development, which is at the heart of the NPPF, includes "*approving development proposals that accord with the development plan without delay*" and "*where the development plan is absent, silent or policies are out of date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the framework*".

Having up to date policies ensures that planning applications can be considered against locally specific policies drafted and approved with local political and public input, rather than only the National Planning Policy Frameworks policy presumption in favour of sustainable development.

The current minerals and waste documents prepared by the Joint Authorities consist of a Core Strategy and a Site Allocation and Development Management Policies Local Plan. Together they set out the amount of minerals and waste development that is required in the Plan area, and ensure that the pattern of development is sustainable and caters for the need of the Plan area to 2021.

Local Plans are subject to statutory preparation procedures under Part 6 of the Town and Country Planning (Local Planning) (England) Regulations 2012. These specify the minimum number and duration of consultations. The production of the Core Strategy and Site Allocation and Development Management Policies Local Plan has involved considerable work in consulting with the public, the industry and other regulators throughout the drafting process, together with significant evidence gathering to assist these consultations and to inform policy development. The final documents were then tested through an Examination in Public carried out by the Planning Inspectorate on behalf of the Secretary of State, and subsequently adopted by the Joint Authorities subject to the findings contained in the Inspectors report.

These regulations have changes considerably since the production of the Core Strategy began in 2006, not least in that the need for a separate core strategy and site allocations document has been removed.

The significant length of time taken to adopt the completed minerals and waste local plan was in part due to the need to produce the core strategy and site allocations separately and, on the advice of the Planning Inspectorate, one after the other rather than concurrently. There were also significant delays in the examination of the Site Allocation and Development Management Policies Local Plan due to several changes in national planning policy and local plan regulations. However, despite these delays the Joint Authorities were still the first minerals and waste planning authority in the North West to have an adopted Core Strategy, and one of the first to have an adopted site allocations document.

The Core Strategy was adopted in 2009. The preparation of the Site Allocation and Development Management Policies Local Plan started after the adoption of the Core Strategy, and this was adopted in 2013.

It is important to have policies in place so developers and the public know what development will be expected to come forward in the plan period. These documents cover a plan period to 2021, which currently stands at seven years. The Local Plan policies are based on evidence that was originally produced in 2007 albeit, at the examination into the Site Allocation and Development Management Policies Local Plan it had been considered to be broadly accurate.

As time elapses, and it comes closer to the end of the plan period (2021) applicants would have greater scope to challenge the credibility of policies in determining planning applications. Given the length of time that it can take for minerals and waste planning applications to be determined this is of particular relevance.

Inspector's Report 2013

The Site Allocation and Development Management Policies Local Plan implements Core Strategy policies and therefore sits within the same plan period; this is to 2021 (giving eight years for the plan's policies to remain up to date). At the Examination into the plan the length of the plan period was discussed. The National Planning Policy Framework (NPPF) states that local plans should be "*drawn up over an appropriate time scale, preferably a 15 year time horizon*".

Some objectors felt that this difference affected the soundness of the plan; officers of the Joint Authorities argued that the plan could only provide site specific policies and development management policies to support the Core Strategy which ran to 2021.

The Inspector stated, in summarising his deliberations on this discussion in his Report into the examination:

"On balance, I consider it is better that the present Local Plan is adopted, notwithstanding the problem of its short time frame, on the understanding that a review of the plan (and the associated Core Strategy) is commenced with the minimum of delay. At the hearing sessions the JAs gave an undertaking that such a review and roll-forward would take place".

This commitment was made verbally and was included in the draft Local Development Scheme 2014-2018 submitted to the examination by the Joint Authorities.

Also, given the forecast reduction in financial resources available to the Joint Authorities, it would be appropriate to undertake a review now, rather than towards the end of the plan period, when it would be less certain that the resources would be available.

Policy Implementation

Under the Planning and Compulsory Purchase Act 2004 the Joint Authorities are required to produce a monitoring report at least annually on the implementation of the policies in the local plan and the delivery of the Local Development Scheme (the programme for local plan production). The monitoring report includes the most recent available information on aggregate sales and reserves, landfill void space and inputs, and amounts of wastes managed in the Plan area, together with information on planning applications determined during the monitoring period.

No policy implementation issues are identified in the most recent monitoring report (for the period 2012 to 2013). The number of submitted planning applications from the minerals and waste industries has been low during the past five years due in part to the economic situation, and in part to the strong policy position contained in the Local Plan.

Minerals sales continue to be below those experienced before the economic downturn, the amount of waste going to landfill has reduced, whilst the volumes of waste managed through newer treatment and recovery technologies continues to

increase. Whilst minerals sales are below estimated annualised requirements this is attributed to a reduced demand due to the wider economic circumstances, rather than a restriction in supply resulting from planning policy.

However, the monitoring report identifies that there is uncertainty around Whinney Hill Landfill following the closure of the Accrington brickworks. The future strategic landfill capacity identified in the Core Strategy is reliant on its delivery through the creation of a quarry void by quarrying to supply the brickworks.

There is a commitment in the Core Strategy under Policy CS8 that *'should regular monitoring indicate that the landfill capacity at Whinney Hill is likely to become unavailable or significantly restricted, in relation to the required landfill capacity, to address this through an early review of the Core Strategy for the next plan period'*.

Whinney Hill landfill represents the single long term landfill in the Plan area. There are four other landfills with significant void space, and all are time limited by condition. Two of the sites are expected to cease landfilling during the plan period (Clifton Marsh in 2015 and Jameson Rd in 2018) and two just outside the plan period (Deerplay in 2022 and Clayton Hall in 2028). Deerplay is currently mothballed by the operator. It is likely that some of these sites will have void space remaining when their time limits expire. Time extensions are supported by Local Plan policy but the commercial viability of landfilling is such under the current economic conditions, and fiscal disincentives for landfilling that there is no certainty the operators will seek to utilise this void.

A review would allow the Joint Authorities the opportunity to consult with operators to consider this issue of landfill provision, and in a regional context, to consider the facts on void availability, utilisation rates and the operators commercial and investment considerations.

There are also emerging areas of interest from the industry within the Plan area that could be the subject of policies in the adopted Local Plan, but which do not benefit from specific policies at present. One example of this is on-shore oil and gas. A separate report is presented to this committee on the production of a Supplementary Planning Document to provide planning guidance on onshore oil and gas exploration, appraisal and extraction. The review of the Local Plan will provide an opportunity for the production of a specific policy to be included in the Local Plan. However, this review should not delay the production of a Supplementary Planning Document, which will continue to be relevant even after the review is completed.

Process and timescale

It is suggested that the potential review extends the plan period to 2031. This review may suggest that there need not be many changes to the policies in the Plan, rather the degree of change necessary will be informed by the use of up to date evidence to inform projections of future demand and supply, together with stakeholder comments (including members of the public, industry, and other regulators). It may be that many of the policies can be rolled forward unchanged if assumptions that were made as part of the Core Strategy evidence base are proved to be valid to continue to 2031.

A review provides the opportunity to update or tweak existing policies, and to introduce amend or introduce new policies to respond to emerging issues such as shale gas, or the management of waste.

The review would result in one Minerals and Waste Plan with all policies within one single policy document. This provides the opportunity to remove some policy duplication between the two documents and provide a single source of policy information for applicants and members of the public.

The process and timescales will require approval prior to publication in a revised Local Development Scheme. However, it is anticipated that the review could be carried out over two years, with an anticipated adoption during the winter of 2016. It would include a minimum of three public consultations. This is a significantly shorter time period for adoption than the previous documents; in part due to changes to the local plan regulations and in part due to the ability to review both documents simultaneously.

The case for a review does not and should not be considered to cast doubt on the up to date nature of the policies in the adopted plan which are due to run until 2021, but rather to demonstrate commitment by the Joint Authorities to operating a strong plan led system beyond the 2021 plan period.

Recommendation

It is recommended that the Joint Advisory Committee for Strategic Planning recommends to the joint authorities that approval be given to review the Joint Lancashire Minerals and Waste policy documents. The first stage of this review will be the production of a revised Local Development Scheme detailing the review process for scrutiny at the next Joint Advisory Committee for Strategic Planning.

Consultations

N/A

Implications:

This item has the following implications, as indicated:

Risk management

If a review of the Local Plan is not carried out there is a risk that the development plan will become out of date and if that were to happen there would be no up to date development plan policies against which to consider planning applications, which would be a significant weakness in a plan led system.

Financial

A budget will need to be maintained by the Joint Authorities in relation to Strategic Planning. Costs relating to the preparation of the Core Strategy and Local Plan have

been in the region of £120,000 per annum, Blackburn with Darwen Borough Council and Blackpool Council each contribute approximately 10% towards this under the service level agreement.

Lancashire's contribution has been budgeted for and so can be managed within existing resources.

List of Background Papers

Paper	Date	Contact/Directorate/Tel
Report to Full Council: Joint Lancashire Minerals & Waste Local Plan Adoption of the Joint Lancashire Site Allocation and Development Management Policies Local Plan and Policies Map	18 July 2013	Janet Mulligan/Office of the Chief Executive/ 01772 533361

Reason for inclusion in Part II, if appropriate

N/A

