

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**

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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