

Joint Advisory Committee for Strategic Planning

Meeting to be held on 4th April 2012

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| Electoral Division affected: All |
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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.

(Appendices 'A' to 'F' refer)

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Executive Summary

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. The Consultation Outcomes Report is attached as Appendix 'A' and the Proposed Major Changes following the consultation are attached as Appendix 'B'. These would 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.

This report also sets out the effect of Section 112 of the Localism Act on Site Allocations and Development Management Policies for the Minerals and Waste Development Framework.

Recommendation

That the Joint Advisory Committee for Strategic Planning recommends 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) 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) That 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.

Background and Advice

Following the Joint Committee meeting on 7 December 2011, the Proposed Major Changes document and associated supporting documents, the Additional Sites Sustainability Appraisal, Additional Sites Habitat Regulations and Additional Sites Health and Equality Impact Assessment, were published for a statutory 6 week consultation. A separate report on the agenda sets out in detail the consultation which took place between 19 January 2012 and 1 March 2012. The comments received through this consultation are summarised below.

Principal Issues Raised

Matter 7 Non-Hazardous Landfill (LF1)

3 representations have been received, from 2 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 have been received, from 7 consultees.

Lancaster West Business Park

Representations have 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

As Members are 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 9 consultees.

Burnley Bridge

Representations have been 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 has been 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

Representations have been 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.

Matter 14 Lancaster West Business Park (WM2 WM4)

2 representations have been received from 2 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 have been received, from 41 consultees. Representations have been received to support the removal of the Whitemoss allocation (MajPC/43). However, representations have been 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 have also been 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.

Other

13 representations have been received, from 13 consultees. There has been a number of representations received on minor changes or other policies that were not the subject of this consultation. Those making these representations have been notified that their comments will not be presented to the Planning Inspector. The majority of these representations addressed points that were included in earlier representations and that were discussed at the hearing sessions.

Responses from Districts

Lancaster City Council support the allocation of Lancaster West Business Park in Policy WM2, but maintain its position of not supporting the he continued inclusion of the BHS within the identified site (MajPC/19), and reiterate their previous representation that policy WM2 needs more clarity on the size, scale and type of facility expected. It also supports the removal of Heysham Port from policy WM2 and WM4, but maintain its concerns raised previously relating to the safeguarding of Heysham Wharf (MajPC/37 et al) for the importation of marine aggregates, if it would impact on the ports wider operations and ability to support other marine imports.

West Lancashire Borough Council support the removal of the Whitemoss allocation and its replacement with a criteria based policy.

Burnley Borough Council made representations objecting to the inclusion of Burnley Bridge in Policy WM4.

Hyndburn Borough Council do not object to the removal of Huncoat/Whinney Hill (MajPC/07) but made representations objecting to the inclusion of Altham Industrial Estate (BWF25) as it considers that waste facilities would undermine the high quality employment site by lowering the quality of the environment, and could have detrimental impacts on existing precision engineering uses. Altham Industrial Estate is perceived as Hyndburn's premier industrial location. Hyndburn raised no objections to the inclusion of Moorfield Industrial Estate (BWF26) provided that it can be demonstrated that the development would not have an adverse impact on air quality and congestion at the Hare and Hounds junction.

Pendle Borough Council state that Policy WM2 would conflict with its Local Plan Policy 22, but consider that this could be overcome by requiring all operations to take place within a building.

Responses from Parish Councils

Middleton Parish Council support the changes to Lancaster West Business Park's southern boundary (MajPC19) but object to the site being considered to be suitable for the scale, range and type of uses set out in policy WM2 (MajPC/22) due to impacts on residents, wildlife and increased traffic.

Lathom South Parish Council and Parbold Parish Council support the removal of the Whitemoss allocation but made representations that the policy is not restrictive enough; it should require that local need should be demonstrated. The policy should also require that residues cannot be treated at a suitable landfill nearer their origin.

Shevington Parish Council and Dalton Parish Council support the removal of the Whitemoss allocation.

Other Responses (National Bodies, Industry and Neighbouring Authorities)

Support or no comment responses were received from the Coal Authority, Network Rail, the Environment Agency, Knowsley Metropolitan Borough Council and United Utilities.

Natural England supports the new sites in Matter 12 but raised some points to be included in Part Two of the Plan.

The National Trust recommends reference to specific historic environment assets in the text which are referred to above.

Heysham Ports made representations relating to the removal of Heysham Port from Policy WM2 WM4, and the text on Heysham Wharf (MajPC/37 et al) again this is referred to above.

Rosie Cooper MP, Friends of the Earth and ARROW representations relating to Policy LF3 are reported above as is the representation made by Whitemoss Landfill Limited.

Next Steps

Having undertaken formal consultation and given due consideration to the evidence, consultation responses received, and conformity with national and other policy the following way forward is proposed. The accompanying Outcomes Report (Appendix A) sets out the reasoning in full whilst Appendix B sets out the Proposed Major Changes and associated minor proposed modifications.

In sum;

- Continue with the Proposed Change to Policy LF3.
- 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.
- Do not 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).

- Make specific reference to historic assets relating to Altham Industrial Estate in Part Two of the Development Plan Document.
- Do not 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.
- 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.

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.

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 Farington 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 MPC/202 will be tabled to the Inspector not to take the site forward.

Localism Act

With the commencement of Section 112 of the Localism Act 2011, which came into force on the 15th of January 2012, sections 20-23 of the Planning and Compulsory Purchase Act 2004 Act have been amended.

Under the new section 20 of the 2004 Act, Inspectors no longer make recommendations for modifications unless specifically requested to do so by the Local Planning Authority (LPA). Such changes are referred to in the adoption process as the "main modifications". Minor changes are known as "additional modifications" and can be made by the Local Planning Authority on adoption without the need to be examined. These changes are ones that do not, when taken with the main modifications, materially affect the policies set out in the Plan.

The Joint Committee, on behalf of the three Joint Authorities, will need to formally request the Planning Inspector to make modifications to the Plan under section 20(7C) of the Planning and Compulsory Purchase Act 2004.

These modifications will be the amended Proposed Major Changes which were consulted on earlier in the year in response to the Inspector's letter 21st October

2011 in which he outlined potential shortcomings of the Development Plan Documents and the need for Major Changes to overcome the possible issues of soundness.

If the Joint Authorities do not make such a formal request, there is the likelihood that the Inspector's report will be confined to identifying any soundness or legal compliance failures and recommending non-adoption of the Plan. This would require the whole plan making process to start again.

Consultations

N/A

Implications:

This item has the following implications, as indicated:

Risk management

Failing to address the Planning Inspector's concerns by making these suggested changes may result in the Development Plan Document being found unsound, and the Joint Authorities being unable to move forward with adoption as scheduled.

If the Joint Authorities do not make a formal request to the Inspector under section 20(7C) of the Planning and Compulsory Purchase Act 2004 to make any necessary modification to make the Plan sound, there is the likelihood that the Inspector's report will be confined to identifying any soundness or legal compliance failures and recommending non-adoption of the Plan. This would require the whole plan making process to start again.

Following the proposed changes to the draft National Planning Policy Framework with its presumption in favour of sustainable development, in the absence of an up to date development plan, it is vital that the Joint Authorities move to adoption of the Site Allocations and Development Management Policies DPD as soon as possible.

**Local Government (Access to Information) Act 1985
List of Background Papers**

| Paper | Date | Contact/Directorate/Tel |
|------------------------|-----------------|-------------------------------------|
| JAC Agenda Item 7 | 7 December 2011 | Louise Nurser Environment 534136 |
| Major Proposed Changes | December 2011 | |

A full list of consultation documents available at <http://lancashire-consult.limehouse.co.uk/portal/mpc?tab=files>

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| Site Allocation and Development Management Policies DPD – Part One | January 2011 |
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Site Allocation and Development Management Policies DPD – Part Two

A full list of submission documents available at <http://www.lancashire.gov.uk/corporate/web/?siteid=6106&pageid=35243&e=e>

Reason for inclusion in Part II, if appropriate

N/A