

CABINET
6 June 2019**MINERALS LOCAL PLAN**

Relevant Cabinet Member

Mr Ken Pollock

Relevant Officer

Director of Economy and Infrastructure

Recommendation

- 1. The Cabinet Member with Responsibility for Economy and Infrastructure recommends that Cabinet recommends that Full Council:**
 - (a) approves the Publication Version of the Worcestershire Minerals Local Plan for Regulation 19 consultation;**
 - (b) authorises the Director of Economy and Environment to carry out such Regulation 19 consultation;**
 - (c) authorises the Director of Economy and Infrastructure to approve any minor amendments to the Publication Version of the Minerals Local Plan arising from the Regulation 19 consultation, prior to submission to the Secretary of State for Examination;**
 - (d) approves submission of the Publication Version of the Minerals Local Plan, amended as appropriate, to the Secretary of State for formal Examination following Regulation 19 consultation;**
 - (e) authorises the Director of Economy and Infrastructure, in consultation with the Cabinet Member with responsibility, to undertake consultation as necessary on any modifications arising from that Examination; and**
 - (f) agrees that the Minerals Local Plan is returned to Full Council with the Inspector's recommendations with a view to final decision on its adoption.**

Background

- 2. Worcestershire County Council is the Local Planning Authority (LPA) for minerals and waste in Worcestershire. The Council adopted the Waste Core Strategy in 2012 and has subsequently been working on the development of the Worcestershire Minerals Local Plan. This will replace the County of Hereford and**

Worcester Minerals Local adopted in 1997, which has been superseded by changes in national planning policy with only a few saved policies remaining.

3. The Minerals Local Plan is the statutory planning document which provides the overall policy framework used for determining all applications for mineral development proposals in the county of Worcestershire. This includes aggregate minerals (sand and gravel, and crushed rock), industrial minerals (including brick clay and silica sand), and energy minerals (including coal and unconventional hydrocarbons).

4. The Minerals Local Plan covers the whole of the county of Worcestershire and, once adopted, will be a Development Plan Document, and form part of the Development Plan for Worcestershire. This means that it sits alongside the district Local Plans and the Waste Core Strategy and must be used to determine any minerals-related planning matters in the county. It provides for the steady and adequate supply of minerals in the county until 2035. The Minerals Local Plan will be used by planning officers and the Planning and Regulatory Committee to make decisions about planning applications for mineral extraction, processing and restoration. It will also be used by the City, Borough and District Councils to ensure other types of development do not sterilise mineral resources or negatively impact mineral infrastructure.

5. The Minerals Local Plan must enable a steady and adequate supply of minerals from the county to contribute towards supplying both local and national demand. The majority of mineral working in the county is sand and gravel for the aggregate industry. Brick clay is also worked in the north of the county for brick making, a small amount of silica sand is dug for industrial purposes, and a small amount of brine is extracted for making food-grade salt. There are also building stone, crushed rock and coal deposits in the county, but these are not currently worked.

6. In accordance with the adopted Local Development Framework, the Minerals Local Plan will, subject to Council approval, be subject to consultation requirements set out in Regulation 19 of the Town and Country Planning Regulations 2012 (Regulation 19) (pre-submission consultation). The Plan (along with proposed submission documents) needs to be published. This means the Plan must be made available for inspection for a period of at least 6 weeks to enable interested parties to make representations. These representations will be considered by an appointed Planning Inspector at independent Examination. The Council does not formally consider or respond directly to representations made to the publication of the Plan. It is required to collate, summarise the main issues, and then submit representations to the Secretary of State for Examination alongside the Plan.

7. Nevertheless, it is wholly appropriate for representations made at the publication stage to be reviewed by the Council. This may enable more straightforward solutions to be prepared and submitted for consideration early on at the Examination. It will also assist the Council to prepare for key substantial responses to particular issues brought forward for consideration by the Planning Inspector at the Examination.

8. The pre-submission consultation will run from Monday 19 August to Monday

30 September 2019. the Plan will be submitted to the Secretary of State for formal Examination in December 2019.

9. When the Plan is submitted, it must be accompanied by a number of documents under Regulation 22, including the Sustainability Appraisal Report, a submission policies map, a statement setting out details of the consultations which have taken place and how issues raised have been addressed, copies of any representations made in response to the pre-submission consultation, and any such supporting documents as in the opinion of the Council are relevant to the preparation of the Plan.

10. Following submission, the Minerals Local Plan will be subject to Examination in Public. The Planning and Compulsory Purchase Act 2004 (as amended) states that the purpose of an Examination is to consider whether plans comply with the legal requirements, meet the duty to co-operate and are sound. These matters will be determined by the Planning Inspector appointed by the Secretary of State.

11. The Inspector will check that the Plan meets the legal requirements under s20(5)(a) and the duty to co-operate under s20(5)(c) of the 2004 Act before moving on to test for soundness.

12. The 2004 Act establishes that non-compliance with the duty to co-operate cannot be rectified after the submission of the Plan. The Inspector has no power to recommend modifications in this regard. Where the duty has not been complied with, the Inspector has no choice but to recommend non-adoption.

13. The examination will then focus on the main issues that the Inspector considers are fundamental to the "soundness" of the Plan. Inspectors will start from the assumption that the Council as LPA has submitted what it considers to be a sound plan. The National Planning Policy Framework (February 2019) sets four tests of soundness at para 35:

- **Positively prepared** – providing a strategy which, as a minimum, seeks to meet the area's objectively assessed needs; and is informed by agreements with other authorities, so that unmet need from neighbouring areas is accommodated where it is practical to do so and is consistent with achieving sustainable development;
- **Justified** – an appropriate strategy, taking into account the reasonable alternatives, and based on proportionate evidence;
- **Effective** – deliverable over the plan period, and based on effective joint working on cross-boundary strategic matters that have been dealt with rather than deferred, as evidenced by the statement of common ground; and
- **Consistent with national policy** – enabling the delivery of sustainable development in accordance with the policies in this Framework.

14. If a plan is found unsound at the Examination, the Inspector will recommend that it is not adopted (although an Inspector must recommend modifications that would make a Local Plan sound if asked to do so by the LPA). If "main modifications" (changes that materially affect the policies) are identified through the Examination process as being required to make the submitted Minerals Local

Plan sound and legally compliant, the Inspector will require these to be consulted on by the LPA. The Inspector will then consider the representations on these modifications. "Additional modifications" can also be proposed to deal with more minor matters.

15. At the end of the Examination in Public, the Inspector will publish a report on the Plan, which will recommend that it should be adopted, that it should be adopted with modifications, or that it should not be adopted. The Plan will then be returned to Full Council with the Inspector's recommendation for the Council to decide whether to adopt the Plan.

16. The timetable for this Examination and subsequent report is determined by the Planning Inspectorate. However, within the Local Development Scheme the indicative timetable suggests that the Examination would take place during 2020, with receipt of the Inspector's report during the second half of 2020, and adoption in either late 2020 or early 2021.

17. The draft Minerals Local Plan is attached, and in outline addresses the following matters:

- A vision and six objectives for what the Plan seeks to achieve.
- A spatial strategy, directing development to five strategic corridors, and setting a preference for development within allocated sites, subject to other policies being met. The spatial strategy also sets green infrastructure priorities for each strategic corridor.
- Policies for the provision being made for each type of mineral, including a policy to encourage the use of substitute, secondary and recycled materials and mineral wastes.
- Criteria-based policies to assess the suitability of proposals (both strategic and non-strategic).
- Minerals safeguarding policies to ensure mineral resources and supporting infrastructure are not sterilised by other development.

18. The Minerals Local Plan has been through a number of consultations to inform its development prior to the proposed Regulation 19 consultation. The consultations were:

- First Stage consultation; 9 October 2012 to 11 January 2013
- Second Stage consultation; 11 November 2013 to 31 January 2014
- Third Stage consultation; 14 December 2016 to 31 January 2017
- Fourth Stage consultation; 14 December 2018 to 8 February 2019.

19. To support the development of the Minerals Local Plan, a series of calls for sites have also been undertaken to identify minerals sites for allocation in Worcestershire. In total four calls for sites were undertaken. The responses to these calls for sites will inform "preferred area" and "specific site" allocations through a separate Mineral Site Allocations Development Plan Document. This approach is to ensure that the strategic elements of the Minerals Local Plan could be progressed as quickly as possible to provide certainty over the vision, objectives, spatial strategy and development management policies, whilst also accommodating the requirement outlined in the National Planning Policy Framework to review plans every five years. Taking forward the Minerals Local Plan with a separate Sites Development Plan Document allows for greater flexibility in reviewing the plan documents to address sites requirements or

changes to policy. The Sites Development Plan Document will be prepared in line with the timetable set out in the Local Development Scheme, with Preferred Options consultation in quarter 3 or 4 2020.

20. All the consultations were undertaken in accordance with the adopted Worcestershire County Council Statement of Community Involvement (adopted February 2015) and included formal press notices in local print media, press releases and promotion through the Council's social media accounts including Twitter and Facebook, plus direct email or letters to all those registered on the planning consultation database for Minerals Planning Policy updates, including statutory consultees.

21. The Plan development and consultations have also been accompanied by a series of statutory assessments, including Sustainability Appraisal (SA), Habitats Regulations Assessment (HRA) and Strategic Flood Risk Assessment (SFRA), plus Equalities and Health Impact Assessments.

Next Steps

22. Subject to Full Council approval, the Publication Version of the Minerals Local Plan will be published for Regulation 19 consultation for a minimum of six weeks commencing on Monday 19 August 2019.

23. Comments arising from a Regulation 19 consultation are limited to plan soundness and conformity with national planning policy and legislation. These comments are submitted to the Secretary of State alongside the draft Plan.

24. Subject only to any minor amendments arising from the Regulation 19 consultation, the draft Plan would then be submitted to the Secretary of State in December 2019, for Examination in Public. The timescale for the Examination will be determined by the Planning Inspectorate but is anticipated that hearing sessions may take place in spring or summer 2020.

Legal, Financial and HR Implications

25. There are financial implications associated with the ongoing preparation of the Minerals Local Plan development work is a core funded activity supported by specific reserve to fund specialist work and to cover the cost of Examination in Public. The scale of this examination will reflect the scale of responses to the formal consultation. Internal staff resources in the Strategic Planning and Environmental Policy team are dedicated to producing the Minerals Local Plan and the associated documents including the Habitats Regulations Assessment and supervision of consultants producing the Sustainability Appraisal.

26. External consultants are being used where there is demonstrable value for money in supporting internal staff resources. Additional costs will be incurred through consultation and examination which will include the procurement of external expertise. A specific reserve of £20,016 for 2019-2021 is expected to be sufficient to cover the remaining financial implications.

27. Planning-related decisions can impact on an individual's rights under the

Human Rights Act 1998. There is scope within the planning system for people to exercise their rights to make formal representations on plans when they are being developed. There are opportunities for views to be made, and to be taken into account. A robust framework is in place to ensure the protection of people's rights.

Risk Implications

28. Subject to approval by Council, the draft Minerals Local Plan will be submitted to the Secretary of State for formal Examination in Public with a Planning Inspector.

29. The timing, date and length of the Examination in Public are determined by the Planning Inspector, who will also decide on topics to discuss based on representations arising from the consultation. This is expected to be in quarter 1 or 2 2020.

30. The Inspector will subsequently determine whether the plan is in conformity with national planning legislation, and through the subsequent report on the Examination and any modifications direct as to whether the plan can be adopted by Council or whether it must be withdrawn, and further work undertaken.

Privacy and Data Protection Impacts and Risk assessment

31. None identified as a direct result of this report.

Equality and Diversity Implications

32. An Equality Relevance Screening has been completed in respect of these recommendations. The screening did not identify any potential Equality considerations requiring further consideration during implementation.

Contact Points

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Supporting Information

- Appendix 1 Local Development Scheme

Background Papers

In the opinion of the proper officer (in this case the Director of Economy and Infrastructure) the following are the background papers relating to the subject matter of this report:

- Summary of Minerals Local Plan Development
- Minerals Local Plan (publication version)

Statutory Assessments of the Minerals Local Plan:

- Sustainability Appraisal
- Habitats Regulations Assessment
- Health Impact Assessment
- Equalities Impact Assessment
- Strategic Flood Risk Assessment