

**CABINET**  
**24 SEPTEMBER 2020****MINERALS AND WASTE LOCAL DEVELOPMENT SCHEME**

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**Relevant Cabinet Member**

Cllr Ken Pollock

**Relevant Officer**

Strategic Director of Economy and Infrastructure

**Local Member(s)**

N/A

**Recommendation**

**1. The Cabinet Member with Responsibility for Economy and Infrastructure recommends that Cabinet:**

- (a) approves the Minerals and Waste Local Development Scheme (LDS) September 2020 – December 2023 to come into effect on 30 September 2020;**
- (b) authorises the Strategic Director of Economy and Infrastructure to make minor amendments to the LDS prior to publication.**
- (c) Delegates authority during the period 2020-2023 to the Strategic Director of Economy and Infrastructure, in consultation with the Cabinet Member with Responsibility for Economy and Infrastructure, to approve updates to the Mineral and Waste Local Development Scheme, subject to call-in;**
- (d) Agrees that an updated Mineral and Waste Local Development Scheme be returned to Cabinet for approval in 2023.**

**Background**

2. Worcestershire County Council is the Local Planning Authority for minerals and waste planning for the county of Worcestershire. Section 15 of the Planning and Compulsory Purchase Act 2004, as amended, sets out the requirement for Local Planning Authorities to prepare and maintain a scheme and schedule of planning policy documents that it intends to produce, known as a Local Development Scheme. The Minerals and Waste Local Development Scheme (LDS) has two main purposes:

- To inform the public about the preparation and adoption of planning documents; and
- To establish and reflect Council priorities and enable work programmes to be set for the preparation of the documents.

3. As circumstances change and the process of making development plans moves forward, it is necessary to review and revise the LDS in order to keep it up to date. The LDS at Appendix 1 is proposed to replace the previous document which came into effect in July 2018.

4. Whilst the Planning and Compulsory Purchase Act allows the Council discretion to revise the LDS “at such time as they consider appropriate” (S15 (8)), recent Government guidance<sup>1</sup> suggests that the LDS is expected to be reviewed and updated at least annually. In order to balance appropriate use of Cabinet time and maintaining appropriate political oversight and awareness of mineral and waste policy development, this report recommends the delegation of more frequent LDS updates to the Strategic Director of Economy and Infrastructure, in consultation with the Cabinet Member with Responsibility for Economy and Infrastructure, with a commitment to return an updated LDS to cabinet for approval in 2023.

5. This revised LDS extends the timetable for the examination and adoption of the Minerals Local Plan, and the timetable for the production of the Mineral Site Allocations Development Plan Document due to delays caused by the Covid-19 pandemic. It also outlines the consequent changes to the timetable for commencing the review and revision of the adopted Waste Core Strategy for Worcestershire. The main proposed changes to the LDS are set out below:

### **Worcestershire Minerals Local Plan**

6. Minerals development in Worcestershire is currently guided by national policy and by those policies within the 1997 'County of Hereford and Worcester Minerals Local Plan' that have not yet expired. Once adopted, the emerging Minerals Local Plan for Worcestershire will replace the 1997 Plan.

7. The emerging plan was submitted to the Secretary of State for Examination in Public in December 2019, and public hearing sessions were scheduled to take place in May and June 2020, in line with the 2018 LDS. The Covid-19 pandemic and resulting restrictions meant that the hearing sessions had to be postponed by the Planning Inspectorate. Officers have been working with the Planning Inspectorate to explore how the examination can move forward to the hearing stage whilst ensuring fair opportunities for participation and observation of the proceedings. It is likely that the hearings will take place either by virtual technology or in a blended “physical and virtual” format in November 2020.

8. Following the public hearing sessions, and prior to the appointed Inspectors being able to write their report on the soundness of the Plan, the Planning and Compulsory Purchase Act 2004 (as amended) and Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) require any modifications to be subject to further Sustainability Appraisal, and a period of consultation on the proposed modifications to be undertaken.

9. The delays to the examination of the Minerals Local Plan are beyond the Council’s control but mean that the Inspector’s Report will not be received in Q3 or

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<sup>1</sup> Ministry of Housing, Communities and Local Government, Planning Practice Guidance: “Plan-making” Paragraph: 035 Reference ID: 61-035-20190723, Revision date: 23 07 2019

Q4 of 2020, as anticipated in the 2018 LDS. Receiving the Inspectors' Report marks the end of the formal period of Examination in Public. This means that the Plan cannot be returned to full Council for adoption in Q4 2020 or Q1 2021, as anticipated in the 2018 LDS.

10. At present, the ongoing and potential for future restrictions could mean that consultation on the modifications may need to be delayed, or that a longer period of consultation required than would usually be the case, in order to ensure all legislative requirements are met and to ensure fair opportunity for public participation. To take account of this, and to avoid any potential conflict with the forthcoming election period, significant flexibility is included within the revised LDS, which now anticipates:

- Independent examination (including consultation on modifications) to continue until receipt of the Inspectors' Report in Q3 or Q4 2021
- Adoption of the Minerals Local Plan in Q4 2021 or Q1 2022

11. Once adopted by Council, the Minerals Local Plan will be subject to the requirement for regular review every 5 years from adoption. This requirement means an assessment must be carried out of whether the plan remains relevant and effectively addresses the needs of the local community, or whether policies need updating. This will result in either publishing the reasons that policies or allocations do not need updating, or in updating the Local Development Scheme to set out the timetable for revising the plan. This review will be undertaken as part of the annual Authority Monitoring Report (AMR).

### **Mineral Site Allocations Development Plan Document**

12. Since the July 2018 LDS came into effect, the following progress has been made in the development of the Mineral Site Allocations Development Plan Document (DPD):

- Consultation on proposed mineral site selection methodology (December 2018-February 2019)
- Call for sites (January-March 2020)
- Commissioning consultants to undertake Strategic Flood Risk Assessment, Sustainability Appraisal, and Habitat Regulations Assessment.
- Progress in site visits and drafting policy options.

13. The Covid-19 pandemic has resulted in some delays to the programme because of the resulting restrictions on officers' ability to visit sites, and furloughed staff at consultancies and mineral companies. In addition, the majority of officers' time in the Mineral and Waste Planning Policy team will still be engaged in the examination of the Minerals Local Plan over the coming months.

14. As the Mineral Site Allocations DPD will provide local policies which will be read alongside the strategic policies set by the Minerals Local Plan, and to minimise the potential for any confusion between the process for the two documents, consultation on the "preferred options" version of the Mineral Site Allocations DPD will take place once the Minerals Local Plan main modifications consultation has been concluded and the Inspectors' Report received.

15. The revised LDS therefore takes into account the new timescales for the Minerals Local Plan and builds from this the anticipated timescales for the development and examination of the Mineral Site Allocations DPD:

- Preparation of Preferred Options consultation documents up to Q4 2021
- Statutory assessments of Preferred Options documents Q3-Q4 2021
- Preferred Options public consultation Q1-Q2 2022
- Consideration of representations Q3-Q4 2022
- Preparation of Publication documents Q4 2022 – Q1 2023
- Statutory assessments of Publication documents Q1-Q2 2023
- Publication / pre-submission consultation Q2-Q3 2023
- Preparation for submission Q3-Q4 2023
- Submission Q4 2023 or beyond the period of this LDS
- Independent examination – commencing on submission and continuing beyond the period of this LDS
- Receipt of Inspector's Report beyond the period of this LDS
- Adoption beyond the period of this LDS

16. As there are significant uncertainties inherent in this timetable, it is very likely that the LDS will need to be revised during the course of the development of the Mineral Site Allocations DPD.

17. Once adopted by Council, the Mineral Site Allocations Development Plan Document will be subject to the requirement for regular review every 5 years from adoption. This requirement means an assessment must be carried out of whether the plan remains relevant and effectively addresses the needs of the local community, or whether policies need updating. This will result in either publishing the reasons that policies or allocations do not need updating, or in updating the Local Development Scheme to set out the timetable for revising the plan. This review will be undertaken as part of the annual Authority Monitoring Report (AMR).

## **Waste Core Strategy for Worcestershire**

18. The 2018 LDS timetable also included the start of the review and revision of the Waste Core Strategy. The Waste Core Strategy was adopted in 2012 and its implementation has since been monitored through the annual Authority Monitoring Report. Although the plan is for the period 2012-2027, the July 2018 LDS anticipated the requirement to review the plan regularly to ensure that it remains relevant and responds to changes in local context and national policy.

19. The latest Authority Monitoring Report (published July 2020) includes a statement on the review of the Waste Core Strategy. This concludes that although the majority of the objectives of the Waste Core Strategy are being delivered, there are some areas which need to be addressed through policy revisions. More detailed review of the evidence will guide whether only parts of the plan need to be revised, or whether full revision is required.

20. The submission and examination of the Minerals Local Plan and the preparation of the Mineral Site Allocations Development Plan Document were given priority in the July 2018 LDS, and this is maintained in the revised LDS with consequent changes to the timetable for commencing this work due to the delays to the Minerals Local

Plan caused by the Covid-19 pandemic. This is as soon as practicable given the need to progress the Minerals Development Plan Documents within existing staffing resources, and is considered to be an appropriate means of securing compliance with review requirements.

- Detailed review, establishing scope and purpose of revision of Waste Core Strategy Q3 2021 – Q3 2022
- Preparatory work and development of Issues and Options consultation documents Q3 2022 – Q4 2023
- Issues and Options public consultation and all other stages, beyond the period of this LDS

21. The implementation of the Waste Core Strategy will continue to be monitored through the annual Authority Monitoring Report and the LDS will be revised if the need for a more urgent review and revision of the Waste Core Strategy is identified (for example if changes of circumstance or national policy cause the WCS policies to become out of date, reducing their weight as planning considerations), or if additional resources are available to bring these timescales this forward.

### **Legal, Financial and HR Implications**

22. There are financial implications associated with preparing the documents set out within the LDS. Plan development work is a core funded activity supported by specific reserve to fund specialist development plan work and to cover the cost of examination in public. The scale of each examination will reflect the scale of responses to the formal consultations.

23. Internal staff resources in the Mineral and Waste Planning Policy Team, supported by the Strategic Planning and Environmental Policy team, are dedicated to producing the Minerals Local Plan, Mineral Site Allocations Development Plan Document and revising the Waste Core Strategy, including producing the necessary evidence documents and supervising the consultants producing the various appraisals and assessments required.

24. External consultants are being used where there is demonstrable value for money and to maximise efficiency in supporting internal staff resources. Additional costs will be incurred through consultation and examination which will include the procurement of external expertise. This has been costed and a budget agreed with Finance for the Minerals Local Plan and the Mineral Site Allocations DPD. The budget for the Waste Core Strategy review and revision is being developed.

### **Risk Implications**

25. The Planning and Compulsory Purchase Act 2004 (as amended) requires Development Plan Documents to be prepared “in accordance with the local development scheme”. If a planning authority has not prepared a Local Development Scheme, if the scheme is not kept up to date, or if the Council is not preparing documents in accordance with the Local Development Scheme, the Secretary of State has the power to prepare one for the Authority and to direct the Authority to bring that scheme in to effect. The Secretary of State also has the power to direct the authority to make such amendments to the scheme as he thinks appropriate for the purpose of ensuring effective coverage of the authority’s area by the development

plan documents (taken as a whole) for that area. It is therefore necessary to ensure that the Local Development Scheme is kept up to date.

26. The ongoing uncertainties relating to Covid-19 restrictions and their implications for planning policy development and examination are outlined above. The revised LDS takes these uncertainties in to account as fully as possible, allowing greater flexibility at each stage of the timetable for the Minerals Local Plan. This report also recommends delegating any further updates to the LDS to the Strategic Director of Economy and Infrastructure, in consultation with the Cabinet Member with Responsibility for Economy and Infrastructure, over the period 2020-2023. This will enable the Council to respond more quickly to any changing circumstances.

### **Joint Equality, Public Health, Data Protection and Sustainability Impact Assessments**

27. A joint impact assessment (JIA) screening has been completed for the Local Development Scheme.

28. The JIA screening did not identify any potential considerations requiring further assessment during implementation, as the Local Development Scheme sets the timetable for various mineral and waste development plan documents (planning policies) which the Council will develop and/or revise over the next three years, and the Local Development Scheme itself cannot impact these issues. However, each Development Plan Document will be subject to equality, health, and environmental/sustainability assessments as they are developed.

29. The screening report is included as an appendix to the cabinet report.

### **Supporting Information**

Available electronically

- Appendix 1 Minerals and Waste Local Development Scheme (September 2020 – December 2023)
- Appendix 2 Project screening report (Impact Assessment Id: #96)

### **Contact Points**

#### County Council Contact Points

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## **Background Papers**

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

Minerals and Waste Local Development Scheme adopted July 2018

[http://www.worcestershire.gov.uk/download/downloads/id/10191/minerals\\_and\\_waste\\_local\\_development\\_scheme\\_july\\_2018.pdf](http://www.worcestershire.gov.uk/download/downloads/id/10191/minerals_and_waste_local_development_scheme_july_2018.pdf)