

CABINET

26 MAY 2022

ADOPTION OF WORCESTERSHIRE MINERALS LOCAL PLAN

Relevant Cabinet Member

Marc Bayliss, Cabinet Member for Economy, Infrastructure and Skills

Relevant Chief Officer

John Hobbs, Strategic Director for Economy and Infrastructure

Local Member(s)

All members

Recommendation

1. The Cabinet Member with Responsibility for Economy, Infrastructure and Skills recommends that Cabinet approves the Worcestershire Minerals Local Plan and Policies Map for recommendation to Council for adoption, with the main modifications recommended by the Inspectors and the additional modifications which are necessary to clarify the plan but which do not materially affect its policies.

Background

2. A Minerals Local Plan for Worcestershire has been developed. It has been subject to examination in public by independent Planning Inspectors appointed by the Secretary of State, and this report proposes that it should be adopted by Worcestershire County Council under the provisions set out in the Planning and Compulsory Purchase Act 2004 (as amended).

Purpose of the Minerals Local Plan

3. Worcestershire County Council is the Local Planning Authority (LPA) for minerals and waste in Worcestershire. The Council adopted the Waste Core Strategy in 2012. The Worcestershire Minerals Local Plan proposed for adoption will replace the saved policies which remain in the last County of Hereford and Worcester Minerals Local (1997). These saved policies have largely been superseded by changes in national planning policy.

4. The Minerals Local Plan being proposed for adoption 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 will sit alongside the district Local Plans and the Waste Core Strategy and must be used to determine any minerals-related planning matters in the county. 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 which are not currently worked, but the Minerals Local Plan contains policies to enable any planning applications for these minerals to be assessed and determined.

6. In outline, the Minerals Local Plan addresses the following matters:

- A 15-year vision and six objectives for the plan.
- 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 where this should be avoided.

Development of the Minerals Local Plan

7. A number of consultations were undertaken to inform the development of the Minerals Local Plan:

- 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.

8. All the consultations were undertaken in accordance with the adopted Worcestershire County Council Statement of Community Involvement 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.

9. The Minerals Local 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.

10. On 18 July 2019 (minute number 2110), on the recommendation of Cabinet, the Council resolved to consult upon the Publication Version of the Minerals Local Plan and then submit it to the Secretary of State for examination. Consultation on the Publication Version was undertaken from 19 August 2019 to 30 September 2019.

Examination of the Minerals Local Plan

11. Following the consultation on the Publication Version of the Minerals Local Plan, it was submitted to the Secretary of State in December 2019 along with the representations which were made during the consultation. Written statements were invited in relation to matters, issues and questions identified by the Inspectors, and examination hearing sessions were held in November and December 2020.

12. To assist the Inspectors, potential modifications were developed by Council officers in response to the representations, matters, issues and questions, and action points raised through the examination hearing sessions. These included both potential “Main Modifications” which are required to address issues of soundness¹ or legal compliance, as well as some more minor “Additional Modifications”. A number of assessments were undertaken to assess the potential impacts of the proposed Main Modifications. The proposed Main Modifications and the supporting assessments were subject to public consultation between August and October 2021 and the responses received were passed to the Inspectors.

The Inspectors’ Report

13. The Planning Inspectorate issued the Inspectors’ Report on the examination of the Minerals Local Plan on 6 May 2022.

14. The Inspectors have taken into account all the representations, the written evidence and the discussions that took place at the examination hearings, and identified a number of main issues upon which the soundness of the Plan depends. The report deals with those main issues, but does not respond to every point or issue raised by representors, nor does it refer to every policy, policy criterion or land use designation in the Plan.

15. The Inspectors’ Report concludes that the duty to co-operate has been met, and that other legal requirements have been complied with.

16. In considering whether the tests of soundness have been met, the report concludes that the Worcestershire Minerals Local Plan provides an appropriate basis for the planning of minerals for the County, provided that a number of main modifications are made to it. The Inspectors have taken account of the responses to the consultation on the potential modifications and have made some amendments to the detailed wording of the main modifications where these are necessary for consistency or clarity. Their report states that “none of the amendments significantly alters the content of the modifications as published for consultation or undermines the participatory processes and sustainability appraisal/habitats regulations assessment that has been undertaken”.

17. This means that, if the main modifications are accepted, the plan is ‘sound’ and can be adopted by the Council. The recommendation of main modifications is a normal part of the examination process.

18. The Inspectors’ Report summarises the main modifications as follows:

- Emphasising the existence and possible effect of functionally linked land on minerals development²;

¹ Tests of soundness are set out in the National Planning Policy Framework, and require Local Plans to be positively prepared, justified, effective, and consistent with national policy.

² This relates to the potential for minerals development in the county to affect European protected habitat sites beyond the county boundary.

- Revising the approach to the strategic location of development to more clearly set out the approach to development within and outside of strategic corridors;
- Revising the mineral supply policies to ensure that they contain targets and the scale of provision required;
- Amending the Development Management policies to provide clarification and consistency with the National Planning Policy Framework (NPPF)³;
- Revising the approach to the safeguarding of mineral resources and infrastructure to ensure more safeguarding and to reflect the ‘agent of change’ principle;
- Revising the implementation and monitoring framework to include triggers for targets to ensure a more robust mechanism to assess the effectiveness of the Plan; and
- A number of other modifications to ensure that the plan is positively prepared, justified, effective and consistent with national policy.

19. The full list of Main Modifications can be found in Appendix 1 of the Inspectors’ Report.

Adoption of the Minerals Local Plan

20. As the Inspectors have recommended Main Modifications, the Council may only adopt the Minerals Local Plan if these are included in their entirety. The Council cannot choose to adopt it without those Main Modifications. If the Council did not want to accept the recommended Main Modifications, the only alternative is to resolve to withdraw the plan, modify it, undertake further consultation on it, and resubmit it to the Secretary of State for further examination.

21. However, the Council does have discretion in relation to the Additional Modifications. Additional Modifications are minor alterations which, taken together, do not materially affect the policies that would be set out in the Local Plan. The Additional Modifications aid the clarity and internal consistency of the document. Additional modifications were also published alongside consultation on the Main Modifications, and no comments were received on them. Some further Additional Modifications are required to update specific references to the revised National Planning Policy Framework (see the Schedule of Additional Modifications).

Next steps

22. Following adoption, the County Council must make available the Minerals Local Plan, an adoption statement, the Sustainability Appraisal Report and a Sustainability Appraisal Post-Adoption Statement, and details of where and when the Minerals Local Plan is available for inspection. It must also send a copy of the adoption statement to the Secretary of State and to all consultees who have requested to be notified of plan preparation progress including the adoption of the Minerals Local Plan.

23. The Minerals Local Plan includes a suite of indicators which will be assessed each year through the Council’s Authority Monitoring Report to monitor the implementation of

³ The National Planning Policy Framework (NPPF) was updated in July 2021, during the course of the examination. Whilst some modifications are necessary to reference the revised NPPF paragraph numbers and wording, none of the NPPF revisions significantly impacted on the scope and content of the Plan and, consequently, the publication of the revised NPPF during the examination did not alter the Inspectors’ recommendations on soundness.

the plan's policies. The Council must review the Minerals Local Plan at least once every 5 years from its adoption date to ensure that policies remain relevant and effectively address the needs of the local community, and performance against these indicators will inform whether/when a partial or complete revision of the Minerals Local Plan will be required.

Conclusion

24. In conclusion, Cabinet is now asked to recommend to Council to accept the Inspectors' report, make the Main and Additional Modifications recommended, and to formally adopt the Minerals Local Plan as part of the Development Plan for Worcestershire.

Legal, Financial and HR Implications

25. Following adoption by Council, there is a period in which any aggrieved person may apply to the High Court under Section 113 of the Planning and Compulsory Purchase Act 2004 (as amended) for leave to challenge whether the document is within the power of Part 2 of the Planning and Compulsory Purchase Act 2004 (as amended), or that a procedural requirement has not been complied with. Any such application must be made before the end of the period of six weeks beginning with the day after the plan is adopted.

26. It is not possible to predict whether any persons will choose to pursue this course of action and whether they would be successful in doing so. To minimise this risk, legal compliance of the Minerals Local Plan itself and the procedures undertaken in its development have been carefully considered by the County Council, as well as through the examination process. The Inspectors' Report states that the Inspectors are satisfied that the duty to co-operate has been met, and summarises their examination of the legal compliance of the Plan.

27. Minerals Local Plan development work is a core funded activity and delivered within the existing budgets within the service area. The service has sufficient funds to cover the financial implications associated with the administrative requirements of preparing and making available the Minerals Local Plan, the adoption statement, the Sustainability Appraisal Report and Sustainability Appraisal Post-Adoption Statement, and details of where and when the Minerals Local Plan is available for inspection. As such, there are no additional financial implications arising from this report as the Council budgets and plans for sufficient funding to be available to deliver this statutory requirement from within existing resources.

28. 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 have been opportunities for views to be made during the development of the Minerals Local Plan, and these have been taken into account. There is also opportunity for views to be made on individual planning applications.

Risk Implications

Non-adoption

29. In the event that Council were to resolve not to adopt the Minerals Local Plan, the County Council would be at risk of being placed in 'Special Measures'. The key sanction

would be the removal of control from the Council of plan making and the appointment of an outside Inspector and consultants to produce the local plan at the Council's expense, with limited input from local Members. The Council would be heavily reliant upon national policy set out in the National Planning Policy Framework (NPPF) when determining planning applications. This does not reflect the local considerations which have influenced the vision, objectives and policies set out in the Minerals Local Plan and would mean that the County Council would have much less influence over the distribution, scale and nature of future mineral developments.

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

A **joint impact assessment (JIA)** screening has been completed.

The JIA screening did not identify any potential considerations requiring further assessment during implementation.

The JIA was informed by the fact that Equality Impact Assessment Relevance Screening, Health Impact Assessment, Sustainability Appraisal and Habitat Regulations Assessment has been undertaken as an iterative process throughout the development of the Minerals Local Plan.

Supporting Information

Appendices available electronically

- Appendix 1 - Proposed final version for adoption: Worcestershire Minerals Local Plan

- Appendix 2a - Planning Inspectorate Report on the Examination of the Worcestershire Minerals Local Plan (the "Inspectors' Report")

- o Appendix 2b: Schedule of Main Modifications

- Appendix 3 - Schedule of Additional Modifications

- Appendix 4 - Joint Impact Assessment Screening Report

Contact Points

County Council Contact Points

County Council: 01905 763763

Specific Contact Points for this report

Emily Barker, Head of Planning and Transport Planning

Tel: 01905 846723

Email: ebarker@worcestershire.gov.uk

Marianne Pomeroy, Team Leader (Minerals and Waste Planning Policy)

Tel: 01905 844578

Email: mpomeroy@worcestershire.gov.uk

Background Papers

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

1. [Publication Version of the Minerals Local Plan](#)
2. Sustainability Appraisal – [Main Modifications Addendum](#) and [Addendum Annex](#)
3. Updated Habitats Regulation Assessment – [Screening and Appropriate Assessment](#)
4. [Equality Impact Assessment Relevance Screening](#) Impact Assessment Relevance Screening Main Modifications
5. [Health Impact Assessment Statement July 2021](#)
6. [Previous Cabinet and Council papers](#)
 - Cabinet, 6 June 2019
 - Reports pack, agenda item 5
 - Minutes, minute 1912
 - Council, 18 July 2019
 - Reports pack, agenda item 5
 - Minutes, minute 2110