

TITLE	Central and Eastern Berkshire Joint Minerals and Waste Plan – Adoption
FOR CONSIDERATION BY	Council on 19 January 2022
WARD	None specific;
LEAD OFFICER	Director, Place and Growth - Steve Moore
LEAD MEMBER	Executive Member for Planning and Local Plan Lindsay Ferris

OUTCOME / BENEFITS TO THE COMMUNITY

This report seeks approval to adopt the Central and Eastern Berkshire Joint Minerals and Waste Plan (the Joint Plan) with the main modifications recommended by the Planning Inspectors who undertook its examination. These modifications are required in order to make the plan sound.

Adopting the Joint Plan will ensure there is an up-to-date planning strategy for mineral extraction and waste management, and planning policies which will be used as the starting point to determine planning applications for mineral and waste matters. This provides the council with greater influence and control over planning applications for mineral extraction and waste management uses.

RECOMMENDATION

That Council:

- 1) adopt the Central and Eastern Berkshire Joint Minerals and Waste Plan, (Enclosure 2), which incorporates the Main Modifications recommended by the Planning Inspectors (Enclosures 3 and 4)
- 2) agree to make alterations to the adopted Policies Map (Enclosure 5) that are necessary to give effect to the policies of the Joint Plan;
- 3) authorise the Director of Place and Growth, in consultation with the Executive Member for Planning and Local Plan, to agree minor amendments necessary to the Joint Plan and other supporting documents ahead of publication and publicity.

EXECUTIVE SUMMARY

National planning policy requires local authorities to regularly review, and where necessary, update their local plans – the documents that contains the council's planning policies and are used as the starting point for determining planning applications.

The preparation of a new local plan – the Central and East Berkshire Joint Minerals and Waste Plan (hereafter referred to as the Joint Plan) – will ensure that planning policies continue to be effective in managing the decisions on minerals and waste related development proposals.

The Joint Plan has been prepared in partnership with the Royal Borough of Windsor and Maidenhead (RBWM), Bracknell Forest Council and Reading Borough Council (hereafter referred to as the joint authorities) to reflect the strategic nature of minerals and waste matters which in other areas is a county council function.

Local plans must be prepared in consultation with the local community and other stakeholders, and there have been several stages of public consultation.

The joint authorities consulted on a pre-submission version of the Joint Plan from 3 September – 15 October 2020. The Joint Plan and supporting documents were subsequently submitted for independent examination in February 2021, with public hearing sessions taking place in September and October 2021. Through the examination process, a number of modifications were proposed to the Joint Plan in order to ensure it is 'sound.' In total 82 main modifications are proposed. These modifications take into account updates to national planning policy and guidance and propose changes to policies.

There are no proposed minerals or waste allocations in Wokingham Borough in the Joint Plan, but there are several others in the wider plan area. The main modifications do not propose any additional sites for minerals or waste uses.

The recommendations of this report are to adopt the Joint Plan which incorporates the main modifications. The Joint Plan will then be the starting point for the determination of related planning applications. The adoption of the Joint Plan is the last stage of the plan making process, and is the culmination of evidence gathering, public consultations, stakeholder engagement, and plan preparation over several years. The plan period for the Joint Plan is up to 31st December 2036.

Recommendation 3 of this report seeks to authorise the Director of Place and Growth in consultation with the Executive Member for Planning and Local Plan to agree minor amendments to the consultation material including the main modifications.

The decision to adopt the Joint Plan will be publicised in accordance with the Regulations. This includes the preparation of an Adoption Statement that sets out when the decision was made to adopt the development plan document, a summary of the plan making process, and where the Joint Plan and supporting documents can be viewed.

It should be noted that the adoption of the Joint Plan will replace the existing minerals and waste local plans for Wokingham Borough, consisting of the Replacement Minerals Local Plan for Berkshire (adopted in 1995 but subject to Alterations in 1997 and 2001) and the Waste Local Plan for Berkshire (1998).

BACKGROUND

Click or tap here to enter text. National planning policy requires local authorities to regularly review, and where necessary, update their local plans – the documents that contains the council’s planning policies and are used as the starting point for determining planning applications.

The preparation of a new local plan – the Central and East Berkshire Joint Minerals and Waste Plan (hereafter referred to as the Joint Plan) ensures that planning policies continue to be effective in managing the decisions on minerals and waste related development proposals.

The Joint Plan has been prepared in partnership with the Royal Borough of Windsor and Maidenhead (RBWM), Bracknell Forest Council and Reading Borough Council (hereafter referred to as the joint authorities) to reflect the strategic nature of minerals and waste matters. In two tier local authority areas, minerals and waste planning is a county council function.

Plan process overview

Local plans must be prepared in consultation with local communities and other stakeholders. They must also be consistent with national planning policy, which in the case of minerals and waste matters is the National Planning Policy Framework (NPPF) (2021) and the accompanying Planning Practice Guidance (PPG), the Waste Management Plan for England (2013), and the National Planning Policy for Waste (2014).

During the preparation of the Joint Plan, various technical information and evidence have been prepared, including discussions with stakeholders such as statutory consultees. A number of public consultations have taken place including:

- Main modifications consultation: 28 February – 11 April 2022
- Pre-submission consultation: 3 September – 15 October 2020
- Focussed consultation: 11 February – 23 March 2020
- Draft Plan consultation: 6 August – 12 October 2018
- Issues and Options consultation: summer 2017.

A summary report of the representations made is available on the Joint Minerals & Waste consultation website.¹

In July 2020, Executive and Special Council Executive Committee approved the Joint Plan and supporting documents for submission to the Secretary of State, and the Joint Plan was subsequently submitted in February 2021.

Examination overview

Following submission, two Planning Inspectors were appointed to examine whether the Joint plan was legally compliant and sound. The Inspectors reviewed the Joint Plan and the supporting information and considered all representations submitted to the pre-submission consultation. As part of their review, the Inspectors identified a number of issues and matters where further information and opinion was sought from the joint local authorities and interested parties. Written responses to these issues and matters were invited, which were supplemented by hearing sessions in September and October 2021.

¹ www.hants.gov.uk/berksconsult

Main Modifications Overview

Prior to the hearing sessions, a number of modifications to the Joint Plan were proposed by the joint authorities. This was to take into account representations to the pre-submission consultation, minor corrections, and to update references to national policy where necessary. Throughout the examination, the Inspectors explored the potential for additional main modifications to resolve any issues relating to soundness.

The main modifications were then subject to public consultation from 28 February – 11 April 2022. A total of 28 responses were received, including from statutory bodies like the Environment Agency and National Highways, members of the public, and site promoters / developers. All responses were forwarded to the Planning Inspectors for their consideration.

Planning Inspectors' Report

On 20th October 2022, the Planning Inspectors' Final Report was received (Enclosure 3). The report concluded that the Joint Plan complied with the legal requirements, including the duty to cooperate, and could be found sound, subject to the inclusion of the main modifications.

The main modifications proposed by the Planning Inspectors are substantially the same as those subject to consultation in spring 2022, with no significant changes.

In total 82 main modifications have been recommended in order to make the Joint Plan sound, which are set out in Enclosure 4. This includes revised development guidelines for proposed minerals sites in RBWM and clarifying the purpose of mineral consultation areas as an internal tool to guide consultation. For clarity, the main modifications do not propose to include any new additional minerals or waste sites in Wokingham Borough.

For Wokingham Borough the key main modifications that have been subject to consultation are:

- Brookside Business Park, Swallowfield: Removed as a preferred waste area identified in Appendix A of the Joint Plan, due to the increase in flood risk as a result of the latest modelling data which takes into account climate allowances (MM72 and MM77).
- Star Works, Know Hill: Clarity is provided in Appendix E (MM81) that the site is safeguarded for waste uses as an existing operational waste site.
- Policy DM15: Operator Past Performance, has been reconsidered and renamed 'Site History' to better focus on land use planning issues (MM25).

Adoption

The examination stage of the plan making process concluded when the Inspectors final report was issued to the joint authorities. The Inspectors concluded that all the main modifications are necessary to make the Joint Plan sound, and the council is therefore not permitted to adopt the Joint Plan without all of the main modifications.

The adoption of the Joint Plan will support the council's strategic planning objectives. Minerals are essential to support economic growth and their supply is important to enable the delivery of new infrastructure and development. It is important that provision is made for sustainable waste management, to enable resource efficiency and drive waste management up the waste hierarchy. In addition, adopting the Joint Plan will improve the ability of the council to manage development through the consideration of

planning applications, and it will help to protect communities from unsuitable development. The plan period for the Joint Plan is the end of 2036.

Once the Joint Plan is adopted, it will become part of the statutory development plan and will be the starting point for the determination of planning applications. The recommendation of this report is to adopt the Joint Plan with the main modifications proposed by the Planning Inspectors.

The decision to adopt the Joint Plan will be publicised in accordance with the Regulations, including the preparation of an Adoption Statement. The Adoption Statement sets out when the decision was made to adopt the development plan document, a summary of the plan making process, and where the Joint Plan and supporting documents can be viewed.

It should be noted that the adoption of the Joint Plan will replace the existing minerals and waste local plans for Wokingham Borough, consisting of the Replacement Minerals Local Plan for Berkshire (adopted in 1995 but subject to Alterations in 1997 and 2001) and the Waste Local Plan for Berkshire (1998).

The alternative option is to decide not to adopt the Joint Plan – which is not recommended.

Sustainability Appraisal (SA) and Habitat Regulations Assessment (HRA)

The main modifications to the Joint Plan were subject to Sustainability Appraisal, which assessed the effect of the plans and proposals on environmental, social and economic objectives, and is a statutory requirement of plan making. The Sustainability Appraisal Addendum, published alongside the Main Modifications, has identified that the modified policies will have either neutral or positive effects on the identified sustainability objectives, which include environmental objectives relating to climate change and emissions, alongside flood risk, biodiversity and other matters.

A SA/SEA Post Adoption Statement has been produced (Enclosure 5). It shows that the joint authorities have undertaken a comprehensive Sustainability Appraisal and Strategic Environmental Assessment of the Joint Plan that is compliant with the SEA Regulations (and EU SEA Directive pre-Brexit), and the Planning and Compulsory Purchase Act requirements on SA.

A Habitat Regulations Assessment (HRA): Record of Assessment and Determination has also been prepared (Enclosure 6), as required by the Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regulations). This concludes that the Joint Plan will not result in likely significant effects on any European nature conservation sites, either alone or in combination with any other plans or projects. Natural England confirmed in their response to the main modifications consultation that they did not consider the Joint Plan would post any likely risk to their statutory purposes, and therefore did not wish to comment.

Governance

The governance for the preparation of the Joint Plan is headed by a Joint Members Sounding Board with representation from each of the joint authorities made up of portfolio holders and one additional representative. The Board acts as an advisory body for the preparation of the plan.

Each of the other central and eastern Berkshire authorities is in the process of adopting the Joint Plan.

Risk Management

A decision not to adopt the Joint Plan is the main risk. This would likely result in legal challenges, possible government intervention, and the council incurring additional costs.

Legal Compliance

In producing the Joint Plan, each of the joint authorities and Hampshire Services has to assess whether the document was compatible with the legal requirements associated with plans of the authority. This included the Town and Country Planning (Local Development) (England) Regulations 2012 (as amended); the Environmental Assessment of Plans and Programmes Regulations 2004; the Conservation of Habitats and Species Regulations 2010; the Human Rights Act; compliance with Directives of the European Commission and subsequent UK Regulations and ensuring that no segment of the Borough's community was likely to be unfairly penalised.

Pursuant to section 23 of the 2004 Act, the Local Planning Authority (LPA) may only adopt a submitted Development Plan Document (such as the Joint Plan) in accordance with the Inspector's recommendations, as recorded in the final report on the examination delivered to the LPA in accordance with section 20 of the Act. In accordance with the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, the decision to adopt under section 23(3)(b) must be taken by Full Council.

Following adoption, the council will need to comply with the requirements of the 2012 Regulations to make adoption documents available and to notify persons who asked to be notified (and other consultees) as soon as reasonably practicable. On adoption of the Joint Plan, any person aggrieved may, under Section 113 of the 2004 Act, make an application to the High Court to legally challenge the Joint Plan. This application must be made during the six-week period starting with the date of adoption. The High Court may dismiss any challenge to the Joint Plan or quash the Joint Plan wholly or in part.

The Inspectors' Final Report states that the Joint Plan satisfies the legal requirements within section 20(5)(a) of the 2004 Act. If a legal challenge is made, the council would robustly defend the plan and its validity. Officers consider that the risk of a successful legal challenge is low

FINANCIAL IMPLICATIONS OF THE RECOMMENDATION

The Council faces unprecedented financial pressures as a result of; the longer term impact of the COVID-19 crisis, Brexit, the war in Ukraine and the general economic climate of rising prices and the increasing cost of debt. It is therefore imperative that Council resources are optimised and are focused on the vulnerable and on its highest priorities.

	How much will it Cost/ (Save)	Is there sufficient funding – if not quantify the Shortfall	Revenue or Capital?
Current Financial Year (Year 1)	Circa £61k	Yes	Revenue

Next Financial Year (Year 2)	NA	NA	NA
Following Financial Year (Year 3)	NA	NA	NA

Other Financial Information

The costs of preparing the Joint Plan have been equally split between the joint authorities. The table above sets out the project costs attributed to Wokingham Borough Council. This is a multi-year project and therefore the costs have been spread across a number of financial years.

Stakeholder Considerations and Consultation

Public consultation has been carried out through the preparation of the Joint Plan, and the decision regarding the adoption of the Joint Plan will be carried out in accordance with the Statement of Community Involvement. All relevant information will be available on the website, and email notifications will be sent to all those on the existing consultation database.

Public Sector Equality Duty

An Equalities Impact Assessment Report is attached in Enclosure 1

Climate Emergency – *This Council has declared a climate emergency and is committed to playing as full a role as possible – leading by example as well as by exhortation – in achieving a carbon neutral Wokingham Borough by 2030*

The decision supports sustainable mineral extraction and waste management as part of plan led approach to providing opportunities to mitigate and adapt to the effects of climate change. Policy DM2 specifically supports climate change mitigation and adaption, through appropriate restoration of sites, diverting biodegradable waste from landfill, and other measures.

List of Background Papers

Enclosure 1 – Equalities Impact Screening Report
 Enclosure 2 - Joint Minerals and Waste Plan
 Enclosure 3 – Inspectors’ Report
 Enclosure 4 - Inspectors’ Report Appendices Main Modifications
 Enclosure 5 – Joint Minerals and Waste Plan Policies Map
 Enclosure 6 – SA-SEA Post Adoption Statement
 Enclosure 7 – HRA Record of Assessment and Determination

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