

**Executive**

29 June 2017

Report of the Corporate Director Economy and Place

## **Minerals and Waste Joint Plan – Proposed Changes**

### **Purpose of the Report**

1. To update Members on the outcomes of the consultation on the Publication draft Minerals and Waste Joint Plan and ask Members to approve the Proposed Changes to the Joint Plan for the purposes of public consultation.

### **Summary**

2. Following approval by Executive on 13 October 2016, and equivalent approval by North Yorkshire County Council and the North York Moors National Park Authority, the Minerals and Waste Joint Plan (Joint Plan) was published for representations under Regulation 19 of the Town and Country Planning (Local Planning) (England) (Amendment) Regulations 2012 on 9 November 2016.
3. A six week period for representations was provided, closing at 5pm on 21 December 2016. Within that period a total of 1,470 specific comments were received from 200 respondents. The majority of responses relate to the policy approach for hydrocarbons (oil and gas) development. A summary of the representations is attached at Annex A.
4. In accordance with the Regulations, the purpose of publishing the Joint Plan was to provide an opportunity for those interested in the Plan to make representations on matters of soundness (i.e. whether the Joint Plan meets the tests of soundness for local plans as established in national planning policy and whether it complies with relevant legislation including the statutory Duty to Cooperate on strategic cross-boundary issues).

5. Representations received on the published Joint Plan need to be provided to the Planning Inspectorate alongside the Plan, when it is submitted for independent Examination in Public (EiP). These representations, together with any changes proposed by the Joint Plan authorities, will need to be considered by the Inspector appointed to conduct the EiP.
6. In the light of representations received and other relevant matters such as updates in national policy, a draft schedule of proposed changes to the published Joint Plan, has been prepared in discussion with officers of North Yorkshire County Council and the North York Moors National Park Authority. This is contained in Annex A. Following legal advice, it was agreed that this Schedule of Proposed Changes should be subject to public consultation before any changes are submitted for Examination.
7. The Schedule of Proposed Changes attached at Annex B has been approved for consultation by Members at North Yorkshire County Council on 7 March 2017 and North York Moors National Park Authority on 20 April 2017.
8. Officers have made some further minor changes to reflect the importance of York's draft Green Belt. The Schedule of Proposed Changes attached at Annex A will be reported to City of York Council Local Plan Working Group on 27 June with a recommendation that they are recommended for approval for consultation by Executive on 29 June 2017. The consultation would take place during summer 2017.
9. Following consultation, the full Minerals and Waste Joint Plan (MWJP) and representations received will be reported again to Local Plan Working Group and Executive for consideration. Subject to the outcome of that consultation, the Executive may be invited to recommend to Full Council (and the equivalents at the joint authorities) that the MWJP be submitted for examination in Public by an independent planning inspector.

## Recommendations

10. Members are asked to:

- i) Note the representations received on the Publication Minerals and Waste Joint Plan for North Yorkshire, York and the North York Moors National Park (Annex A);

*Reason:- For information and to provide a context to the proposed changes.*

- ii) Approve the draft Minerals and Waste Joint Plan for York, North Yorkshire and North York Moors National Park Schedule of Proposed Changes (Annex B) for the purposes of consultation;

*Reason:- So that an NPPF compliant Joint Waste and Minerals Plan can be progressed*

- iii) Agree that the Director of Economy and Place in consultation with the Executive Member for Transport and Planning be authorised to make non-substantive editorial changes to the Schedule of Proposed Changes (Annex B) and other supporting documents proposed to be published alongside the Plan;

*Reason:- So that an NPPF compliant Joint Waste and Minerals Plan can be progressed*

## Background

11. The City of York Council as a unitary authority is also a waste and minerals planning authority and to satisfy the provisions in Planning Policy Statement 10 and the National Planning Policy Framework, it must develop the necessary policies for minerals and waste. This statutory responsibility effectively involves identifying all waste arising in the area from all sources, such as, household, commercial, hazardous and agricultural, and demonstrating how this is dealt with spatially. With regard to minerals it is necessary to identify the requirement for minerals including aggregates and how these will be sourced. Both these tasks have to be addressed for the lifetime of any development plan.
12. City of York is currently preparing a Local Plan with strategic policies on minerals and waste and a separate joint minerals and waste

development plan document with North Yorkshire County Council and the North York Moors National Park Authority. This is known as the Minerals and Waste Joint Plan.

13. The Joint Plan addresses a range of issues relating to the future supply of minerals and needs for waste infrastructure over the period to 31 December 2030. Key issues include:
  - Planning for the future supply of aggregates minerals such as sand and gravel and crushed rock, as well as other minerals currently worked in the area;
  - Developing policy to respond to newer forms of development such as shale gas;
  - Identifying requirements for additional waste management capacity needed to fill any capacity 'gaps' in the existing network of facilities;
  - Addressing requirements for safeguarding minerals resources and important infrastructure;
  - Developing a range of new development management policies to help determine planning applications for minerals and waste development;
  - Identifying a range of site allocations for minerals and waste development where development would be regarded as acceptable in principle (see Appendix 1 to the Preferred Options consultation document).
  
14. The Minerals and Waste Joint Plan has involved a number of key public consultation stages to ensure there is every opportunity for community involvement. The key stages include:
  - First Consultation (completed May/June 2013)
  - Issues and Options Consultation (Completed March/April 2014)
  - Additional or Revised Sites Consultation (Completed January/February 2015)
  - Preferred Options Consultation (Completed November 2015 - January 2016)
  - Publication stage (Completed November - December 2016)
  - **Post-Publication Proposed Changes Consultation** (Scheduled for July 2017)
  - Submission stage (Anticipated early 2018)
  - Examination in Public (Anticipated Spring 2018)
  - Adoption (Anticipated Summer 2018)

15. The dates above show some departure from the City of York Council's Local Development Scheme (LDS) published in July 2016. The LDS currently states submission in April 2017, Examination in June/July 2017, Adoption in October/November 2017. The slippage reflects the additional stage of consultation on the Proposed Changes ahead of Submission as proposed in this report. A revised LDS will be reported to Members alongside the final documents ahead of Submission in due course. Officers are currently reviewing the timetable with colleagues at NYCC and NYM to see if it is possible to move forward more quickly.
16. Annex A provides an overview of the main points raised in representations to the Publication draft Plan. Whilst a wide range of matters have been raised in representations, key matters include:
- hydrocarbons - concerns about impacts from shale gas development and related fracking in the area and whether the policies go far enough in providing robust protection to the environment and local communities;
  - whether the policies place unreasonably onerous restrictions on oil and gas development and are not sufficiently consistent with national policy and legislation in this respect;
  - whether further consultation should have taken place on the proposed approach for hydrocarbons prior to finalisation of the Plan for publication;
  - whether the proposed approach to planning for specific types of minerals, particularly aggregates, silica sand and potash is appropriate;
  - whether the proposed approach to policy relating to protection of National Parks/AONBS and the Green Belt are appropriate;
  - the approach to safeguarding of minerals resources, waste sites and minerals and waste transport infrastructure;
  - concerns about particular sites proposed for allocation, or discounted from allocation.

### **Legislation and Guidance**

17. In considering the proposed approach to submission of the Joint Plan, it is important to have regard to the following legislation and guidance. Section 20 of the Planning and Compulsory Purchase Act 2004 as amended requires that the plan must not be submitted unless relevant

regulations have been complied with and the authority considers that the document is ready for examination.

18. National Planning Practice Guidance indicates that the authority should submit a plan with 'any proposed changes it considers appropriate', the documents made available at publication stage, details of who was consulted and how the main issues are addressed, details of representations following publication and a summary of the main issues raised. It does not give any further detail on the procedure relating to proposed changes.
19. Procedural Practice in the Examination of Local Plans, published by the Planning Inspectorate in 2016, emphasises that the publication plan should be the plan it intends to submit for examination. It indicates that if the authority wishes to make changes to the publication plan those changes should be prepared as an addendum to the plan and should be subject to further consultation/sustainability appraisal before submission. It highlights that changes post submission are to cater for the unexpected – it is not to allow the authority to complete or finalise preparation of the plan. Main modifications will only be considered necessary to make the plan sound or compliant with the Regulations.
20. This guidance also states that where an addendum of focussed changes is submitted with the plan the Inspector will need to assess it – whether there is a change to strategy and whether there has been consultation. If satisfied on these points the addendum can be considered as part of the submitted plan. If this is not the case the Inspector may treat these as other main modifications at post submission/pre hearing stage. Authorities can make minor modifications to a plan on adoption and will be accountable for the scope of these.

### **Proposed Changes**

21. As stated above, the Publication version of the Plan should be the Plan that the Authorities should consider to be sound and ready to submit and any changes post-publication must not be used to complete or finalise the Plan. Therefore, the changes included in the Schedule of Changes are:
  - to clarify policies/supporting text following the submission of representations which highlighted the lack of clarity or understanding

- to correct typographical errors
- to provide factual updates i.e. to reflect new guidance or policy or change in name of organisations etc
- to align our definitions/policies to the national approach.

22. In response to representations received on the Publication draft, and to deal with some other more minor issues, legal advice has been obtained and a draft Schedule of Proposed Changes has been prepared. This Schedule has been agreed following discussions with officers from North Yorkshire County Council and the North York Moors National Park Authority and is provided as Annex B.
23. The Proposed Changes do not change the direction of policy previously agreed by Members as part of the Publication draft Joint Plan. Instead, they provide further clarification of matters addressed in the Plan and put forward a number of other revisions in response to matters raised in representations, some of which affect the wording of policy. The changes also update on any relevant factual changes and correct minor typographical or formatting issues with the text of the Joint Plan.
24. The more significant changes relate to the hydrocarbon policies where a number of clarifications have been made to supporting text, for example, to clarify various aspects of the nature of development and production of conventional and unconventional gas, and to clarify the current regulatory requirements.
25. A Sustainability Appraisal and Strategic Environmental Assessment (SA/SEA) has been carried out for the Proposed Changes and it is not considered that any of the proposed changes will have any negative significant effects. The SEA is attached at Annex C.
26. It is considered that the proposed changes, individually and in combination, are generally relatively minor in nature and would not result in any revision to the overall strategy contained in the published Joint Plan. However, taking into account the guidance summarised in paragraphs 15 to 18 above, and the lack of any specific criteria to determine the significance of the proposed changes in the context of the EiP process, further legal advice has been sought jointly on behalf of the three Authorities on the appropriate process for dealing with the proposed changes in the lead up to submission of the Plan, including whether it would be appropriate to consult on them prior to submission.

27. In summary, the legal advice stated that:

- (1) There was no legal requirement to consult on changes made to the “Preferred Options” version of the draft Plan before it was published.
- (2) However, it is necessary to consult on the changes now proposed to the published draft Plan before it is submitted for examination.
- (3) After the consultation on the changes to the published draft Plan has been completed, then if no further changes are then considered necessary, it will not be necessary to undertake yet another consultation on a “composite” version of the draft Plan.
- (4) If there are such further changes to be made at that stage, it is considered that a further consultation on those changes alone is highly likely to be required, before the draft Plan is submitted, if those changes are material. However, it is not possible to be definitive at this stage about what will be required until those further changes, if any, are known.

28. The purpose of consulting on the proposed changes prior to submission is to enable the Council to consider representations as to whether further changes are required. If no further changes are required, consideration of the consultation responses will demonstrate for the Inspector the rationale behind the Submission Draft and Proposed Schedule of Changes. If this consultation stage is not undertaken, it risks delay in the Examination, which would be likely to be stayed pending further consultation.

## Financial Implications

29. The estimated costs related to this stage of the production of the Minerals and Waste Joint Plan are outlined in the table below. The costs will need to be contained within budgets across the directorate that support the Local Plan and Waste Strategy.

<b>Stage/task</b>	<b>Estimated total cost</b>	<b>CYC cost* (55:25:20)</b>	<b>Comment</b>
<b>2017/18</b>			
Consultation on proposed changes (printing/document distribution)	£1,000	£250	Estimate based on equivalent costs at Publication stage
Preparation/printing/	£8,000	£2,000	Estimate based on



press notice for submission documents			equivalent costs at Publication stage
EiP Programme Officer costs	£5,000	£1,250	Estimate based on maximum requirement for 50 days total time (half before Examination) input at contracted rate
EiP legal costs	£3,000	£750	Assumed at 2 days input (pre examination) at £1,500 per day
<b>Total for 2017/18</b>	<b>£17,000</b>	<b>£4,250</b>	
<b>2018/19</b>			
EiP Programme Officer costs	£5,000	£1,250	Estimate based on maximum requirement for 50 days total time (half during Examination) input at contracted rate
EiP legal costs	£12,000	£3,000	Assumed at 8 days input at £1,500 per day
Other EiP costs (venue etc)	£5,000	£1,250	Assumed need to hire venue for 10 days at £500/day. Use of internal venue would avoid this cost
PINS costs (EiP Inspector) <sup>1</sup>	£40,000	£10,000	Estimate based on assumed total Inspector time requirement of 40 days at c.£1,000/day (local plans examinations fee regs)
Adoption costs (press notices, printing)	£4,000	£1,000	Estimate based on equivalent costs at Publication stage
<b>Total for 2018/19</b>	<b>£66,000</b>	<b>£16,500</b>	
<b>Total</b>	<b>£83,000</b>	<b>£20,750</b>	

\*CYC has agreed to pay 25% of the total costs of the Joint Plan.

## Council Plan

30. Under the 2015-2019 Council Plan objectives the project will assist in the creation of a Prosperous City for All, and be a Council that listens to residents particularly by ensuring that:
- i. Everyone who lives in the city can enjoy its unique heritage and range of activities.*
  - ii. Residents can access affordable homes while the greenbelt and unique character of the city is protected.*
  - iii. Visitors, businesses and residents are impressed with the quality of our city.*
  - iv. Local businesses can thrive.*
  - v. Efficient and affordable transport links enable residents and businesses to access key services and opportunities.*
  - vi. Environmental Sustainability underpins everything we do.*
  - vii. We are entrepreneurial, by making the most of commercial activities.*
  - viii. Engage with our communities, listening to their views and taking them into account.*

## Implications

31. The following implications have been assessed.

- **Financial** – These are detailed in paragraph 28 above.
- **Human Resources (HR)** – The production of a Minerals and Waste Joint Plan and associated evidence base requires the continued implementation of a comprehensive work programme that will predominantly, although not exclusively, need to be resourced within EAP.
- **One Planet Council / Equalities** - Better Decision Making Tool attached at Annex D.
- **Legal** – The statutory process must be followed in preparing and consulting upon the joint plan and decisions must be taken by each of the separate Authorities involved in their own constitutional decision making processes. The statutory duty to co-operate applies (created by S110 Localism Act 2011). If the Minerals and Waste Joint Plan is adopted by all three Councils, it will eventually become part of the statutory development plan for York along with the emerging York Local Plan. The Plans should therefore be in conformity particularly in relation to any site allocations and

safeguarded areas proposed within the York area in the Joint Minerals and Waste Plan.

- **Information Technology (IT)** - There are no IT implications
- **Crime and Disorder** – None.
- **Information Technology (IT)** – None
- **Property** – The Plan includes land within Council ownership.
- **Other** – None

## **Risk Management**

32. In compliance with the Council's risk management strategy, the main risks in producing a Minerals and Waste Plan are as follows:
- The need to steer, promote or restrict minerals and waste development across its administrative area:
  - The potential damage to the Council's image and reputation if a development plan is not adopted in an appropriate timeframe; and
  - Risks arising from failure to comply with the laws and regulations relating to Planning and the SA and Strategic Environmental Assessment processes and not exercising local control of developments.
33. Measured in terms of impact and likelihood, the risks associated with this report have been assessed as requiring frequent monitoring.

## **Next Steps**

34. Should all Members from the three authorities approve this Plan for consultation purposes, it is anticipated that an 8 week consultation will run July to September 2017 to allow people to make representations on the Proposed Changes (this extended period is to take account of the summer holiday period, as required by the Council's SCI). This consultation will be in compliance with the adopted City of York Statement of Community Involvement as well as the other Joint Authorities' SCIs.
35. The Submission draft Plan, the Proposed Changes and any representation received will then be presented to Local Plan Working Group and Executive for consideration. If no further changes are required it will be recommended to Full Council that the Schedule of Changes and Plan be submitted to the Secretary of State. Approval of the Plan for Submission and for Examination in Public is a function of

Full Council which will also be required from North Yorkshire County Council and North York Moors National Park Authority.

36. The Submission documents will include those that were made available at the Publication stage (updated as necessary), including details of who was consulted when preparing the Joint Plan (at Regulation 18 stage) and how the main issues raised have been addressed. Details of the representations made following publication of the Joint Plan and a summary of the main issues raised will also be included. A copy of the Proposed changes and any representation received will also be included. A Statement of Representations Procedure will be published alongside the submission version of the Joint Plan.
37. A pre-examination meeting, Examination in Public and Inspector's report will follow in Spring 2018, with an anticipated adoption of the Joint Plan in Summer 2018.

## **Options**

38. Officers request that Members consider the following options:

**Option 1:** *That they approve the Minerals and Waste Joint Plan Schedule of Proposed Changes for the purpose of public consultation;*

**Option 2:** *That they approve the Minerals and Waste Joint Plan Schedule of Proposed Changes for the purpose of public consultation subject to amendments agreed at this meeting;*

**Option 3:** *That that they reject the Minerals and Waste Joint Plan Schedule of Proposed Changes and request that further work is undertaken or an alternative approach is taken.*

## **Analysis**

39. It is considered that the best option is to approve the Minerals and Waste Joint Plan Proposed Changes documents for consultation in July-September 2017 as per Option 1. This will ensure that the industry and public are given the opportunity to view the proposed changes to the Plan ahead of Submission.

40. The option outlined above accords with the following priorities from the Council Plan:

- A prosperous city for all.
- A council that listens to residents.

**Contact Details**

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Cllr Ian Gillies

**Report  
Approved**

✓

**Date** 15/06/2017

**Specialist Implications Officer(s):**

Patrick Looker, Finance Manager  
Alison Hartley, Senior Solicitor, Planning

**Wards Affected:** List wards or tick box to indicate all All

For further information please contact the author of the report

**Background Papers:** None

**Annexes:**

- Annex A: Summary of responses received during consultation  
[Online]
- Annex B: Schedule of Proposed Changes
- Annex C: SEA of Proposed Changes
- Annex D: Better Decision Making Tool

**Glossary of Abbreviations**

- EiP – Examination in Public
- MWJP – Minerals and Waste Joint Plan
- LDS – Local Development Scheme
- AONB – Area of Outstanding Natural Beauty
- SA/SEA – Sustainability Appraisal / Strategic Environmental Assessment
- CYC – City of York Council
- PINS – Planning Inspectorate
- SCI – Statement of Community Involvement
- NPPF – National Planning Policy Framework