

Executive

19 October 2017

Report of the Director of Economy and Place
Portfolio of the Executive Member for Transport and Planning

Minerals and Waste Joint Plan - Submission

Summary

1. To update Members on the outcomes of the consultation on the Addendum of Proposed Changes to the Minerals and Waste Joint Plan and ask Members to recommend that Full Council approve the Submission draft (the Publication Draft) and the accompanying Addendum of Proposed Changes together with representations received thereon for submission for Examination.

Recommendations

2. The Executive is asked to:
 - 1) Consider the representations received on the Addendum of Proposed Changes Minerals and Waste Joint Plan for North Yorkshire, York and the North York Moors National Park;

Reason: to consider whether to recommend to full council whether to move forward to Submission.

- 2) Recommend to Full Council that the Submission draft of the Minerals and Waste Joint Plan for York, North Yorkshire and North York Moors National Park (comprising the Publication draft Plan (2016) accompanied by the Addendum of Proposed Changes (2017) be approved for submission for examination

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

Background

3. The City of York Council as a unitary authority is also a waste and minerals planning authority and to satisfy the provisions in 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.
4. 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.
5. 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 Publication draft consultation document).
6. 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)
 - Addendum of Proposed Changes Consultation (July-September 2017)
 - **Submission stage (Anticipated November 2017)**
 - Examination in Public (Anticipated early 2018)
 - Adoption (Anticipated Spring 2018)
7. 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 Addendum of Proposed Changes ahead of Submission as proposed in this report. A revised York LDS will be submitted alongside the Minerals and Waste Plan.
8. Following approval by Executive on 29th June 2017 and equivalent approval by North Yorkshire County Council and the North York Moors National Park Authority, the Minerals and Waste Joint Plan (Joint Plan) Addendum of Proposed Changes document was published for representations on 12th July 2017.
9. An 8 week period for representations was provided, closing at 5pm on 6th September 2017. Within that period a total of 143 specific comments were received from 36 respondents. The majority of responses relate to the proposed changes regarding the policy approach for hydrocarbons (oil and gas) development. A summary of the responses by responder is attached at Annex A and a summary of the responses by issue together with an officer response is attached at Annex B.
10. In accordance with the Regulations, the purpose of publishing the Joint Plan Addendum of Proposed Changes was to provide an opportunity for those interested in the Plan to make representations on matters of soundness (i.e. whether the Proposed Changes to 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.

11. Representations received on the Publication 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 (i.e. the Addendum) and any representations thereon, will need to be made available to be considered by the Inspector appointed to conduct the EiP.
12. As stated in the report to Executive on 29th June, following consultation on the Addendum of Proposed Changes, the full Minerals and Waste Joint Plan (MWJP) and representations received will be reported again to Local Plan Working Group (12th October 2017) and Executive (19th October 2017) for information. Subject to the outcome of that consultation, the Executive will be invited to recommend to Full Council on 26th October 2017 (and the equivalents at the joint authorities) that the MWJP be submitted for examination in Public by an independent planning inspector.

Legislation and Guidance

Procedure Legislation and Guidance

13. 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.
14. 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.
15. 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.

16. 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.

Oil and Gas Legislation and Guidance

17. National planning policy states that both conventional and unconventional hydrocarbons (oil and gas) are minerals of national and local importance and that minerals plans should include policies for their extraction. Development plans which do not deal with fracking or simply seek to restrain it will, at best, be accorded little weight by the Secretary of State on appeal leaving applications to be judged purely against the general policies of the NPPF.
18. There are different regulatory regimes that are responsible for the different stages of oil and gas development. Mineral Planning Authorities (the Council) only have control over the planning application stage. The Oil and Gas Authority are responsible for issuing PEDL licences. The Environment Agency and Health and Safety Executive also assess and regulate the environment, water and seismic risks before permits for operation are issued.

Options

19. Officers request that Members consider the following options:
 - i) That the Executive recommend that Full Council approve the Submission version of the Minerals and Waste Joint Plan for Submission for Examination;
 - ii) That the Executive recommend that Full Council approve the Submission version of the Minerals and Waste Joint Plan for Submission for Examination subject to modifications agreed at this meeting;
 - iii) That the Executive recommend that Full Council reject the Submission version of the Minerals and Waste Joint Plan and

request that further work is undertaken or an alternative approach is taken ahead of it being submitted for Examination.

Analysis

20. It is considered that having taken into consideration the representations made, including those in respect of the Addendum, the appropriate option is to approve the Submission version of the Minerals and Waste Joint Plan (comprising the Publication Draft (2016) and Addendum of Proposed Changes (2017) and allow it to be submitted for Examination as per Option 1.
21. The table contained at Annex B provides a summary of the representations by issue together with an officer response. In summary, the majority of representations relate to the oil and gas policies M16, M17, M18 and supporting text. Several comments relate directly to sites and site boundary changes, and in general, widespread support was received for proposed changes in relation to waste, infrastructure, safeguarding and development management policies.

Representations submitted to the Proposed Changes to the Oil and Gas Section

22. These representations (77 individual comments from 18 organisations/ industry and 7 members of the public) are a combination of supports, objections and comments.
23. Generally, support from activist/environmental groups was received for proposed changes where it is perceived that the change goes further to recognise the implications of shale gas extraction and places greater restrictions on the industry.
24. Objections were received from industry in relation to the same changes, as it is considered that the changes do not fully reflect regulatory roles, contradict policies within adopted Minerals and Waste Plans elsewhere in the UK, and do not add any further value to the Plan. These comments could be interpreted as objections to the level of perceived additional restrictions placed on the industry.
25. A number of representations were received which suggested that the Joint Plan policies should go further in terms of restricting oil and gas development in order to fully protect the communities, environment and economy of the Plan area. Officers consider that as the Plan stands it

(Publication draft and Addendum of Proposed Changes) goes as far as it possibly can in terms of offering protective policies and restricting oil and gas development in certain areas. It is considered that as it stands, the Plan is 'sound' and sits within the national policy framework in relation to this types of development. An attempt to go beyond the restrictions imposed by national policy, could result in the Plan being found 'unsound' in relation to it not being 'Consistent with national policy' (NPPF paragraph 182)

26. Some objections received state that the proposed change will have a negative effect on the policy/supporting text and that the Submission draft of the Joint Plan should revert back to the Publication draft of the Plan (2016). Where this type of objection is raised, the table at Annex B provides a detailed officer response. However, in summary, it is considered that the Proposed Changes made reflect the best position in terms of being in line with national planning policy and guidance which requires a positive approach to planning for development whilst providing robust protection for the communities, environment and economy of the Plan area. For these reasons, the Officers' recommendation is to submit for examination the Publication draft Plan (2016) as the Submission Draft accompanied by the Addendum of Proposed Changes (2017) for an Inspector to consider.

Council Plan

27. 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

28. The following implications have been assessed.

- **Financial** – The estimated cost of £20,500 was reported to LPWG and Executive earlier in the year and will be funded through existing budgets. This will be monitored and refined as the process towards examination continues.
- **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.
- **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 (S33A Planning & Compulsory Purchase Act 2004 inserted 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.
- **Property** – The Plan includes land within Council ownership.
- **Other** – None

Risk Management

29. 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.

30. Measured in terms of impact and likelihood, the risks associated with this report have been assessed as requiring frequent monitoring.

Contact Details

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Report **Date** 4-10-17
Approved

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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 representations received during consultation on Addendum of Proposed changes

Annex B: Schedule of representations by issue with officer response

List of Abbreviations Used in this Report

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