

Executive

17th March 2022

Report of the Corporate Director of Place
Portfolio of the Executive member for Economy and Strategic Planning

ADOPTION OF THE MINERALS AND WASTE JOINT PLAN

Summary

1. To report the outcome of the Examination in Public by the Government's Appointed Inspector into the Minerals & Waste Joint Plan (2015-2030) and accompanying Policies Map; and provide a recommendation that the Authority makes the necessary procedural arrangements to complete the adoption process. The Joint Plan was adopted by members of North Yorkshire County Council on 16th February and will also be reported to members of the North York Moors National Park Authority in March. The report was considered by the Local Plan Working Group on 7th March 2022, and it was agreed to recommend approval to Executive.

Recommendations

2. It is recommended that Executive:
 - i) Notes the Inspectors Report and recommended changes and accept the Main Modifications.
Reason: To allow the Plan to progress to adoption.
 - ii) recommends to Full Council to adopt the Minerals & Waste Joint Plan incorporating the Inspectors Modifications, circulated with this report.
Reason: To allow the Plan to progress to adoption.
 - iii) recommends to Full Council to adopt the accompanying Policies Map.

Reason: To allow the Plan to progress to adoption.

- iv) that it authorises the Corporate Director of Place to make any further minor typographical or presentational amendments or updates before final publication of any documents referred to in this item, and to take any necessary steps to conclude the adoption process.

Reason: To allow the Plan to progress to adoption.

- v) that it authorises the publication of an Adoption Statement and Sustainability Appraisal in accordance with Regulations 26 and 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended).

Reason: To ensure the adoption of the Plan is in accordance with the required legislation.

Background

3. Members will be aware that the draft Minerals and Waste Joint Plan ('the Joint Plan') has been produced by the City of York Council, North Yorkshire County Council and the North York Moors National Park Authority. In line with the requirements of the Planning and Compulsory Purchase Act 2004 and the Town and Country Planning (Local Planning) (England) Regulations 2012, it was submitted to the Planning Inspectorate in November 2017 for independent examination. The Examination in Public was opened on Tuesday 27th February 2018 for a period of three weeks between that date and 23rd March 2018. Additionally, a session was held on 13th April 2018, and later, in 2019, a further session was held on Thursday 24th and Friday 25th January 2019, relating to unconventional oil and gas.
4. Ms Elizabeth Ord LLB (Hons) LLM MA Dip TUS was the appointed Planning Inspector, and she examined the submitted Plan in relation to the tests of 'soundness', as set out in the National Planning Policy Framework. The authorities producing the Joint Plan have now received the Inspectors Report and accompanying letter, dated 4 February 2022, stating that the Joint Plan satisfies all requirements and is considered to be 'sound', subject to the Main Modifications recommended by her, as a result of the discussions which took place at the Examination.

5. Once Adopted, the Minerals and Waste Joint Plan will replace the 'saved' policies relating to minerals and waste in the North Yorkshire Minerals Local Plan and North Yorkshire Waste Plan (for North Yorkshire County Council) and the Adopted Core Strategy and Development Policies, November 2008 (for the North York Moors Park Authority). For the City of York Council there are no Adopted Plans which the Minerals & Waste Joint Plan will replace. However, the City of York Draft Local Plan (incorporating the Fourth Set of Changes), April 2005 was approved for DM purposes (only some of the policies refer to minerals & waste). The City of York 2018 Publication Draft Plan contains policies WM1 'Sustainable Waste Management' and WM2 'Sustainable Minerals Management, which refer the decision maker to the Minerals and Waste Joint Plan.

6. This report is accompanied by:
 - Minerals & Waste Joint Plan 2015-2030, as proposed to be adopted (Annex 1);
 - The Inspector's Final Report (Annex 2);
 - The list of Modifications required by the Inspector to make the Plan 'sound' (Annex 3);
 - The Joint Plan Adoption Statement (Annex 4).

7. Copies of these documents are also available on the Joint Plan section of the Authority's website:
<https://www.york.gov.uk/planning-policy/minerals-waste-joint-plan/1>

The Inspector's Report

8. A Schedule of Main Modifications to the Publication Draft Plan was subject to public consultation between 21st July 2021 and 15th September 2021 and the outcome of that consultation was sent to the Inspector, before she produced her Final Report.

9. There were a number of modifications proposed, including:
 - Amending and adding trigger points for review;

- Updating minerals reserve and requirement figures and splitting the figures for the different types of crushed rock;
- Adding policy provisions for non-allocated minerals sites coming forward;
- Clarifying and expanding building stone provision;
- Amending hydrocarbon strategies to reflect various changes to national policy and to provide more precise guidance;
- Clarifying the relationship to and interaction with other regulatory authorities;
- Updating capacity and requirement figures for waste;
- Amending policies to ensure they fully reflect national policy and provide sufficient flexibility;
- Adding new development management policies on air quality and planning obligations;
- Strengthening nature conservation provisions in accordance with the Habitat Regulations;
- Clarifying safeguarding provisions and inserting an additional policy;
- Inserting additional allocations and development requirements to a number of allocations;
- Adding further monitoring provisions for additional policies.

Changes to current policies & new policies

10. Paragraph 5 above, outlines the Plans which the Minerals & Waste Joint Plan will replace across York and North Yorkshire, once Adopted. Although the approach to development is not considered to be significantly different to the current approach, the Joint Plan introduces some changes to minerals and waste planning in the area covered by the Plan as a whole These include the following changes:
- Policy M07: Meeting concreting sand and gravel requirements, inclusion of reference Area of Search;
 - Policy M09: Meeting crushed rock requirements, changing focus from just Magnesian Limestone to crushed rock as a whole;
 - Policy M16: Key spatial principles for hydrocarbon development, change of the 3.5km buffer zone to 3.5km visually sensitive zone around National Parks and AONBs;

- Policy M17: Other spatial and locational criteria applying to hydrocarbon development, reference to potential impact of cumulative impacts of hydrocarbon development on climate change and local amenity;
- Policy W03: Meeting waste management capacity requirements – Local Authority Collected Waste, the inclusion of site allocations for Local Authority Collected Waste;
- Policy S01: ‘Safeguarding Mineral Resources’ has been changed to Policy S01: ‘Safeguarding Surface Mineral Resources’ and reference to deep mineral resources has been deleted;
- Policy S02: ‘Developments Proposed Within Minerals Safeguarding Areas’ has had its title changed to Policy S02: ‘Developments Proposed Within Safeguarded Surface Minerals Resource Areas’ and has had reference to deep mineral resources removed;
- Policy S03: ‘Safeguarding Deep Mineral Resource Areas’. This is a new policy created to deal with the safeguarding of deep mineral resources (potash). Consequently, there have been a number of knock-on effects to other policies, as follows:
 - the original Policy S03: ‘Waste Management Facility Safeguarding’, has been changed to Policy S04;
 - the original Policy S04: ‘Transport Infrastructure Safeguarding’ has been changed to Policy S05;
 - the original Policy S05: ‘Minerals Ancillary Infrastructure Safeguarding’ has been changed to Policy S06;
 - the original Policy S06: ‘Consideration of Applications in Consultation Areas’ has had its number changed to Policy S07.
- Policy D07: ‘Biodiversity and Geodiversity’ has been altered and now includes reference to local important sites and cumulative impacts;
- Policy D14: ‘Air Quality’ – new policy created;
- Policy D15: ‘Planning Obligations’ – new policy created.

Changes to Policies Map:

11. A number of additional sites were allocated during the Examination in Public and added to the Policies Map. These were:
 - MJ12 – Whitewall Quarry (crushed rock);

- MJP13 – Whitewall Quarry (recycling);
 - MJP15 – Blubberhouses (silica sand);
 - WJP01 – Hillcrest, Harmby (waste).
12. A number of allocated sites had their site boundaries changed as a result of the Examination in Public, resulting in amendments to their boundaries on the Policies Map, as follows:
- MJP21 – Killerby (sand and gravel);
 - MJP17 – Land South of Catterick (sand and gravel).
13. The area of potash to be safeguarded has changed and the new safeguarded area has been added to the Policies Map.

Adoption

14. The Regulations prescribe that an ‘adoption statement’ is published (Appendix 4). This explains that there is a 6 week period for a High Court challenge to the Joint Plan following adoption, on the grounds that the document is not within the appropriate power of the local planning authority and/or a procedural requirement has not been complied with. The process includes press notices and placing the documents for inspection at the same places as the draft Plan documents were made available. Arrangements for this are in hand and a 6 week period will also end 6 weeks from the date of adoption.
15. Additionally, the Policies Map is also recommended for adoption. Legally, the Policies Map is a separate document to the Joint Plan, and the Authority is required to keep it up to date according to the changes in the Joint Plan. It was not subject to independent examination, but was subject to consultation. Both the Joint Plan and Policies Map will be treated as part of the Development Plan for the purposes of decisions on planning applications from the date of this meeting onwards.
16. A final published version of the Joint Plan will be produced (a draft is attached) and it is suggested that the authority is given to officers to carry out any further typographical amendments or updating as the final version is produced (in conjunction with partner authorities, in its production). Hard copies will be made available for members and staff.

However, it is planned that an electronic version will be made available for planning agents and members of the public to download from the website.

Consultation

17. The Minerals and Waste Joint Plan has been through a number of stages of consultation, as follows;
 - Regulation 18 Consultation (May - June 2013) – first consultation;
 - Issues & Options Consultation (February – April 2014);
 - Supplementary Sites Consultation (January – March 2015);
 - Preferred Options Consultation (November 2015 – January 2016);
 - Regulation 19 Consultation – Publication (November – December 2016);
 - Addendum of Proposed Changes to the Publication Draft (APC) (July – September 2017);
 - Written Ministerial Statement on Shale Gas (May 2018) - interested parties only consulted;
 - Select Committee Report on Planning Guidance for Fracking (July 2018) – interested parties only consulted;
 - High Court Judgement released ref Para 209 (a) NPPF – interested parties only consulted;
 - Main Modifications Consultation (July – September 2021).

Options

18. Officers request that Members:
 - i) Endorse the recommendations in paragraph 2 of this report and agree with the Inspector's Recommendations and approve the Minerals and Waste Joint Plan for adoption, as set out above.

Analysis

19. The Inspector concluded that the Main Modifications set out in her report make the Plan sound and legally compliant and capable of adoption, satisfying the requirements of Section 20(5) of the 2004 Act and meeting the criteria for soundness in the National Planning Policy Framework.

Alternative Options and Reasons for Rejection

20. The following alternative options have been identified and rejected for the reasons as set out below:

- ii) That the Executive rejects the Inspectors recommendations and provide modified recommendations to those made by the Inspector, and if considered to be significant, agree that these will be subject to further consultation along with a statement to explain why the decision differs from the Inspectors;*

This option is not considered appropriate as the Main Modifications proposed by the Inspector make the Plan sound and legally compliant and capable of adoption, satisfying the requirements of Section 20(5) of the 2004 Act and meets the criteria for soundness in the National Planning Policy Framework.

Implications:

21. The following implications have been assessed:

- **Financial:**

An invoice from the Planning Inspectorate for most of the costs of the Examination has been received by the 3 Partner Authorities for the amount of £72,302.64, to date. The City of York Council's contribution to this is 25% of this, which equates to £18,075.66 (North Yorkshire County Council's contribution is £39,766.45).

- **Human Resources/HR:**

None

- **One Planet Council/Equalities:**

The Joint Plan has been subject to an Equality Impact Assessment, and has been examined by the Inspector. No negative equality implications are forecast to arise.

- **Legal:**

The preparation of the Joint Plan and the Examination in Public have been carried out in accordance with all statutory requirements and duties set out in the Planning and Compulsory Purchase Act 2004 and the Town and Country Planning (Local Planning) (England) Regulations

2012 as well as having regard to national policy, guidance and relevant case law where appropriate. Progressing to adoption will continue to be in line with all legislative requirements.

On adoption, the Council must consider all relevant planning applications against policies in the Minerals and Waste Joint Plan. It should be noted that, whilst the risk is low, there is a short window of six weeks post adoption whereby an aggrieved party could legally challenge the adoption of the Minerals and Waste Joint Plan. Should this occur, officer will communicate with Members as appropriate. Looking to the future, the council must legally review the Joint Plan within 5 years of adoption. Options for the timing and content of such a review will be subject to future reports to Cabinet as and when deemed necessary.

- **Crime & Disorder:**

None

- **Information Technology/IT:**

None

- **Property:**

None

- **Other:**

None

Risk Management:

22. In compliance with the Council's risk management strategy, the main risks associated with the Minerals & Waste Joint Plan are as follows:

- 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.

Contact Details

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Report **Date** 9.3.22
Approved

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Wards Affected:

All

For further information please contact the author of the report

Background Papers:

<https://www.york.gov.uk/planning-policy/minerals-waste-joint-plan/1>

Minerals & Waste Policy Map (only available electronically due to its size) – see link below to view the Policies Map.

<https://www.northyorks.gov.uk/minerals-and-waste-joint-plan>

The Minerals and Waste Joint Plan and accompanying documents. (The NYCC Examination Library contains appendices which form part of the Minerals and Waste Joint Plan and can be viewed online using the link below, scroll down to Examination Library, click on 'North Yorkshire County Council Adoption of Minerals and Waste Joint Plan' to view the appendices.

<https://www.northyorks.gov.uk/minerals-and-waste-joint-plan-examination>

Annexes

Annex 1 Minerals & Waste Joint Plan Policy Document

- Annex 2 Minerals & Waste Joint Plan Inspectors Report
- Annex 3 Minerals & Waste Joint Plan Main Mods
- Annex 4 Draft Adoption Statement
- Annex 5 Equalities Impact Assessment (EqIA)
- Annex 6 Better Decision Making Tool

List of Abbreviations Used in this Report

Joint Plan – Minerals & Waste Joint Plan