

REPORT OF THE  
Cabinet  
PART I

**305. HAMPSHIRE MINERALS AND WASTE PLAN**

1. The Cabinet received a report from the Director of Economy, Transport and Environment on progress in preparing the Hampshire Minerals and Waste Plan, outcomes from the recent public hearing and the next steps towards adoption of the Plan.

2. The County Council, as a minerals and waste planning authority, has a statutory requirement to prepare a plan for the provision of minerals and waste development. It is working in partnership with Southampton City Council, Portsmouth City Council, the New Forest National Park Authority and the South Downs National Park Authority to prepare the Hampshire Minerals and Waste Plan to manage minerals and waste development to 2030.

3. Current policy for minerals and waste development in Hampshire is set out in the Minerals and Waste Core Strategy which was adopted in 2007. This policy document requires updating to take account of local circumstances and of significant changes in national planning policy. The emerging Hampshire Minerals and Waste Plan aims to significantly strengthen the protection it affords Hampshire's environment and communities and provide robust direction for business. The Plan aims to ensure that for minerals and waste, the right development takes place at the right time and in the right place. Examples of minerals and waste development include recycling sites for construction, demolition and excavation waste, rail depots and marine wharves, local quarries, material recycling facilities, energy from waste facilities and landfill. The draft Plan was prepared using technical evidence and responses to various public consultations gathered over several years.

4. The County Council at its meeting on 13 October 2011 approved the draft Plan for public consultation, and following representations, some minor amendments were made prior to it being submitted to Government on February 2012.

5. Following the public hearing in June 2012, the Planning Inspector has asked that specific elements of the Plan be reviewed with a view to proposing changes to ensure that the plan is 'sound' – that is, positively prepared, justified, effective and consistent with national policy. Any such changes will also be subject to a public consultation on their soundness. In considering the elements of the Plan the Inspector suggested for review, the outcomes from the first stage of the public examination have been used. As the plan preparation process is essentially iterative in nature, updates and amendments are to be expected and Cabinet is content that the review has taken into account both the legal and planning advice and dealt with any new evidence which arose as a consequence of the first stage of the process.

6. A number of changes to the Plan are proposed and many are minor in nature. However, where the changes are more significant and exceed the delegated authority of the Director in consultation with the Executive Member they are now brought to the attention of County Council.

7. The elements of the Plan requiring more significant review include:
  - a) The National Planning Policy Framework (NPPF) sets out the presumption in favour of sustainable development, and the Inspector has advised that he wishes to see a similar policy statement in the Plan;
  - b) Following the submission of new evidence to the Inspector by the operator of Kingsley Quarry in East Hampshire, to the effect that the mineral should be classified as Silica Sand, an industrial mineral, the Inspector has asked that the planning authority review the Plan in relation to the provision for silica sand, to ensure that it is in accordance with NPPF;
  - c) New evidence was submitted to the Inspector by the operator of Michelmersh Brickworks, which showed that the sites allocated in the Plan contain a substantially lower amount of brick clay than was hitherto understood. The Inspector has requested that the allocation of sites at Michelmersh should be reviewed to ensure that the plan complies with the NPPF landbank requirements;
  - d) The Inspector has indicated that the planning authorities should review the shortfall in aggregate provision at the end of the plan period and consider additional provision;
  - e) The Inspector has indicated that the planning authorities should review the findings of the Integrated Sustainability Appraisal (ISA) on extension sites for land-won sand and gravel;
  - f) New Forest District Council has challenged the revisions to the wording of Policy 33 (Long term safeguarding for future wharfs) discussed at the hearing and in particular the procedures for Habitats Regulation assessment through which they contend that an Appropriate Assessment is required.

8. A schedule of proposed changes has been prepared. This details all the changes to the Plan considered to be required. Many of these changes are minor in nature and are classed as 'additional changes'. Those proposed changes that are more significant are separately identified as 'main changes'. The changes have been informally discussed with the planning inspector and in this context he has not raised any issues with them. However his formal report will only be compiled once the public consultation on the changes has been completed, and he has considered the results. This may also involve re-opening the Public Hearing.

9. The full schedule of Proposed Changes to the Plan is available in the Members rooms and also online at <http://consult.hants.gov.uk/portal>. A summary of those changes considered to affect the integrity of the Plan (classed as 'main changes') is attached as an appendix to this report.

10. The County Council is required to prepare a local plan which is in 'general conformity' with the Regional Spatial Strategy; i.e. the South East Plan (SE Plan). The Government has made it clear on numerous occasions that it intends to revoke the SE Plan. However, at the time of writing, the SE Plan is still extant. The Inspector decided to progress with the Public Examination of the Hampshire Minerals and Waste Plan and during the Hearing he was prepared to hear submissions from the planning authorities on 'flaws' in the regional spatial strategy policies. Following the consultation and any

subsequent hearings, the next stage of the process, requires the Planning Inspector to report his findings on the soundness of the Plan.

11. Should the SE Plan remain extant at that time, due to the legal general conformity requirement, continuing to that stage risks a judgement by the Inspector that the Hampshire Minerals and Waste Plan is unsound. It is suggested that if this situation occurs then a formal request should be made to the Inspector for the Public Examination into the Plan to be suspended, to allow a pause while the revocation of the SE Plan is completed. This will then allow the soundness of the Plan to be judged without reference to the general conformity issues. Therefore it is suggested that authority is given to seek a suspension of the Public Examination at that stage, to allow the Plan to proceed once the SE Plan revocation is completed. Since the timing of any suspension request will be dependent on the Government's progress in revoking the SE Plan, and the support of the Planning Inspectorate, the opportune time may not coincide with a programmed meeting. Therefore the Cabinet recommended that delegated approval is sought to allow timely action on behalf of the County Council in this matter. The Cabinet also resolved to request the Secretary of State to revoke the SE Plan as a matter of urgency to avoid a hiatus whereby the County Council has a sound Plan but cannot finalise it, and the Leader will be writing to and meeting the Secretary of State to that end.

The full Cabinet report can be found at [www.hants.gov.uk/councilmeetings.htm](http://www.hants.gov.uk/councilmeetings.htm) by typing in the relevant reference number:

- Hampshire Minerals and Waste Plan (search item reference 4161)

## **RECOMMENDATIONS**

That the County Council:

- a) approves the proposed changes to the Hampshire Minerals and Waste Plan;
- b) agrees that a schedule of the proposed changes be published and comments invited on their 'soundness' for submission to the Inspector;
- c) delegates authority to the Director of Economy, Transport and Environment, in consultation with the Executive Member for Environment and Transport to formally request, if necessary, of the Planning Inspector that the Public Examination process be suspended and/or undertake other procedural action necessary, to safeguard the Plan, until the revocation of the South East Plan is completed.

## **PROPOSED (MAIN) CHANGES TO THE HAMPSHIRE MINERALS AND WASTE PLAN**

### CHANGE 1 (dC15) Revised Vision

The vision has been amended to provide greater clarity on the links between this and the strategic aims of the Plan.

### CHANGE 2 (dC17, dC18) Revised Spatial Strategy

The spatial strategy section has been revised to include links to the NPPF requirements for collaborative working on strategic priorities and additional text on the importance of recycled aggregates, clarifying the position on landfill provision and hazardous waste management capacity.

### CHANGE 3 (dC23) New Policy 1 - Sustainable Minerals and Waste Development

The Plan clearly states its aim to protect Hampshire's environment, maintain Hampshire's communities and support Hampshire's economy.

The National Planning Policy Framework (NPPF) was issued on 27 March 2012, following the submission of the Plan on 29 February 2012. The Inspector considered that following advice from the Department for Communities and Local Government, the guidance contained within the NPPF regarding the presumption in favour of sustainable development should be included in the Plan.

The NPPF states "the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking. For plan-making this means that local planning authorities should positively seek opportunities to meet the development needs of their area; Local Plans should meet objectively assessed needs, with sufficient flexibility to adapt to rapid change, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or specific policies in this Framework indicate development should be restricted."

Providing it is made clear that a local interpretation of this policy for Hampshire is devised through additional supporting text, then this can only strengthen the Plan and its objectives.

It is recommended that change dC23 be made to the Plan in order to bring this guidance into effect. It is further recommended that this forms part of the public consultation during the next stage of the process.

### CHANGE 4 (dC28) Revise policy on designated landscapes

The policy on protection of designated landscapes, such as the National Parks and AONB's has been amended to ensure that Plan is consistent with national policy.

CHANGE 5 (dC30) Clarify criteria for protection of the Countryside

The policy which provides the basis for protection of the wider countryside has been revised to provide clarity on the criteria for development.

CHANGE 6 (dC34) Revise policy on development in the Green Belt

The policy on protection of the South West Hampshire Green Belt has been revised to ensure compliance with the NPPF.

CHANGE 7 (dC43) Revise policy on Protecting Public Health, Safety and Amenity.

The policy on protecting public health, safety and amenity has been revised to ensure compliance with the NPPF, clarify the development criteria and to highlight the importance of cumulative impacts

CHANGE 8 (dC58) Deletion of Policy on planning conditions and obligations

The policy covering development management through the use of planning conditions and obligations is deleted as this is now covered in new Policy 1 Sustainable minerals and waste development.

CHANGE 9 (dC80) Revise policy on Aggregate wharfs and rail depots

The policy on Aggregate wharfs and rail depots has been revised to ensure compliance with the NPPF and to provide development criteria for new wharf proposals.

CHANGE 10 (dC97) new Policy 21 – Silica sand

As part of the preparation for the public hearing, the operator of Kingsley Quarry in East Hampshire provided evidence to the Inspector that stated that the mineral at that quarry was silica sand based on its uses. Despite several opportunities and ongoing dialogue with the operator, this information has never previously been submitted the planning authorities at any stage of the process.

Silica sand is a particular high quality type of soft sand that has a very high Silica (SiO<sub>2</sub>) content, such that it can be used in industrial processes, specifically for glass-making.

In this regard, mineral deposits of this type enjoy a different and more stringent planning protection than those types of sand and gravel which are used for construction.

The NPPF states that “Minerals planning authorities should plan for a steady and adequate supply of industrial minerals by co-operating with neighbouring and more distant authorities to co-ordinate the planning of industrial minerals to ensure adequate provision is made to support their likely use in industrial and manufacturing processes by providing a stock of permitted reserves of at least 10 years for individual silica sand sites to support the level of actual and proposed investment required for new or existing plant and the maintenance and improvement of existing plant and equipment”

The Inspector has requested that the planning authorities review the Plan to make provision for silica sand in accordance with the NPPF.

The technical guidance to the NPPF provides helpful advice by defining industrial minerals, and clarifying that silica sand is a mineral “necessary to support industrial and manufacturing processes”.

Furthermore it identifies the method by which the landbank for a silica sand site is calculated; the average of the last three years for which sales are available.

It is accepted that the mineral extracted from Kingsley Quarry and potentially other sites in the vicinity, satisfy the physico-chemical properties of silica sand and that the mineral extracted from the site is used for both construction and non-construction uses.

The NPPF clearly equates the protection afforded silica sand sites, to the need for its use as an industrial mineral. The sand from Kingsley Quarry is not used for industrial uses, but predominantly used for recreation and horticulture with a minority used for construction.

To that end, it is suggested that:

- a new policy on silica sand is included in the Plan (new Policy 21)
- the status of the current Frith End and Kingsley sites are amended to include reference to silica sand
- the levels of supply of soft sand (aggregate) for construction be revised accordingly.

The operator of Kingsley Quarry has also been promoting an extension to the current site, however this was not allocated as a sustainable extension site in the Plan.

This remains the case as, in the view of the planning authorities there is no need for an extension to the current site; the site already has a landbank in excess of the NPPF requirement

The operational extraction site at Frith End, East Hampshire produces similar material to the Kingsley site and the operator has confirmed that not only does the material satisfy the physical requirements of Silica sand, but it is also used for similar purposes such as recreation and horticulture as the Kingsley Quarry material.

Therefore in accordance with paragraph 146 of the NPPF, it is suggested that a new Policy 21 – Silica sand, is inserted into the Plan which incorporates criteria to guide further silica sand development.

It is further recommended that this forms part of the public consultation during the next stage of the process.

#### CHANGE 11 (dC100dC186) Brick Clay site revision

New information from the operator of Michelmersh Brickworks was received following the publication of the Plan, that the areas allocated within it have very low workable reserves.

The Inspector indicated that the supply of brick-making clay for Michelmersh should be reviewed, taking into account the new information. Further site appraisal

work and an assessment of geological constraints and potential community impacts have indicated that a new area should be put forward for allocation.

The NPPF requires a 25 year landbank for brick-making clay. The existing permitted reserves alongside a proposed new allocated site would provide for an estimated 22 year landbank. It has been acknowledged by the operator that there are no other viable options for extraction in this locality at this time, and it has been agreed that the new allocation is sufficient for their needs.

It has been concluded therefore, that due to the geological constraints and the problematical nature of the areas surrounding the brickworks and the impacts on residents, that Area A (comprising School House Field and Hillside Field) are allocated.

It is also suggested that Inset Map 7 is revised to include the new proposed areas and that suitable development management criteria be added to the wording of Policy 22

It is further recommended that this forms part of the public consultation during the next stage of the process.

#### CHANGE 12 (dC86) Shortfall in provision of land-won aggregates

Policy 17 of the Plan specified that land-won provision of aggregates should be at the rate of 1.56million tonnes per annum (mtpa). Policy 20 of the Plan then identified how this requirement would be met; from a mixture of the permitted reserves, extensions to existing sites, new sites and criteria for other sites.

This is in accordance with the NPPF which states “Minerals planning authorities should plan for a steady and adequate supply of aggregates... Such provision should take the form of specific sites, preferred areas and/or areas of search and locational criteria”.

Policy 20 provides for such a supply through permitted reserves, suitable extensions, new sites and such criteria to allow for unallocated sites.

The Plan noted that this approach is sufficient until late 2028. The Inspector has requested that the planning authority should review this situation with a view to eliminating any shortfall in provision.

The Plan describes how unallocated sites have previously been forthcoming, and have provided 4.76mt of supply capacity in the last 15 years.

Based on this assumption it is considered that Policy 20, with some minor amendments to remove an internal inconsistency in the criteria is sound.

Consequently it is suggested that Policy 20 should be amended by clarifying the criterion for unallocated sites being deliverable.

It is further recommended that this forms part of the public consultation during the next stage of the process.

#### Conclusions relating to Extension Sites

the Inspector has also requested that the findings reached on several extension sites to current sand and gravel quarry operations be similarly reviewed. These

conclusions were based on an assessment of the sites through the Integrated Sustainability Appraisal process.

The ISA and conclusions on the extension sites have been reviewed, updated and are considered sound.

CHANGE 13 (dC142, dC143, dC144) Clarification on location of waste management development

The policy and supporting text on locating waste management development has been revised as a consequence of the hearing sessions to provide greater clarity and strengthen the guidance for a wider range of waste management land uses.

CHANGE 14 (dC149) Revise policy on CDE Waste development

The policy on Construction, Demolition and Excavation waste development has been revised to clarify the target capacity requirements and the beneficial uses of inert waste.

CHANGE 15 (dC158, dC159) Remove references to London's Waste.

The references to London's waste are deleted from the Plan as this requirement is part of the SE Plan which is due to be revoked.

CHANGE 16 (dC173, dC174, dc175) Safeguarding of potential minerals and waste wharf and rail depot infrastructure

During the hearing there was substantial discussion on this matter and alternative wording to that submitted was proposed for Policy 33.

This policy aims to ensure that potential future opportunities for wharves and rail depots are safeguarded, that is they are "safeguarded from unnecessary sterilisation from non-mineral development" as defined by the NPPF. This policy does not therefore presume development.

New Forest District Council sought legal opinion relating to the matter, specifically in challenging the process undertaken by the planning authorities relating to Habitats Regulation Assessment. This legal advice suggested that the planning authority had not carried out the process correctly and that an Appropriate Assessment should be carried out.

The planning authorities have also sought expert legal opinion from a specialist planning barrister on this matter. It is suggested that although some minor rewording of Policy 34 (previously 33) is required, in order to ensure clarity with respect to the purpose of the safeguarding, it is otherwise a sound policy and the due process with respect to HRA has been followed. Therefore it is still considered that an Appropriate Assessment on this matter is not required.

It is further recommended that this forms part of the public consultation during the next stage of the process.

CHANGE 17 (dC191) Update list of safeguarded sites.

The list of Safeguarded minerals and waste sites has been updated to include concrete batching plants and sites identified for potential minerals and waste wharf and rail depot infrastructure.

CHANGE 18 (dC193) Revise implementation and monitoring plans.

The separate implementation and monitoring plans have been combined to provide a cohesive and improved framework to guide minerals and waste development, and monitor progress against the policies in the Plan to ensure the right development in the right place at the right time.

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