

**HAMPSHIRE COUNTY COUNCIL****Report**

<b>Committee:</b>	Economy, Transport and Environment Select Committee
<b>Date:</b>	30 October 2015
<b>Title:</b>	Adoption of Supplementary Planning Documents for Minerals and Waste Safeguarding and Oil and Gas Development
<b>Reference:</b>	7013
<b>Report From:</b>	Director of Economy, Transport and Environment

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**1. Purpose of Report**

- 1.1. The purpose of this report is to update the Select Committee on the progress of preparing the supplementary planning documents (SPDs) on oil and gas development and minerals and on waste safeguarding in advance of a report to Cabinet in December 2015.
- 1.2. This report seeks to:
  - summarise the purpose of the two SPDs;
  - highlight how the SPDs link to the adopted Hampshire Minerals and Waste Plan (2013) and
  - summarises preparation of the SPDs, including recent amendments following the consultation process.
- 1.3. Hard copies of the draft SPDs are available for Members to view in the Members' rooms. Members are welcome to provide comments on the draft documents in advance of them being considered by Cabinet in December 2015.

**2. Contextual Information**

- 2.1. The County Council, as a Minerals and Waste Planning Authority (MWPA), has a statutory duty to prepare a plan to guide minerals and waste development in Hampshire. A Plan satisfying these requirements was prepared, publically examined and duly adopted by the County Council, Southampton City Council (SCC), Portsmouth City Council (PCC), the New Forest National Park Authority (NFNPA), and the South Downs National Park Authority (SDNPA) in October 2013. This is known as the Hampshire Minerals and Waste Plan (hereafter referred to as 'the Plan' or HMWP).
- 2.2. The Plan provides policy guidance on planning for minerals and waste development in Hampshire to 2030, designed to help protect Hampshire's environment, maintain its communities, and support its economy. The HMWP is now the development plan for minerals and waste development in

Hampshire and it is the responsibility of the County Council and its partners to implement and monitor the adopted Plan.

- 2.3. The plan-making partnership came to an end upon the adoption of the HMWP and a new partnership was established between the County Council, the SCC, PCC and the NFNPA to monitor and implement the HMWP. It is important to note that the SDNPA is not part of this new partnership.
- 2.4. Local Planning Authorities can prepare supplementary planning documents (SPDs) to provide additional guidance on adopted policy.
- 2.5. A SPD is defined in Regulation 2(1) of the Town and Country Planning (Local Planning) (England) Regulations 2012<sup>1</sup> as: *'any document of a description referred to in regulation 5 (except an adopted policies map or a statement of community involvement) which is not a local plan'*<sup>2</sup>. A SPD can also *'add further detail to the policies in the Local Plan. They can be used to provide further guidance for development on specific sites, or on particular issues.* The SPDs have been prepared in accordance with the Regulations as well as the section 19(2) of the Planning and Compulsory Purchase Act 2004 and the relevant sections of the National Planning Policy Framework<sup>3</sup> and the National Planning Practice Guidance<sup>4</sup>.
- 2.6. SPDs can build upon and provide more detailed advice or guidance on policies within Local Plans. A SPD is capable of being a material consideration in planning decisions but is not part of the development plan<sup>5</sup>.
- 2.7. As part of the monitoring and implementation of the HMWP, it was clear that two areas would benefit from further guidance on the implementation of the adopted HMWP's policies – oil and gas development and minerals and waste safeguarding.
- 2.8. The intention of both of the SPDs is to provide additional guidance on the application and implementation of the policies in the HMWP. They do not contain any additional policies on safeguarding or oil and gas development.

### **Oil and gas development**

- 2.9. Since the adoption of the Plan, issues of oil and gas development and the potential for hydraulic fracturing ('fracking') have been of interest and concern to Hampshire communities. The HMWP contains a policy specifically on oil and gas development (Policy 24). However, due to the interest in this subject, the County Council and its partners decided that a SPD on oil and gas development would provide greater clarity and certainty to Hampshire's communities and interested parties on issues associated with this type of development. The intention to prepare a SPD also follows the Oil and Gas

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<sup>1</sup> Town and Country Planning (Local Planning) (England) Regulations 2012:  
[www.legislation.gov.uk/ukxi/2012/767/pdfs/ukxi\\_20120767\\_en.pdf](http://www.legislation.gov.uk/ukxi/2012/767/pdfs/ukxi_20120767_en.pdf)

<sup>2</sup> *Local plan'* is defined in regulation 2(1) of the Local Planning Regulations as: "local plan" means any document of the description referred to in regulation 5(1)(a)(i), (ii) or (iv) or 5(2)(a) or (b), and for the purposes of section 17(7)(a) of the Act these documents are prescribed as development plan documents (NPPF (Glossary):  
[www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/6077/2116950.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/6077/2116950.pdf)

<sup>3</sup> National Planning Policy Framework, paragraph 153 (2012):  
[www.gov.uk/government/publications/national-planning-policy-framework--2](http://www.gov.uk/government/publications/national-planning-policy-framework--2)

<sup>4</sup> National Planning Practice Guidance: <http://planningguidance.planningportal.gov.uk/> :

<sup>5</sup> National Planning Policy Framework ("NPPF"), glossary (2012): [www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/6077/2116950.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/6077/2116950.pdf)

Development in Hampshire event, which took place in June 2014. The SPD sets out the local expectations for oil and gas planning applications submitted in Hampshire.

2.10. The oil and gas SPD covers the following areas:

- Oil and gas licencing in Hampshire;
- Permitted oil and gas development;
- Phases of oil and gas development;
- Planning Performance Agreements;
- Preparing a planning application for oil or gas development in Hampshire:
  - Pre-application discussions;
  - When will a proposal require an Environmental Impact Assessment application?
  - Ensuring a planning application for oil or gas development is valid;
  - How should notice on landowners be served?
  - What planning application fees will be applicable to oil or gas development?
  - What issues should be considered as part of any oil and gas planning application? - Compliance with National Planning Policy and Local Planning Policy (The Hampshire Minerals and Waste Plan (2013);
  - What other regulatory regimes or agencies may be involved or have an interest in the planning process for oil or gas developments?
  - Why is community engagement important to the planning process?
- How will decision making take place for oil or gas developments in Hampshire?
- What conditions are likely to be attached to planning permissions in Hampshire?
- Planning obligations;
- Monitoring and enforcement of oil and gas developments in Hampshire;
- Community benefits.

### **Minerals and waste safeguarding**

2.11. Minerals and waste safeguarding is also an issue which requires further implementation guidance now that the HMWP has been adopted. The HMWP includes clear policies on the safeguarding of mineral resources (Policy 15), minerals infrastructure (Policy 16), waste infrastructure (Policy 26), and potential wharves and rail depots (Policy 34). Further guidance is required to ensure that Hampshire's district and borough Councils consult the relevant MWPA effectively when non-minerals-or-waste developments are proposed which impact the mineral resources and/or minerals and waste infrastructure safeguarded by the Plan. Further guidance is also required to ensure that developers (for non-minerals-or-waste developments) consider safeguarding

issues at the earliest stages of when preparing masterplans or planning applications.

2.12. The minerals and waste SPD covers the following areas:

- Background to minerals and waste safeguarding in Hampshire
  - Safeguarding Mineral Resources
  - Safeguarding Minerals and Waste Infrastructure
  - Safeguarding potential minerals and waste wharf and rail depot infrastructure
  - Mineral Safeguarding Area (MSA)
  - Minerals and Waste Consultation Area (MWCA) (including the Mineral Consultation Area (MCA))
- Safeguarding and the preparation of planning applications for non-mineral-or-waste uses
  - Developer considerations
  - Avoiding sterilisation of mineral resources
  - Recycled aggregates
  - Consideration of existing or future minerals and waste infrastructure
  - Safeguarding and the design of development
  - Pre-application discussions
  - Information developers may need to provide
  - Mineral exploratory data
  - Redevelopment proposals
- Minerals and waste safeguarding procedures in Hampshire
  - Existing consultation procedures
  - General consultation arrangements
  - Local Plan preparation
  - Development Proposals
  - Policies Maps
  - Consideration of comments received from the Minerals and Waste Planning Authority (MWPA)
- Monitoring of the Supplementary Planning Document

2.13. The draft SPDs are accompanied by a number of supporting documents. These include:

- Integrated Sustainability Appraisal Report (ISA)<sup>6</sup>;
- Habitats Regulation Assessment screening<sup>7</sup>;

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<sup>6</sup> ISA of SPDs (2015): <http://documents.hants.gov.uk/mineralsandwaste/consultation-2015/IntegratedSustainabilityAppraisalReport.pdf>

- Equality Impact Assessment (EqIA)<sup>8</sup>;
  - Duty to Co-operate Statement<sup>9</sup>; and an
  - Oil and Gas Background study<sup>10</sup>.
- 2.14. The SPDs do not conflict with the provisions of the adopted HMWP. They provide guidance on the implementation of the HMWP policies.
- 2.15. The preparation of the SPDs preparation has complied with all of the partner authorities relevant Statements of Community Involvement<sup>11</sup>.

### **3. Consultation and Equalities**

- 3.1. In May 2015 the Executive Member agreed that the two draft SPDs should be subject to a public consultation process which ran between 29 June – 7 August 2015<sup>12</sup>.
- 3.2. A full member briefing on the two SPDs took place on 13 July 2015 and this was followed by a safeguarding event on 21 July 2015 as part of the consultation.
- 3.3. Twenty-eight responses were received on the oil and gas draft SPD and 30 on the minerals and waste safeguarding draft SPD. A summary report detailing the responses received and the response by the Hampshire Authorities was prepared<sup>13</sup>. A summary of the responses received is set out below.

#### ***Oil and gas SPD***

- 3.4. A summary of the responses received on the oil and gas SPD are as follows:
- Many responses received welcomed the potential introduction of new guidance on oil and gas development;
  - A review of SPD is required to ensure that the content of the SPD is communicated effectively to all interested parties;
  - The issue of national energy supply is not dealt with within the guidance document.
  - It was suggested that certain methods or processes for community engagement should be undertaken if an oil or gas planning application was submitted.

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<sup>7</sup> HRA of SPDs (2015): <http://documents.hants.gov.uk/mineralsandwaste/consultation-2015/HMWPSPDHabitatsRegulationsAssessmentJune2015v1.pdf>

<sup>8</sup> Equalities Impact Assessment of the SPDs: <http://documents.hants.gov.uk/mineralsandwaste/consultation-2015/EqualitiesImpactAssessmentEqIASafeguarding-OilandGasSPD.pdf>

<sup>9</sup> Hampshire Minerals and Waste Plan Supplementary Planning Documents Duty to Co-operate Statement (Hampshire Authorities, 2015)

<sup>10</sup> Oil and Gas Study (2015): <http://documents.hants.gov.uk/mineralsandwaste/consultation-2015/OilandGasDevelopmentinHampshireBackgroundStudyv1June2015.pdf>

<sup>11</sup> Statement of Community Involvement: [www3.hants.gov.uk/mineralsandwaste/sci-2.htm](http://www3.hants.gov.uk/mineralsandwaste/sci-2.htm)

<sup>12</sup> Public consultation on the SPD: [www.hants.gov.uk/spdconsultation-2015.htm](http://www.hants.gov.uk/spdconsultation-2015.htm)

<sup>13</sup> Hampshire Minerals and Waste Plan Supplementary Planning Document – Consultation Summary Report (Hampshire Authorities, 2015):

- Water companies are statutory consultees and this should be made clearer.
- The role and special qualities of Hampshire's Areas of Outstanding Natural Beauty should be highlighted in the SPD.
- References to Historic Landscape Character Area should be included in the SPD.
- Further clarification is required on the following areas:
  - oil and gas development taking place in National Parks;
  - the risk of water turbidity problems caused by drilling;
  - use of sustainable drainage systems; and
  - when Environmental Permits are required.
- The need for Comprehensive Risk Assessments and Flood Risk Assessments, where necessary, should be highlighted in the SPD.
- Needs to consider amenity impacts associated with oil and gas development.
- Need for additional information on the role of the Health & Safety Executive and the Environment Agency.
- Need for more information on material considerations.
- Consideration needs to be given to oil and gas networks and existing infrastructure, notably Fawley Refinery.

### ***Minerals and waste safeguarding SPD***

3.5. A summary of the responses received on the minerals and waste safeguarding SPD are as follows:

- Many responses received welcomed the potential introduction of new guidance on minerals and waste safeguarding.
- Further justification is required on the minimum 3 hectare site size for consultation with the relevant MWPA when development is proposed in areas of safeguarded mineral.
- Need for more emphasis on safeguarding minerals and waste infrastructure.
- Clarification should be included on procedures for when insufficient information is provided by applicants when development is proposed which impacts safeguarded mineral resources or minerals and waste infrastructure.
- A suggestion that the guidance set out in the SPD should be included as policy within all local plans was made.
- Recommendations were made for a simple chart for local planning authorities for quick and easy reference
- Recommendation that that minerals information be added to validation requirements at district and borough councils.
- The need for case-by-case checks with regard to substantial existing development proposals should be highlighted.
- Further clarification on the following areas:

- where local knowledge of resources exists;
  - application of the Mineral Consultation Area should be included in the SPD;
  - consultation arrangements for proposals located across waterbodies should be included in the SPD;
  - scale of potential prior extraction;
  - need to recognise strategic development issues; and
  - differences between the Mineral Safeguarding Area and Minerals Consultation Area
- Need for more justification on safeguarding buffers.
  - There should be the inclusion of the results of the monitoring of the implementation of the SPD and the HMWP safeguarding policies in the Hampshire Authorities' Monitoring Report.
  - A request was made for a policy on wastewater treatments.
  - Reference should be made to the Hampshire Authorities' up-to-date safeguarding list on the HCC website.
  - Malmstone may need to be considered for safeguarding the future.
  - It was felt that the guidance is currently geared towards local planning authorities and there should be more guidance for developers.
  - Further emphasis should be placed on the viability of mineral and this should be linked to the need of operators.
  - Request that the SPD should include a provision that all non-minerals developments in Inset 5 (Whitehill Bordon) are referred to the Secretary of State for resolution.

3.6. As noted in section 2 of the report, an EqIA was undertaken<sup>14</sup>. The assessment concluded that the SPDs are unlikely to have a significant negative effect on any group of residents with protected characteristics in Hampshire and nearby areas, as the SPDs impacts have been considered through the EQIA of the HMWP. In addition, it was also concluded that the SPDs are unlikely to impact significantly more on any one of the different customer groups likely to be excluded, than it would on the population as a whole.

#### **4. Finalisation of the documents**

4.1. Amendments were made to the draft SPDs to take account of the responses to the consultation and those changes are summarised below.

#### **4.2. *Oil and gas SPD – main changes are summarised as follows:***

- Factual and textual updates following changes to national policy and guidance;

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<sup>14</sup> Equalities Impact Assessment of the SPDs:

<http://documents.hants.gov.uk/mineralsandwaste/consultation-2015/EqualitiesImpactAssessmentEqIASafeguarding-OilandGasSPD.pdf>

- Further clarification on the following areas:
    - role of water companies in the planning process;
    - oil and gas development taking place in National Parks, Areas of Outstanding Natural Beauty and the Historic Landscape Character Area
    - the risk of water turbidity problems caused by drilling;
    - use of sustainable drainage systems;
    - when Environmental Permits are required; and
    - material considerations.
  - Inclusion of additional information on the role of the Health & Safety Executive and the Environment Agency; and
  - Plain English audit of the document;
- 4.3. ***Minerals and waste safeguarding SPD – main changes are summarised as follows:***
- Factual and textual updates on safeguarding issues;
  - Further clarification on the following areas:
    - 3 hectare site size for consultation with the relevant MWPA when development is proposed in areas of safeguarded mineral where local knowledge of resources exists;
    - procedures for when insufficient information is provided by applicants when development is proposed which impacts safeguarded mineral resources or minerals and waste infrastructure
    - application of the Mineral Consultation Area;
    - consultation arrangements for proposals located across waterbodies;
    - scale of potential prior extraction;
    - need to recognise strategic development issues; and
    - differences between the Mineral Safeguarding Area and Minerals Consultation Area
  - There should be the inclusion of the results of the monitoring of the implementation of the SPD and the HMWP safeguarding policies in the Hampshire Authorities' Monitoring Report.
  - Plain English audit of the document.
- 4.4. Cabinet is due to consider the adoption of the draft SPDs in December 2015. If approved, the draft SPDs will be referred to full Council for its consideration and potential adoption in February 2016. If adopted, the SPDs will sit alongside the adopted HMWP, providing guidance on the implementation of specific policies within the HMWP.

## 5. Conclusions

- 5.1. The monitoring and implementation of the adopted HMWP has shown that there is a need for further guidance on oil and gas development and minerals

and waste safeguarding. The two SPDs will help to ensure the more effective implementation of the plans policies in relation to these important areas.

- 5.2. The SPDs do not contain any additional policies on safeguarding or oil and gas development.
- 5.3. If adopted, the SPDs will sit alongside the adopted HMWP, providing guidance on the implementation of specific policies within the Plan. However, they will not form part of the development plan. The SPDs will be capable of being a material consideration in planning decisions.

**CORPORATE OR LEGAL INFORMATION:****Links to the Corporate Strategy**

<b>Hampshire safer and more secure for all:</b>	no
Corporate Improvement plan link number (if appropriate):	
<b>Maximising well-being:</b>	yes
Corporate Improvement plan link number (if appropriate):	
<b>Enhancing our quality of place:</b>	yes
Corporate Improvement plan link number (if appropriate):	

**Other Significant Links**

<b>Links to previous Member decisions:</b>		
<u>Title</u>	<u>Reference</u>	<u>Date</u>
Consultation on Supplementary Planning Documents for Minerals and Waste Safeguarding and Oil and Gas Development	6633	12 May 2015
Updated Hampshire Minerals and Waste Development Scheme	6036	9 September 2014
Hampshire Minerals & Waste Plan - Implementation and Monitoring Partnership Agreement	5429	1 April 2014
Hampshire Statement of Community Involvement	5646	1 April 2014
Adoption of the Hampshire Minerals and Waste Plan	5198	19 September 2013
<b>Direct links to specific legislation or Government Directives</b>		
<u>Title</u>	<u>Date</u>	
Town and Country Planning (Local Planning) (England) Regulations 2012	2012	
National Planning Practice Guidance	Live	
National Planning Policy Framework	2012	

**Section 100 D - Local Government Act 1972 - background documents**

**The following documents discuss facts or matters on which this report, or an important part of it, is based and have been relied upon to a material extent in the preparation of this report. (NB: the list excludes published works and any documents which disclose exempt or confidential information as defined in the Act.)**

<u>Document</u>	<u>Location</u>
Draft Minerals and Waste Safeguarding SPD (June 2015)	Winchester
Draft Oil and Gas Development SPD (June 2015)	Winchester
Hampshire Minerals and Waste Plan (2013)	Winchester
Equalities Impact Assessment	Winchester
Integrated Sustainability Appraisal Report	Winchester
Habitat Regulation Assessment	Winchester
Duty to Co-operate Statement	Winchester

## **IMPACT ASSESSMENTS:**

### **1. Equality Duty**

1.1. The County Council has a duty under Section 149 of the Equality Act 2010 ('the Act') to have due regard in the exercise of its functions to the need to:

- Eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act;
- Advance equality of opportunity between persons who share a relevant protected characteristic (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation) and those who do not share it;
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

**Due regard in this context involves having due regard in particular to:**

- a) The need to remove or minimise disadvantages suffered by persons sharing a relevant characteristic connected to that characteristic;
- b) Take steps to meet the needs of persons sharing a relevant protected characteristic different from the needs of persons who do not share it;
- c) Encourage persons sharing a relevant protected characteristic to participate in public life or in any other activity which participation by such persons is disproportionately low.

### **1.2. Equalities Impact Assessment:**

The SPDs do not contain any additional policies. The SPDs provide guidance on the implementation of the policies of the adopted Hampshire Minerals & Waste Plan. As a result, it is considered that the documents have a low if not no impact on all groups. An Equalities Impact Assessment will be prepared as part of the preparation of the SPDs as this will be adopted by the County Council if approved.

### **2. Impact on Crime and Disorder:**

2.1. The decision will have no impact upon crime and disorder.

### **3. Climate Change:**

3.1. How does what is being proposed impact on our carbon footprint / energy consumption?

The SPD on minerals and waste safeguarding does not directly impact carbon emissions.

The SPD on oil and gas development does not directly impact carbon emissions although it is recognised that oil and gas development can result in emissions to air.

3.2. How does what is being proposed consider the need to adapt to climate change, and be resilient to its longer term impacts?

The SPD on oil and gas development does not directly relate to adaptation to climate change. The SPD will provide guidance on the implementation on policies in the HMWP related to climate change mitigation and adaptation.