



Independent Examination of the Central and Eastern Berkshire – Joint Minerals and Waste Plan

Matters, Issues and Questions

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Introduction

The Joint Minerals and Waste Plan has been produced by Bracknell Forest Council, Reading Borough Council, the Royal Borough of Windsor and Maidenhead Council and Wokingham Borough Council. The Councils are collectively referred to in the Plan as the Central and Eastern Berkshire Authorities. For simplicity, we shall refer to them throughout the Examination as ‘the Authorities’.

Following the initial examination of the Central and Eastern Berkshire – Joint Minerals and Waste Plan (‘the Plan’) and supporting material we set out below are the Matters (topics) and Issues (points for consideration) that will form the basis for discussions during the Hearing sessions. Matters and Issues may change as the examination progresses, although participants will be given an opportunity to comment on any new issues that may arise.

This note provides questions, principally to the Authorities that potentially go to matters of soundness and, in some cases, are based on the representations that have been made. In framing the Matters, Issues and Questions (MIQs) I have had regard to the definition of soundness at paragraph 35 of the National Planning Policy Framework 2021 and also the principles of plan-making in paragraph 16. It also establishes that policies should be clearly written and unambiguous, so that it is evident how a decision maker should react to a development proposal. The Plan should therefore set out clear policies on what will or will not be permitted.

A separate Guidance Note goes with these MIQs and sets out the administrative details for the format, content and the deadline for hearing statements. In answering these questions, the Authorities should consider whether it might be necessary to prepare any potential main modifications to the submitted plan.

A LEGAL COMPLIANCE

Main Matter 1 – Legal Compliance

Issue: Whether the Plan complies with all relevant legal requirements, including the Duty to Co-operate.

Duty to Co-operate

- 1.1 Have the Authorities engaged constructively, actively and on an ongoing basis with all relevant organisations on strategic matters of relevance to the plan's preparation, as required by the Duty to Co-operate (under s 20(5)(c) and 33A)? On which issues has co-operation taken place? How was co-operation carried out and with what results? Has this been documented? Are there any outstanding issues?

Planning and Compulsory Purchase Act 2004, Section 19 and the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended)

- 1.2 Has the Plan been prepared in accordance with the Local Development Schemes of the Authorities including content and timescale?
- 1.3 Has the Plan been prepared in compliance with the adopted Statements of Community Involvement (SCI) for The Authorities, allowing for effective engagement of all interested parties and meeting the minimum consultation requirements set out in the regulations?
- 1.4 Does the Plan comply with the 2004 Act and the 2012 Regulations in terms of publishing and making available the prescribed documents?
- 1.5 Have the Authorities carried out a Sustainability Appraisal (SA) and prepared a report on the findings of the appraisal? Is there clear evidence to indicate why, having considered reasonable alternatives, the strategy in the Plan is an appropriate response? Does the methodology conform to that in the National Planning Policy Framework and Planning Practice Guidance?
- 1.6 Is the Plan consistent with national policy, including the National Planning Policy Framework and also Planning Policy Guidance? Are there any significant departures from national policy? If so, have they been justified?
- 1.7 What are the potential implications of the revised National Planning Policy Framework published on 20 July 2021?
- 1.8 Is it clear how the Plan secures development that contributes to the mitigation of, and adaptation to, climate change?
- 1.9 How have issues of equality been addressed in the Plan? How will the Plan help to advance equality of opportunity between people who share a

“protected characteristic” as defined in the Equality Act 2010¹ and those that do not share it and further the other two aims of the Act?

Conservation of Habitats and Species Regulations 2017

- 1.10 Does the Plan meet the requirements of the Conservation of Habitats and Species Regulations 2017, including any relevant case law [in particular the ruling of 12 April 2018 by the Court of Justice of the European Union (CJEU) *People over Wind, Peter Sweetman v Coillte Teoranta*, Case 323/17] to consider the likely significant effects of projects or plans on European protected sites, individually or in-combination? In particular, have Appropriate Assessments been undertaken under the Regulations? If not, has a screening exercise shown that there is no need for such assessments?

B SOUNDNESS

Main Matter 2 – The Spatial Strategy

Issue: Whether the Vision, Strategic Plan Objectives and Spatial Strategy are appropriate, positively prepared and are soundly based and provide an appropriate basis for meeting the future demand for minerals and managing waste sustainably.

- 2.1 Does the Plan reflect the future patterns of growth in Central and Eastern Berkshire?
- 2.2 Does the Plan cover everything necessary, as set out in the NPPF, PPG, National Planning Policy for Waste and the Waste (England and Wales) Regulations 2011 which transposed the requirements of the EU Waste Framework Directive (2008/98/EC)? How has the Plan had regard to wider Waste Strategies including the Waste Management Plan for England and Our Waste, Our Resources: A Strategy for England?
- 2.3 Does the Plan have appropriate regard to the adopted Development Plans of the Authorities? How have these been taken into account in the Plan?
- 2.4 How are the Vision, Strategic Plan Objectives and Spatial Strategy collectively consistent with national policy?
- 2.5 How do the outcomes of the SA reflect the principles of sustainable development and influence the spatial strategy and policies, with particular regard to climate change, sustainable transport and sustainable waste management?

¹ “Protected characteristics” are age; disability; gender reassignment; marriage and civil partnership (in employment only), pregnancy and maternity; race; religion or belief; sex; and sexual orientation.

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- 2.6 Do the allocations acknowledge the spatial dimension to the Plan in terms of minerals, including such matters as geology and distances to markets?
 - 2.7 Do the allocations for waste management acknowledge the spatial dimension to the Plan in terms of proximity to main centres?
 - 2.8 Does the Plan demonstrate that adequate consideration has been given to cross-boundary issues and strategic priorities?
 - 2.9 Does the Spatial Strategy adequately reflect the Vision and Strategic Plan Objectives for both minerals and waste?
 - 2.10 Does the Strategic Flood Risk Assessment (SFRA) include sufficient evidence to support the choice of proposed allocations for minerals and waste development?
 - 2.11 How would including an updated climate change allowance affect the conclusions of the SFRA, including in relation to the site allocations?

Main Matter 3 – Whether the Plan makes adequate provision for the steady and adequate supply of aggregate minerals

Issue: Whether the approach made in the Plan for the future supply of minerals would deliver a steady and adequate supply and is therefore positively prepared?

- 3.1 Is Policy M1 sufficiently clear as to how the overall minerals development strategy is to be applied, in particular, does the strategy provide clarity as to the supply of aggregates?
- 3.2 Is the basis for the calculation of the future demand for sand and gravel clear in relation to how average annual sales over the last 10 years have been applied?
- 3.3 Is Policy M3 sufficiently flexible to enable the provision of sand and gravel to meet the potential demands of large-scale unforeseen or currently non-committed future development projects?
- 3.4 Is the Plan sufficiently clear as to the quantum of contribution that the allocations for sand and gravel working in Policy M4 will make to the provision of a steady and adequate supply of minerals?
- 3.5 How is the requirement for an additional 5.447 Mt of sand and gravel to be met?
 - (a) Should Policy M4 indicate the quantum expected to be delivered from each of the allocations?
 - (b) For Site MA1, Appendix A of the Plan suggests that 250,000 tonnes will be delivered, whereas the Minerals Background Study suggests 150,000 tonnes will be delivered. Which is the correct figure?

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- (c) The Plan base date for permitted reserves is the 31 December 2018. The Minerals Background Study refers to subsequent permissions for Poyle Quarry (0.8 Mt) and Water Oakley (1.7 Mt). How is it clear to users of the Plan as to what supply is already taken into account in Policy M4, and therefore what is the scale of the shortfall in supply?
- 3.6 Is the identification of an Area of Search a justified approach to maintain a steady and adequate supply of minerals given the context of the shortfall?
- 3.7 Why has it not been possible to allocate additional sites or consider Preferred Areas?
- 3.8 Is the approach towards the identification of the Area of Search justified? And what criteria have been used?
- 3.9 Paragraph 6.74 of the Plan suggests that the Area of Search will change as land uses change and new designations are made or amended. How would this provide any user of the development plan with the certainty required when reading the development plan or looking at the policies map?
- 3.10 Is criterion 3 of Policy M4 justified to allow suitable sites to come forward in order to meet the shortfall? Is the use of the term “appropriate locations” sufficiently clear?
- 3.11 Are the allocations MA1 and MA2 justified? In Appendix A, Development Considerations are set out for the allocations MA1 and MA2 respectively. Paragraph 6.73 implies that these Development Considerations need to be addressed. Consequently, what is the status of the Development Considerations and if they are intended to be applied, should they be explicitly referred to within Policy M4?

Main Matter 4 – Minerals other than aggregates

Issue: Whether the Plan makes adequate provision for other minerals?

- 4.1 Is Policy M6 and its supporting text positively prepared and are the circumstances justified that relate to ‘appropriate locations’ and the provision of there being no other suitable, sustainable alternative source of mineral available?

Main Matter 5 – Protecting mineral resources, infrastructure and facilities

Issue: Whether the plan adequately balances the needs of competing development?

- 5.1 Is Policy M2 justified in referring to waste through the identification of a Minerals and Waste Safeguarding Area? How does this relate to Policy W2 that deals with the safeguarding of waste management facilities?

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- 5.2 Is the extent of the Minerals and Waste Safeguarding Area justified on the basis of evidence and consistency with National Policy?
 - 5.3 Is Policy M2 justified and sufficiently clear? The policy refers to safeguarding resources, however, the supporting text in paragraphs 6.46 and 6.47 appear to refer to mineral sites also being safeguarded under this policy, is this the intention? and if so, how does this relate to Policy M8 that safeguards minerals infrastructure? Do these two policies together adequately and effectively set out how existing mineral sites can be prevented from potential sterilisation arising from adjacent non-minerals development?
 - 5.4 Is an appropriate balance struck between the needs of competing development with the need to protect and conserve the mineral resource?
 - 5.5 Does the Plan provide justification as to what should be included within a Mineral Resource Assessment?
 - 5.6 Is the difference, use and application of Mineral Safeguarding Areas and Mineral Consultation Areas justified?
 - 5.7 Paragraph 6.40 to Policy M2 refers to a site size threshold, above which prior extraction is to be considered. How has this threshold been derived? Is this threshold justified? Should it be included within the policy? How would it address potential piecemeal development and unnecessary sterilisation?
 - 5.8 Should 'buffers' be defined around existing mineral working sites, and what is the justification for the respective 250 metres and 50 metres stated?
 - 5.9 How does Policy M2 include provision for temporary developments as suggested in paragraph 6.44? Does the Plan define 'specific projects of demonstrable overriding importance' as referenced in paragraph 6.44?
 - 5.10 How do the Authorities envisage updating the list of safeguarded sites set out in Appendix E? How would this provide any user of the development plan with the certainty required when reading the development plan or looking at the policies map?
 - 5.11 Are the monitoring arrangements for Policy M2 and the chosen threshold effective in ensuring sand and gravel resources are safeguarded?
 - 5.12 Is the allocation TA1 at Monkey Island Wharf justified having regard to environmental considerations and its relationship to the likely sources of supply of aggregates and markets?
 - 5.13 In Appendix A, Development Considerations are set out for the allocation TA1. Paragraph 6.128 implies that the Development Considerations need to be addressed. Consequently, what is the status of the Development

Considerations and if they are intended to be applied, should they be explicitly referred to within Policy M7?

- 5.14 Is Policy M7 and its supporting text positively prepared and are the circumstances that relate to 'appropriate locations' justified?

Main Matter 6 – Strategy for waste

Issue: Whether the strategy for waste management is appropriate, soundly based and meets needs for waste facilities?

- 6.1 How does the Plan support the movement of waste management up the waste hierarchy and reflect the proximity principle?
- 6.2 Does the Spatial Strategy reflect the relationship between existing population and population growth and future infrastructure provision, particularly in relation to the likely future waste generation and the need for new facilities?
- 6.3 Does the Plan appropriately take into account future development allocations and strategies in the other constituent parts of the development plan with regard to the future need, provision and location of waste facilities?
- 6.4 Does the Plan provide sufficient scope and opportunity to deliver new waste management capacity? Does the Plan set out an appropriate approach with regard to cross-border movements of waste and the potential for self-sufficiency within the Plan area?
- 6.5 Is the approach in Policy W4 of primarily relying on the 25 Preferred Waste Areas justified and effective? How will this ensure that sufficient waste capacity is delivered to meet the capacity requirements identified in Policy W3, whilst also having regard to the proximity principle?
- 6.6 How have the Preferred Waste Areas been selected?
- 6.7 Are any of the Preferred Waste Areas allocated for a different use or protected by policies in any other Development Plan Documents that might prevent them being realistically considered to be available for waste management proposals?
- 6.8 The Plan identifies in Appendix B, seven categories of waste management facilities. The 25 Preferred Waste Areas do not include any areas suggested to be suitable to categories 1, 5, 6 and 7, is there an identified need for them? Does the policy approach of primary reliance upon Preferred Waste Areas identify sufficient areas of focus to enable the waste industry to deliver the facilities that are needed over the plan period relevant to the types of waste streams that need to be managed and the operational requirements of the respective waste management facilities?

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- 6.9 Is Brookside Business Park, Swallowfield appropriately included within the Preferred Waste Areas?
- 6.10 Are the allocations WA1, WA2 and WA3 justified, having regard to the fact that in paragraph 7.106 it is stated that all of these sites are located within the Green Belt? Should the development considerations in Appendix A state the need to consider Green Belt policy?
- 6.11 How does the allocation of WA1 in Policy W4 reflect the fact that WA1 appears to mostly overlap with the southern Poyle Quarry Extension, MA2 allocated in Policy M4? Does this raise any issues for the delivery of either proposal? Does there need to be any indication of appropriate phasing? And if so, what impact might this have on the ability of the Plan to provide sufficient waste management capacity?
- 6.12 How does the allocation of WA2 in Policy W4 reflect the fact that WA2 appears to sit within the existing permitted mineral site Horton Brook Quarry identified for the extraction of the remaining reserves under Policy M4? Does this raise any issues for the delivery of either proposal? Does there need to be any indication of appropriate phasing? And if so, what impact might this have on the ability of the Plan to provide sufficient waste management capacity?
- 6.13 Is the proposed approach in Policy W2 for safeguarding waste management facilities justified in the context of existing and future waste capacity requirements and the relationship to the growth and development strategies contained within other Development Plan Documents?

Main Matter 7 – Development Management

Issue: Whether the Development Management policies are justified, effective and consistent with national policy?

Policy DM3 (Protection of Habitats and Species)

- 7.1 Is the biodiversity net gain target sufficiently ambitious to make a tangible difference to the biodiversity within the plan area?

Policy DM4 (Protection of Designated Landscape)

- 7.2 Is this policy consistent with the National Planning Policy Framework 2021?
- 7.3 Should the policy text be expanded to cross refer to the circumstances set out in paragraph 176 of the National Planning Policy Framework 2021?

Policy DM5 (Protection of the Countryside)

- 7.4 Is the policy consistent with the National Planning Policy Framework 2021?

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- 7.5 Is criterion 1 of the policy effective with regard to what mineral and waste proposals would be supported?
 - 7.6 As mineral extraction is most likely to occur in the countryside what purpose does the reference to 'time-limited' seek to achieve?
 - 7.7 As the definition of previously developed land excludes land used for mineral extraction where restoration is required, is it intended that the policy would prevent waste development in a mineral site?
 - 7.8 How will the policy effectively manage the completion of mineral extraction operations?

Policy DM6 (Green Belt)

- 7.9 How does the policy recognise the temporary nature of mineral extraction?
- 7.10 Is the requirement for the waste industry to look for alternative sites outside of the Green Belt appropriate and reasonable? Should this relate to existing sites or new sites?
- 7.11 How does the policy recognise that some waste proposals, for example, within an existing building and thereby being not inappropriate development, relate to the applicability of criterion 2?
- 7.12 How does criterion 2 relate to national policy? Should a distinction be made between the requirements of criterion 2 and very special circumstances to outweigh harm to the Green Belt?

Policy DM7 (Conserving the Historic Environment)

- 7.13 Should the policy be expanded to include a list of the categories of assets and their relative importance to be consistent with national policy?
- 7.14 Is the policy effective with regard to the measures which could mitigate harm to the historic environment?
- 7.15 Should the policy include a requirement to record all assets to be lost and the recording to be deposited in the public archive to be consistent with national policy?
- 7.16 Is the policy consistent with national policy on heritage assets in relation to how to weigh harm?

Policy DM8 (Restoration of Minerals and Waste Developments)

- 7.17 Does the policy give sufficient clarity on what restoration information is required?

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- 7.18 Should the policy, rather than supporting text in paragraph 5.83, cross refer to the Restoration Study?
- 7.19 Would this provide sufficient clarity on what options or strategies for restoration have been considered by developers and operators?
- 7.20 How would restoration and aftercare plans take into account community needs and aspirations?
- 7.21 How will the policy ensure restoration is undertaken?
- 7.22 Should the policy refer to the need to manage flood risk in relation to the type of restoration? Would cross referencing to Policy DM10 be effective?

Policy DM9 (Protecting Health, Safety and Amenity)

- 7.23 Should the policy supporting text include some cross reference to the monitoring and enforcement regimes to be effective?
- 7.24 Should the policy include reference to the quality of atmosphere, land and water to be effective?

Policy DM10 (Flood Risk)

- 7.25 Is the Policy DM10 consistent with national policy?
- 7.26 Should the policy differentiate between minerals and waste development, given the wording in the Planning Practice Guidance (reference ID: 7-018-20140306)?
- 7.27 Is the Strategic Flood Risk Assessment (SFRA) adequate, up to date and compliant with paragraph 160 of the National Planning Policy Framework 2021?

Policy DM11 (Water Resources)

- 7.28 Should the policy or supporting text include a cross reference to nearby private and licenced abstractions?
- 7.29 Should a Hydrological Assessment be required for all applications that present a hazard to water resources, quality and abstraction?

Policy DM15 (Past Operator Performance)

- 7.30 Can this policy be justified in land use planning terms having regard to legislation, National Planning Policy Framework, Planning Practice Guidance and National Planning Policy for Waste?
- 7.31 How would this policy be effective?
- 7.32 How would operators and local communities have certainty as to how the policy would be applied?
- 7.33 Who is supplying what information for this policy? What evidence will the planning authority gather for their Monitoring Assessment? Will the applicant have any role or input into the Monitoring Assessment?
- 7.34 How would this policy be monitored?

* There are no specific questions on Policies DM1, DM2, DM12, DM13 or DM14 *

Main Matter 8 – Monitoring and Review

Issue: Whether the monitoring arrangements will be effective.

- 8.1 How will the demand for chalk and clay be monitored?
- 8.2 Is the approach to the minerals and waste monitoring in the Plan effective?
- 8.3 Does the monitoring process for minerals and waste provide for co-operation and participation and are the appropriate participants involved?
- 8.4 Does the monitoring process for minerals and waste provide for flexibility? What contingency measures are in place in the event of non-delivery or lower delivery of new/extended sites?
- 8.5 Are suitable arrangements in place for reviews of the minerals and waste sections (either separately or as part of the wider plan) at appropriate sites?
- 8.6 Should the Plan include an appendix (or a cross reference to another document) to set out principles of the site monitoring and enforcement?

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INSPECTORS