

North Yorkshire County Council

Informal Meeting of Executive Members

15 February 2022

Adoption of the Minerals and Waste Joint Plan

Report of the Corporate Director – Business and Environmental Services

1.0 Purpose of the report

- 1.1 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.

2.0 Background

- 2.1 Under his delegated decision making powers in the Officers' Delegation Scheme in the Council's Constitution, the Chief Executive Officer has power, in cases of emergency, to take any decision which could be taken by the Council, the Executive or a committee. Following on from the expiry of the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020, which allowed for committee meetings to be held remotely, the County Council resolved at its meeting on 5 May 2021 that, for the present time, in light of the continuing Covid-19 pandemic circumstances, remote live-broadcast committee meetings should continue (as informal meetings of the Committee Members), with any formal decisions required being taken by the Chief Executive Officer under his emergency decision making powers and after consultation with other Officers and Members as appropriate and after taking into account any views of the relevant Committee Members. This approach will be reviewed again in February 2022.
- 2.2 Members will be aware that the draft Minerals & Waste Joint Plan ('the Joint Plan') has been produced by the County Council, City of York 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 27 February 2018 for a period of three weeks between that date and the 23 March 2018. An additional session was held on 13 April 2018 and later, in 2019, a further session was held over two days on Thursday 24 & Friday 25 January 2019 relating to unconventional oil and gas.
- 2.2 The appointed Planning Inspector, Ms Elizabeth Ord LLB (Hons) LLM MA DipTUS, examined the submitted document in relation to the tests of 'soundness' set out in the National Planning Policy Framework. The Authority has now received the Inspector's Report and accompanying letter dated 4 February 2022 stating that the Joint Plan satisfies all requirements and is 'sound', subject to the modifications recommended by her as a result of the discussions at the Examination.

- 2.3 On adoption, the Joint Plan will replace the 'saved' policies of the predecessor Plans; the North Yorkshire Minerals Local Plan (policies 'saved' by Secretary of State Direction 17 September 2007) and the North Yorkshire Waste Local Plan (policies 'saved' by Secretary of State Direction 11 May 2009).
- 2.4 This report is accompanied by:
- Minerals & Waste Joint Plan 2015-30, as proposed to be adopted (Appendix 1);
 - The Inspector's Final Report (Appendix 2);
 - The list of Modifications required by the Inspector to make the Plan 'sound' (Appendix 3)
 - The Joint Plan Adoption Statement (Appendix 4)
- 2.5 Copies of these documents are also available on the Joint Plan section of the Authority's website <https://www.northyorks.gov.uk/minerals-and-waste-joint-plan-examination> .

3.0 The Inspector's Report

- 3.1 A Schedule of Main Modifications to the Publication Draft was subject to public consultation between 21 July 2021 and 15 September 2021 and the outcome of that consultation sent onto the Inspector prior to the finalisation of her Final Report.
- 3.2 The main areas of modification compared to the original submitted Plan include:
- 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 mineral 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 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 Habitats Regulations;
 - Clarifying safeguarding provisions and inserting an additional policy;
 - Inserting additional allocations and development requirements to some allocations;
 - Adding further monitoring provisions for additional policies.

4.0 Changes to Current Policies

- 4.1 The policies within the Joint Plan will fully replace the policies contained in the North Yorkshire Minerals Local Plan (1997) and the North Yorkshire Waste Local Plan (2006). While the approach to development is not considered to be drastically different to the approach taken to date, the Joint Plan does introduce some changes for minerals and waste planning in the area covered by the Plan. In summary, the key changes are:
- In Policy M07: Meeting Concreting sand and gravel requirements, the inclusion of reference Areas of Search;

- In Policy M09: Meeting crushed rock requirements, changing focus from just Magnesian Limestone to crushed rock as a whole;
- In Policy M16: Key spatial principles for hydrocarbon development, change of 3.5km buffer zone to 3.5km visual sensitivity zone around National Parks and AONBs;
- In 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;
- In 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: Safeguarded surface mineral resources and reference to deep mineral resources has been removed;
- Policy S02: Developments proposed within Minerals Safeguarding Areas has had its title changed to Policy S02: Developments proposed within Safeguarded Surface Mineral Resource areas and has had reference to deep mineral resources removed;
- New Policy S03: Safeguarded Deep Mineral Resource areas created to deal with safeguarding of deep mineral resources, in this case potash. As a consequence:
 - the original Policy S03: Waste Management facility safeguarding has had its number changed to S04;
 - the original Policy S04: Transport infrastructure safeguarding has had its number changed to S05;
 - the original Policy S05: Minerals ancillary infrastructure safeguarding has had its number changed to S06; and,
 - the original S06: Consideration of applications in Consultation Areas has had its number changed to S07.
- Policy D07: Biodiversity and geodiversity has been altered and now includes reference to locally important sites and cumulative impacts;
- New Policy D14: Air Quality created; and
- New Policy D15: Planning Obligations created.

5.0 Changes to Policies Map

- 5.1 Additional sites which were allocated during the Examination in Public added to the Policies Map, these include:
- MJP12 – Whitewall Quarry (crushed rock);
 - MJP13 – Whitewall Quarry (recycling);
 - MJP15 – Blubberhouses (silica sand); and
 - WJP01 – Hillcrest, Harmby (waste).
- 5.2 Allocated sites which had site boundaries changed as a result of the Examination in Public had new boundaries added to the Policies Map, these include:
- MJP21 – Killerby (sand and gravel); and
 - MJP17 – Land south of Catterick (sand and gravel).
- 5.3 The area of potash to be safeguarded has changed and the new safeguarded area has been added to the Polices Map.

6.0 Adoption

- 6.1 The Regulations prescribe 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 documents were made available. Arrangements for this are in hand and the six-week period will end six weeks from the date of adoption.
- 6.2 The Policies Map is also recommended for adoption. In legal terms, this is a separate document to the Joint Plan and the Authority is required to keep it up to date according to 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.
- 6.3 A final published version of the Joint Plan document is being produced (a draft is attached) and it is suggested that authority is given to officers to carry out any further typographical amendments or updating as the final version is produced. Hard copies of the document will be made available for members and staff; however, it is planned that an electronic version only will be made available for planning agents and members of the public downloadable from the website.

7.0 Human Rights & Equalities

- 7.1 Regard has been had to potential impacts on Human Rights and the Council's Equality duty. An equalities screening exercise has been carried out (Appendix 5) and it has not identified that a full equalities impact assessment is required in this case. With regards to Human Rights, it is not considered that any issues arise from the adoption of the Joint Plan.

8.0 Financial

- 8.1 An invoice from the Planning Inspectorate for most of the cost of the Examination has been received and paid to the amount of £72,302.64 to date (of which £39,766.45 represents the County Council's share with the remainder paid by the City of York Council and the North York Moors National Park Authority). The remaining amount is unknown, but this cost, along with all other associated costs can be paid from existing allocated budgets.

9.0 Legal

- 9.1 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 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.

10.0 Climate Change

- 10.1 The draft Joint Plan has been subject to Sustainability Appraisal and to Habitats Regulations Assessment under the Strategic Environmental Assessment and Habitats Directives throughout its preparation. The Authority is required to publish a 'Sustainability Appraisal Report' as soon as possible detailing how the Joint Plan has

been prepared in accordance with regulations. This will be published alongside the adopted document and a copy will be available upon request.

- 10.2 A Climate Change Impact Assessment has been completed and accompanies this Report at Appendix 6.

11.0 Recommendation

- 11.1 Executive Members are asked to recommend to the Chief Executive Officer that using his emergency delegated powers he recommend that Council:
- i. Note the Inspector's Report and recommended changes and accept the main modifications;
 - ii. Adopt the Minerals & Waste Joint Plan incorporating the Inspector's Modifications circulated with this Report. In doing so, this will replace the current policies in use for development control purposes;
 - iii. Adopt the accompanying Policies Map;
 - iv. Authorise the Corporate Director, Business & Environmental Services to make any further minor typographical amendments or updates in producing the final version of the document and, to take any necessary steps to conclude the adoption process; and,
 - v. Authorise the publication of the Adoption Statement and Sustainability Appraisal in accordance with Regulations 26 and 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012.

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Appendices:

- Appendix 1 - Minerals & Waste Joint Plan 2015-2030 as proposed to be adopted
Appendix 2 - Inspector's Report on the Minerals & Waste Joint Plan 2015-2030.
Appendix 3 - Appendix to the Inspector's Report showing Main Modifications.
Appendix 4 - The Joint Plan Adoption Statement.
Appendix 5 – Equality Impact Assessment.
Appendix 6 – Climate Change Assessment