

**Open Report on behalf of Richard Wills
Executive Director for Environment and Economy**

Report to:	Executive
Date:	07 November 2017
Subject:	Lincolnshire Minerals and Waste Local Plan: Site Locations
Decision Reference:	I014444
Key decision?	Yes

Summary:

As the Minerals and Waste Planning Authority for the County, Lincolnshire County Council has a statutory responsibility for producing a Minerals and Waste Local Plan (MWLP). This is being produced in two parts and covers the period up to 2031.

The first part of the plan, the Core Strategy and Development Management Policies (CSDMP) document, is complete and was formally adopted by the County Council on 1 June 2016 following a public examination. This document sets out the key principles to guide the future winning and working of minerals and the form of waste management development in the County, together with the criteria against which planning applications for minerals and waste development will be considered.

This report relates to the second part of the MWLP, the Site Locations document, which is at the final stage of preparation and includes the specific proposals and policies for the provision of land for the winning and working of sand and gravel and for waste management in line with the strategic policies of the CSDMP. A Pre-Submission Draft version of this document (Appendix A) was endorsed by the Executive on 1 November 2016 and, following a period of consultation (Appendix B), was approved by the County Council for submission to the Secretary of State for Communities and Local Government for examination on 3 April 2017.

The examination was conducted by an independent inspector appointed by the Secretary of State and included public hearings held between 25 and 27 July 2017. This examination closed on 19 September 2017 with the issuing of the Inspector's report (Appendix D).

The Inspector has found that the plan is sound and legally compliant and concludes that it provides an appropriate basis for the planning of minerals and waste development in the County. She has therefore recommended that the plan is adopted on the basis that it meets the full requirements of Section 20(5) of the Planning and Compulsory Purchase Act 2004. The Inspector also confirmed that

the minor modifications (known as "Additional Modifications") advanced by the Council's Officers during the Examination would not affect the soundness of the plan (Appendix C).

This report seeks the Executive's endorsement of the Site Locations document (as modified) and its recommendation of the modified document to the full County Council for adoption.

Recommendation(s):

That the Executive:

(1) endorses the Lincolnshire Minerals and Waste Local Plan: Site Locations (Pre-Submission Draft) at Appendix A as modified by the Additional Modifications set out in Appendix C of this report;

(2) authorises the Planning Services Manager to recommend to the County Council further Additional Modifications to update Chapter 1 of the plan (Introduction) and to remove references to "Pre-Submission Draft" within the document in order to reflect its status at the point of adoption; and

(3) recommends to the County Council that it adopts the Lincolnshire Minerals and Waste Local Plan: Site Locations (Pre-Submission Draft) at Appendix A as modified by the Additional Modifications set out in Appendix C or recommended by the Planning Services Manager under paragraph (2) above as the Lincolnshire Minerals and Waste Local Plan: Site Locations.

Alternatives Considered:

1.	The Executive could resolve to recommend that some or all of the Additional Modifications set out in Appendix C should be rejected by the County Council.
2.	The Executive could refuse authorisation for the Planning Services Manager to recommend to the County Council further Additional Modifications to update the plan and reflect its status at the point of adoption.
3.	Finally, the Executive could resolve to recommend that the County Council does not adopt the plan either with or without the Additional Modifications.

Reasons for Recommendation:

It is important that the County Council has an up-to-date Minerals and Waste Local Plan in place as soon as possible to help ensure that both mineral extraction and waste management in the County accord with the principles of sustainable development. The adoption of the Site Locations document would complete this process. The Additional Modifications to the Site Locations document are minor in nature and would make it more informative and add

clarity. Furthermore, taken together they would not materially affect the policies set out in the plan.

In the event the Executive takes a different view and recommends that the County Council does not adopt the Site Locations document, and should that recommendation be followed, work would have to start on the preparation of a new Site Locations document. Given that the remaining plan period would be less than the Government's advised 15 years, this would probably mean that a review of the CSDMP would need to be commenced at the same time. This would cause a significant delay to the Council having a full adopted Minerals and Waste Plan in place and could lead to Government intervention.

1. Background

- 1.1 As the Minerals and Waste Planning Authority for the County, Lincolnshire County Council has a statutory responsibility for producing a Minerals and Waste Local Plan (MWLP). This is being produced in two parts and covers the period up to 2031.
- 1.2 The first part of the MWLP, the Core Strategy and Development Management Policies (CSDMP) document, is complete and was formally adopted by the County Council on 1 June 2016 following a public examination. This document sets out the key principles to guide the future winning and working of minerals and the form of waste management development in the County, together with the criteria against which planning applications for minerals and waste development will be considered. It replaces the former Lincolnshire Minerals Local Plan (1991) and most of the policies in the Lincolnshire Waste Local Plan (2006), except Policies WLP2, WLP6, and WLP12 of that document. These policies are saved until the second part of the plan has been adopted.
- 1.3 This report relates to the second part of the MWLP, the Site Locations document, which is at the final stage of preparation and includes the specific proposals and policies for the provision of land for the winning and working of sand and gravel and for waste management in line with the strategic policies of the CSDMP.
- 1.4 The MWLP must take into account European and National policy and legislation. It is a key part of meeting the planning requirements of the EU Waste Framework Directive. It must also meet the requirements of the National Planning Policy Framework and the National Planning Policy for Waste.
- 1.5 Development of the Site Locations document began in 2008. In 2009 a consultation exercise was carried out which invited the mineral and waste industries to submit details of sites or areas for consideration for future mineral and waste development. Although the findings of this exercise were subject to consultation in 2010, further work was delayed due to

resources being concentrated on delivering the CSDMP. In 2014 work resumed and a second "call for sites" exercise was undertaken in order to update the list of sites to be considered for allocation.

- 1.6 On 1 December 2015, the Executive approved a Draft Site Locations Document, setting out the "Preferred Sites and Areas", for consultation. The consultation took place between 4 December 2015 and 29 January 2016 with a total of 97 respondents making 368 representations on the document. Respondents included statutory bodies, local authorities, parish councils, proponents of sites and individuals. A large number of the preferred sites and areas attracted comments from bodies with nature conservation and heritage interests highlighting the need to protect such interests. Concerns were also raised that the accompanying documents (Sustainability Appraisal, Sequential Test and Habitats Regulations Assessment were flawed). Only one site received significant public opposition, a site put forward for the extraction of sand and gravel at Urn Farm in Greatford.
- 1.7 The Draft Site Locations Document (Preferred Sites and Areas) was prepared prior to the completion of the examination of the CSDMP and was therefore based on the earlier Pre-Submission Draft of that document. The examination of the CSDMP, however, led to a number of modifications of that document to make it sound and legally compliant. The most significant of these modifications was the reduction in the level of provision made for the extraction of sand and gravel during the plan period (reduced from an annual rate of 3.28 million tonnes to 2.37 million tonnes per annum).
- 1.8 Having taken into account the results of the consultation exercise and the modifications of the CSDMP referred to above, an updated Site Locations document was prepared known as the Site Locations (Pre-Submission Draft) (Appendix A). The amendments included:
 - the replacement of the controversial site at Urn Farm, Greatford for an alternative site, Manor Farm, also located in that parish; and
 - the removal of a site for a new quarry at Lea Marsh (Gainsborough) due to the concerns of Natural England on its potential impacts on an adjacent SSSI and the fact that it was no longer required to meet the sand and gravel requirements for the plan period.
- 1.9 The associated Sustainability Appraisal, Sequential Test and Habitats Regulations Assessment were also updated to take into account the representations made during the consultation exercise.
- 1.10 On 1 November 2016 the Executive resolved, amongst other things, to:
 - endorse the Site Locations (Pre-Submission Draft) document and recommend to the County Council that they approve it for submission to the Secretary of State;
 - approve the publication of the Site Locations (Pre-Submission Draft) for consultation as to its soundness and legal compliance; and

- delegate to the Planning Manager in consultation with the Executive Councillor (Development) authority to determine any modifications that should be submitted to the Secretary of State in order to address issues arising through the consultation exercise, and to recommend on behalf of the Executive to the County Council that such modifications be submitted to the Secretary of State alongside the document.

Publication and Consultation on the Site Locations (Pre-Submission Draft)

- 1.11 The Site Locations (Pre-Submission Draft) was published for consultation on 7 November 2016 for a period of six weeks. A total of 45 respondents made representations and details are attached to this report as Appendix B. This was a significant reduction compared with the previous stage of consultation when 97 respondents made representations. The reduction was largely due to the fact that the controversial site contained within the previous draft (Urn Farm, Greatford), and which received a large number of objections, was removed. As a result only two responses were received directly from the general public.
- 1.12 A large number of the respondents had no objections to the pre-submission Site Locations document, or acknowledged where issues previously raised had been addressed. The representations also included significant support from local nature conservation groups and other organisations associated with the natural environment, acknowledging the proactive engagement and cooperation that contributed to the formulation of the site development briefs and restoration options.
- 1.13 Other issues raised included:
 - concerns that no specific provision had been made for additional inert landfill capacity - it was suggested that if the Council's approach to inert waste (as set out in the CSDMP) is not effective it could displace waste to adjoining authorities;
 - concerns in relation to the associated restriction on utilising imported waste in restoration schemes, which it was suggested would create hurdles to the beneficial restoration of sites;
 - requests for minor changes to the development briefs, including additional detail to ensure consistency. These generally related to consideration of constraints, and restoration objectives and priorities;
 - comments from regulatory bodies and infrastructure providers setting out their respective responsibilities and consent requirements, as well as any asset safeguarding requirements and associated easements in relation to particular sites;
 - objections from several site promoters where their mineral sites had not been included in the allocations, citing that these were needed to maintain sufficient provision and productive capacity and promote completion;
 - challenges to the adequacy of the assessment process, including the Habitats Regulations Assessment, the weighting given to different

considerations, and the reasons why particular sites had not been allocated;

- requests from non-statutory consultees to be consulted on any future development proposals on allocated sites where they have an interest;
- concerns by the local community in the Baston/Greatford/West Deeping area with regard to the local amenity and environmental impacts of proposed allocations for mineral extraction, and the extent/cumulative impact of further extraction in this area;
- concerns in relation to the potential impacts of one proposed mineral allocation (West Deeping) on the historic environment and its setting;
- comments and concerns received from several district councils and landowners regarding the relationship between particular waste area allocations and the district councils employment allocations on which they are based - including concerns over variations in boundaries, the appropriateness of particular waste uses in certain locations within the allocations, and more substantial objections to particular waste area allocations (where it was suggested that they conflict with the emerging policies of the districts); and
- concerns and objections by a district council in relation to a site specific safeguarding area associated with a proposed mineral allocation (Swinderby), and to the allocation itself on the basis that it could constrain proposed future housing development.

1.14 Most of the issues raised above had already been considered in depth during the examination of the CSDMP or at earlier stages in the preparation of the Site Locations Document and dismissed on sound planning grounds. Even where new issues had been raised, they were not considered to affect the soundness or legal compliance of the Site Locations (Pre-Submission Draft) document. No modifications were therefore considered necessary to make the plan sound and legally compliant.

1.15 On 24 February 2017 the County Council approved the Site Location (Pre-Submission Draft) for submission to the Secretary of State for Communities and Local Government in April 2017 for examination. The document was subsequently submitted on 3 April 2017, commencing the examination. This was therefore the same plan that was considered by the Executive on 1 November 2016.

The Examination of the Site Locations Document (Pre-Submission Draft)

1.16 The examination was conducted by an independent inspector, Elizabeth Hill BSc(Hons), BPhil, MRTPI, appointed by the Secretary of State for Communities and Local Government. As part of the examination, public hearings were held between 25 and 27 July 2017. The Inspector's role was to assess whether the plan had been prepared in accordance with the Duty to Cooperate, legal and procedural requirements, and whether it is sound. The National Planning Policy Framework states that to be sound a plan should be:

- Positively prepared – the plan should be prepared based on a strategy which seeks to meet objectively assessed development and infrastructure requirements, including unmet requirements from neighbouring authorities where it is reasonable to do so and consistent with achieving sustainable development;
- Justified – the plan should be the most appropriate strategy, when considered against the reasonable alternatives, based on proportionate evidence;
- Effective – the plan should be deliverable over its period and based on effective joint working on cross boundary strategic priorities; and
- Consistent with national policy – the plan should enable the delivery of sustainable development in accordance with the policies in the Framework

1.17 Under the provisions of the Planning and Compulsory Purchase Act 2004, an inspector can recommend that modifications are made to a plan to make it sound and legally compliant, but only if requested to do so by the authority that submitted the plan. Such modifications are known as **Main Modifications**. Where Main Modifications are recommended, a planning authority can only adopt a plan if it agrees to incorporate these modifications. In addition, a planning authority can make minor modifications to a plan that are not specifically recommended by an inspector provided that these taken together do not materially affect the policies set out in the plan. Such modifications are known as **Additional Modifications**.

1.18 During the examination a Schedule of Modifications was prepared by officers of the Council to address issues raised during the examination. These were all considered to be Additional Modifications and are attached to this report as Appendix C. In brief, these propose to modify the plan by:

- adding clarification on the objectives of Mineral Safeguarding Areas;
- highlighting additional constraints, requirements and restoration objectives/priorities relating to the allocated sites/areas;
- incorporating a new table to show any relationship between the policies in the plan and the saved policies which will be superseded; and
- slightly reducing the size of two allocated waste areas in response to comments from the City of Lincoln Council.

1.19 The examination closed on 19 September 2017 with the issuing of the Inspector's report, attached as Appendix D. The inspector has found that the plan is sound and legally compliant (without the need for any Main Modifications) and concludes that it provides an appropriate basis for the planning of minerals and waste development in the County. She therefore recommends that the plan is adopted on the basis that it meets the full requirements of Section 20(5) of the Planning and Compulsory Purchase Act 2004. The Inspector also confirms that the Additional Modifications advanced by the Council's Officers during the Examination relate to matters which do not affect the soundness of the plan.

2. Legal Issues:

Equality Act 2010

Under section 149 of the Equality Act 2010, the Council must, in the exercise of its functions, have due regard to the need to:

- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The relevant protected characteristics are age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; and sexual orientation.

Having due regard to the need to advance equality of opportunity involves having due regard, in particular, to the need to:

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

The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.

Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to tackle prejudice, and promote understanding.

Compliance with the duties in section 149 may involve treating some persons more favourably than others.

The duty cannot be delegated and must be discharged by the decision-maker. To discharge the statutory duty the decision-maker must analyse all the relevant material with the specific statutory obligations in mind. If a risk of adverse impact is identified consideration must be given to measures to avoid that impact as part of the decision making process.

An impact analysis was undertaken on the Site Locations document (Pre-Submission Draft) in accordance with the Statement of Community Involvement. As the approval of the specific sites and areas for minerals and waste development, the decision is considered to be neutral between persons having all or any of the protected characteristics and persons who do not. In particular the plan will govern future decision-making regardless of whether any proposal is made by a person with or without a protected characteristic.

The modifications proposed for the plan are minor (non-material) and would not affect the findings of this impact analysis.

Joint Strategic Needs Analysis (JSNA) and the Joint Health and Wellbeing Strategy (JHWS)

The Council must have regard to the Joint Strategic Needs Assessment (JSNA) and the Joint Health & Well Being Strategy (JHWS) in coming to a decision.

The Site Locations (Pre-Submission Draft) document together with the adopted Core Strategy and Development Management Policies (2016) document are considered to contribute to the aims of the strategy by providing a framework for development that takes into account and minimises impact on the environment.

The incorporation of the modifications proposed for the plan are minor (non-material) and would not affect this finding.

Crime and Disorder

Under section 17 of the Crime and Disorder Act 1998, the Council must exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment), the misuse of drugs, alcohol and other substances in its area and re-offending in its area.

This obligation has been considered but is not thought to be directly affected by the proposals in this Report.

3. Conclusion

- 3.1 It is important that the County Council has in place an up-to-date Minerals and Waste Local Plan with the objective of ensuring that both mineral extraction and waste management in the County accord with the principles of sustainable development. The adoption of the Site Locations document would complete the Lincolnshire Minerals and Waste Local Plan and help to achieve this objective.

- 3.2 The County Council can only make minor modifications to the plan that was subject to examination provided that these taken together do not materially affect the policies set out in the plan. The Inspector has confirmed that the Additional Modifications put forward by the Council's officers during the examination would not affect the soundness of the plan. The incorporation of these details would, however, make the plan more informative and improve its clarity.
- 3.3 Further, Additional Modifications will also be needed to update the first chapter (Introduction) so that it reflects the plans status at the point of adoption and where appropriate, references in the document to "Pre-Submission Draft" will need to be deleted.

4. Legal Comments:

The Council is under a statutory obligation to prepare and keep up to date a Minerals and Waste Local Plan. The Report seeks approval of the Executive to recommend to full Council the Site Locations document which will form part of the Lincolnshire Minerals and Waste Local Plan.

The Minerals and Waste Local Plan forms part of the Policy Framework, approval of which is reserved to full Council. The decision whether to recommend the proposed Site Location document is within the remit of the Executive.

5. Resource Comments:

Accepts the recommendations within this report should have no material financial impact on the budget of the Council.

6. Consultation

a) Has Local Member Been Consulted?

n/a

b) Has Executive Councillor Been Consulted?

Yes, Cllr E J Poll, the Executive Councillor for Commercial and Environmental Management endorses the recommendations in this report.

c) Scrutiny Comments

The decision will be considered by the Environment and Economy Scrutiny Committee on 24 October 2017 and the comments of the Committee will be reported to the Executive.

d) Have Risks and Impact Analysis been carried out?

Yes

e) Risks and Impact Analysis

<http://www.lincolnshire.gov.uk//minerals-and-waste/site-locations-examination/131110.article>

7. Appendices

These are listed below and attached at the back of the report	
Appendix A	Lincolnshire Minerals and Waste Local Plan: Site Locations (Pre-Submission Draft) November 2016 (NOTE: owing to the size of the document, Appendix A has only been printed for Members of the Committee. Hard copies are available upon request or available electronically at http://lincolnshire.moderngov.co.uk/ieListDocuments.aspx?CId=548&MId=4898&Ver=4)
Appendix B	Statement of Consultation (Appendix 4)
Appendix C	Schedule of Proposed Modifications to the Pre-Submission Draft (Hearing Updates) July 2017
Appendix D	The Inspector's Report (19 September 2017)

8. Background Papers

Document title	Where the document can be viewed
Lincolnshire Minerals and Waste Local Plan: Core Strategy and Development Management Policies (June 2016)	Lincolnshire County Council website www.lincolnshire.gov.uk
Statement of Consultation	Lincolnshire County Council website www.lincolnshire.gov.uk

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