



**Open Report on behalf of Andy Gutherson, Executive Director - Place**

Report to:	<b>Executive</b>
Date:	<b>04 May 2022</b>
Subject:	<b>Lincolnshire Minerals and Waste Local Plan: Issues and Options for Updating the Plan</b>
Decision Reference:	<b>I025460</b>
Key decision?	<b>No</b>

**Summary:**

The adopted Lincolnshire Minerals and Waste Local Plan, which covers the period to 2031, is being updated to ensure that its policies remain relevant and effective. This is being carried out in accordance with the programme set out in the Lincolnshire Minerals and Waste Development Scheme approved by the full County Council in 2021. The document attached to this report as Appendix A, the Issues and Options document, represents the first stage of this process. Subject to the approval of the Executive, this will be published for public consultation.

The Issues and Options document proposes to roll the new plan period forward to 2040 and sets out the key issues (topics) that need to be considered in the updating of the plan. Potential options for improving the plan are set out in the document and interested parties are invited to comment and, where appropriate, put forward alternatives or additions.

The plan will need to make sufficient provision for a steady and adequate supply of aggregate minerals (sand and gravel, and crushed rock) during the plan period. It is proposed to do this by allocating additional sites in the new plan. To facilitate this approach, it is proposed to carry out a "Call for Sites" exercise that would run alongside the consultation on the Issues and Options document. Interested parties would then be able to nominate sites for potential allocation. A Proposed Site Selection Methodology (Appendix B) has been prepared which sets out how the nominated sites would be assessed and selected for allocation. This would be included in the consultation.

Although no specific needs for new waste management facilities have been identified for the new plan period, it is important that the plan provides a suitable policy framework to guide and assess any future waste management proposals. It is therefore proposed to continue with the existing criteria-based approach and to set out a spatial strategy which

focusses on the main urban areas, albeit in a simpler format.

**Recommendation(s):**

That the Executive:-

- (1) Subject to any amendments made pursuant to paragraph 2 below, approves the Issues and Options document attached at Appendix A and the Proposed Site Selection Methodology attached at Appendix B for public consultation for a period of at least six weeks commencing in June 2022;
- (2) Authorises the Head of Planning to make any non-material amendments to the said Issues and Options document and the said Proposed Site Selection Methodology that are necessary to meet the County Council's accessibility requirements for publication on its website; and
- (3) Approves the carrying out of a "Call for Sites" process alongside the consultation.

**Alternatives Considered:**

Not to proceed with the consultation on the basis of the documents at Appendix A and B.  
Not to conduct a "Call for Sites".

**Reasons for Recommendation:**

The Issues and Options document and the Proposed Site Selection Methodology represent the first stage in the updating of the Lincolnshire Minerals and Waste Local Plan. This is the formative stage at which no firm decisions have been taken on the content of the new plan. It would therefore allow the public and other stakeholders an opportunity to express views and influence the future content of the new plan at an early stage in its preparation.

Approving the Issues and Options document and the Proposed Site Selection Methodology for consultation would also allow the updating of the plan to proceed in accordance with the programme approved by the full County Council in 2021.

Conducting a "Call for Sites" will help the Council to address projected shortfalls in capacity consequent on the extension of the period of the Lincolnshire Minerals and Waste Local Plan to 2040.

## 1. Background

- 1.1 The County Council is the Mineral and Waste Planning Authority for the county of Lincolnshire and is responsible for the production, monitoring, review and updating of a Minerals and Waste Local Plan. The current plan, the Lincolnshire Minerals and Waste Local Plan (LMWLP), was produced in two parts: the Core Strategy and Development Management Policies (CSDMP) document adopted on 1 June 2016 and the Site Locations document (SLD) adopted on 15 December 2017.
- 1.2 The first part of the plan, the CSDMP, sets out the key principles to guide the future winning and working of minerals and the form of waste management development in the county up to 2031. The second part, the SLD identifies specific sites and areas for mineral extraction and for the location of waste facilities.
- 1.3 The LMWLP forms part of the statutory development plan for the county, which in effect means that all planning applications for minerals and waste development must be determined in accordance with the LMWLP unless material considerations indicate otherwise.
- 1.4 The LMWLP was reviewed last year (LMWLP Review) under regulation 10A of the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended), to establish whether the policies remained relevant and effective. This found that the following policies were not fully effective and should be updated:
  - Policy M1 (Recycled and secondary aggregates)
  - Policy M4 (Proposals for sand and gravel extraction)
  - Policy M5 (Limestone)
  - Policy M11 (Safeguarding of Mineral Resources)
  - Policy M13 (Associated Industrial Development)
  - Policy W1 (Future requirements for new waste facilities)
  - Policy W3 (Spatial strategy for new waste facilities)
  - Policy W4 (Locational criteria for new waste facilities in and around main urban areas)
  - Policy W6 (Landfill)
  - Policy W7 (Small scale waste facilities)
  - Policy SL3 (Waste site and area allocations)
- 1.5 In addition, the LMWLP Review concluded that the other policies would benefit from being updated to:
  - improve the clarity and focus of the policies,
  - ensure greater consistency between the policies,
  - allow any subsequent changes to legislation/national policy to be incorporated into the updated plan,
  - ensure account is taken of any new social, economic, and environmental priorities, and

- enable greater public involvement in the process.
- 1.6 On 19 February 2021, the County Council approved the findings of the LMWLP Review and authorised the updating of the LMWLP, to be prepared as one document. At the same meeting the County Council approved a new Lincolnshire Minerals and Waste Development Scheme 2021 (LMWDS) setting out the programme of work involved in updating the plan. This work will be undertaken under the Town and Country Planning (Local Planning) (England) Regulations 2012 (and other legislation) and involve the following stages:
- Consultation on an Issues and Options document, including a call for sites exercise under Regulation 18 (Spring 2022)
  - Consultation on a Preferred Approach (Draft) of the new LMWLP also under Regulation 18 (Spring 2023)
  - Publication of the proposed submission version of the new LMWLP under Regulation 19 (Spring 2024)
  - Submission to the Secretary of State (Summer 2024)
  - Examination Hearing (Autumn 2024)
  - Adoption (Winter 2024/2025)
- 1.7 Under Regulation 18 (the first two stages listed above), the County Council is required to notify certain bodies and persons of the subject of the local plan and invite them to make representations about what the plan should contain. Technically this can be done in a single stage, but if a plan is to be updated in full (as in this case) it is common practice to split this into two stages:
- i. consultation on a “high-level” Issues and Options Document – allowing consultation at the formative stage of the plan, and
  - ii. consultation on a Preferred Approach (Draft) – allowing consultation on detailed policies prior to the preparation of the proposed submission version of the plan under Regulation 19.
- 1.8 The document attached to this report as Appendix A (Issues and Options) has been prepared for the first stage of consultation. It identifies key issues (i.e., topics) that need to be considered in the updating of the LMWLP. For each issue, interested parties that take part in the consultation will be asked whether they support the suggested option to improve the plan and, if not, they are invited to put forward an alternative. Interested parties may also propose additional topics.
- 1.9 To meet the requirements of the National Planning Policy Framework, the new plan will need to be rolled forward to cover a period of at least 15 years from its forecast date of adoption. It is therefore proposed that it will cover the period to the end of 2040, slightly longer than 15 years to allow for limited slippage in the programme. Accordingly, it will need to make sufficient provision for both minerals (in particular, a steady and adequate supply of aggregate minerals) and waste management during this period.

- 1.10 For aggregate minerals, this would involve making provision for a shortfall of 22.90mt of sand and gravel and 3.84mt of limestone based on the provision rates set out in the latest Lincolnshire Local Aggregate Assessment (2021). It is proposed that this shortfall would partially be met by carrying forward sites already allocated in the adopted LMWLP, except where evidence emerges that there has been a significant change in circumstances since a site was allocated. The remaining shortfall would then be met, where possible, from further site allocations in the new LMWLP. A “Call for Sites” exercise would therefore be carried out during the consultation period to allow landowners and other interested parties an opportunity to nominate potential sites for allocation in the new LMWLP.
- 1.11 The new LMWLP will also need to allow sufficient opportunities to meet any identified needs of the area for waste management. In this respect, an updated Lincolnshire Waste Needs Assessment published in 2021 demonstrates that there are no capacity gaps up to 2045, which goes beyond the proposed plan period. Despite this apparent lack of need, waste proposals will inevitably come forward during the new period. This is because new demands will arise from:
- the closure of existing sites,
  - the emergence of new technologies to help move the management of waste up the waste hierarchy (which ranks different waste management methods, with prevention and re-use at the top and disposal at the bottom) in accordance with the National Planning Policy for Waste (NPPW),
  - changes in cross boundary movements, and
  - the need to promote the proximity principle in accordance with the NPPW (i.e., waste should generally be managed as near as possible to its place of production).
- 1.12 As a consequence of the above, it will still be necessary for the new LMWLP to provide a suitable policy framework to guide and assess any future waste management proposals that may come forward during the plan period. To achieve this, it is proposed to continue with the existing criteria-based approach and set out a spatial strategy which focusses on the main urban areas, albeit in a simpler format to address issues identified in the LMWLP Review. As most of the county’s waste is produced in these urban areas, this approach is in line with the proximity principle.
- 1.13 The Issues and Options document considers the rationale behind the proposed approach for aggregates and waste and provides an opportunity for interested parties to make comment.
- 1.14 Other issues covered by the document, together with options for potential changes, include:
- a) Historic building stone – no significant changes proposed.
  - b) Silica sand – no significant changes proposed.

- c) Hydrocarbons (oil and gas) – no significant changes proposed, other than to give greater clarity to the restoration requirements.
- d) Underground gas and carbon storage – proposes that the policy should be expanded to include specific reference to carbon storage.
- e) Other minerals – minerals not covered by strategic policies of the adopted LMWLP are still not considered to be of national or local significance, so no changes are proposed.
- f) Associated industrial development – considers whether the current requirement to have close links with the associated mineral development should be relaxed and, if so, to what extent.
- g) Agricultural irrigation reservoirs – no significant changes proposed.
- h) Borrow pits - no significant changes proposed.
- i) Safeguarding mineral resources – considers that the current policy is too onerous, and options are considered for making it more focussed and less of a burden for planning authorities and developers.
- j) Safeguarding existing mineral sites, mineral allocations and associated infrastructure – indicates that the existing policy may need to be changed to remain consistent with changes to the existing policy on the safeguarding of mineral resources.
- k) Low level non-nuclear radioactive waste – considers that a specific policy on this matter would not be needed in the new LMWLP.
- l) Landfill – consideration is given to amending the existing policy with respect to the use of inert waste in the restoration of quarries, but only in specific circumstances.
- m) Safeguarding waste management sites – considers that the safeguarding of waste management sites should continue but proposes to end the need for the district councils to consult the county council on applications in proximity to waste management facilities.
- n) Restoration and after-use - no significant changes proposed.
- o) Development management policies – proposes to deal with the issues of sustainability and climate change principally through a strategic policy (rather than development management policies). There are no changes proposed for the other development management policies.
- p) Other issues – an opportunity is provided for interested parties to raise issues not identified in the document and to put forward solutions.

1.15 In addition to the Issues and Options Document, it is proposed to consult on a Proposed Site Selection Methodology, which is attached to this report as Appendix B. This sets out how sites nominated by interested parties through the “Call for Sites” Exercise would be assessed for potential allocation in the new LMWLP. Under this methodology, sites subject to significant constraints would be discounted at an early stage except where the proponent is able to provide sufficient information that the working of a site would not have unacceptable impacts. The remainder would then be assessed against 47 criteria falling into three broad groups:

- constraints (i.e., impacts on the environment/amenity),

- deliverability (i.e., the likelihood that a site would be able to deliver the mineral specified during the plan period), and
- opportunities (e.g., through restoration to beneficial after-uses).

Each site would then be assigned to one of five bands, Band A being the best and Band E the worst. Where only some of the sites within a band are required, the sites would be ranked using further criteria.

- 1.16 The updating of the LMWLP will be subject to a sustainability appraisal as required by the Planning and Compulsory Purchase Act 2004. Its role is to promote sustainable development by assessing the extent to which the emerging plan, when judged against reasonable alternatives, will help to achieve relevant environmental, economic, and social objectives. The process provides an opportunity to consider ways by which the plan can contribute to improvements in these factors, as well as a means of identifying and mitigating any potential adverse effects from the plan. By doing so, it can help make sure that the proposals in the plan are appropriate given the reasonable alternatives.
- 1.17 The sustainability appraisal will be undertaken by an independent consultant. The first stage of this process, the Scoping Report, is in preparation. This will set out the context, objectives, and approach of the assessment. The Scoping Report would be published alongside the Issues and Options document.
- 1.18 It is proposed that the consultation will commence in June (to allow sufficient time to organise the consultation) and would run for a period of at least 6 weeks. This consultation would be carried out in accordance with the Council's adopted Statement of Community Involvement (2019), which sets out how the Council will engage and consult the public and stakeholders.

## **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 Equality Impact Analysis has been carried out and is attached to this report as Appendix C. No positive or adverse impacts have been identified.

The updating of the LMWLP, will be carried out in several stages in accordance with the programme set out in the Lincolnshire Minerals and Waste Development Scheme (2021). Each stage will be subject to public consultation in accordance with the adopted Statement of Community Involvement (2019). This seeks to ensure that all sections of the community with an interest in a particular area will be engaged. In particular, it requires effort to be made to identify and engage under-represented and seldom heard groups in Lincolnshire, including those with the following protected characteristics: age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex; sexual orientation. The SCI recognises that within a sparsely populated county such as Lincolnshire it is important to ensure the involvement of groups including rural communities suffering from isolation. Challenges encountered by the above groups range from accessibility to venues, language barriers, social differences and types of media being used. Specific organisations aimed at targeting these groups, would be identified with assistance from the Council's Community Engagement Team for consultation purposes. Appropriate locations and a



variety of media would also be employed.

The Issues and Options document includes a specific question relating to protected characteristics. Any comments received will be reviewed at the end of the consultation period.

### Joint Strategic Needs Assessment (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 and Wellbeing Strategy (JHWS) in coming to a decision.

It is considered that the Issues and Options document will contribute to the aims of the JSNA and JHWS by providing an opportunity for the public and other stakeholders to influence the development of policies relating to the environmental impacts of mineral/waste development (and how these would be mitigated) and the beneficial reclamation/after-uses of such sites.

### 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 The Issues and Options document is a “high-level” consultation document seeking views on what the new LMWLP should contain. It highlights the key issues which have been identified and invites stakeholders to put forward any other issues which they think need to be included. In addition, it seeks views on options for improving the existing plan.
- 3.2 The consultation would also provide an opportunity for stakeholders to comment on the Proposed Site Selection Methodology that would be used to assess sites nominated for allocation in the new plan for future aggregate extraction. This will help to ensure that the methodology is as transparent and objective as possible.

3.3 Although the updating of the LMWLP is primarily governed by statutory requirements, the consultations will accord with the “Gunning Principles”. These require that:

- proposals are still at a formative stage (a final decision has not yet been made, or predetermined, by the decision makers),
- there is sufficient information to allow ‘intelligent consideration’ (the information provided must relate to the consultation and must be available, accessible, and easily interpretable for consultees to provide an informed response) ,
- there is adequate time for consideration and response (there must be sufficient opportunity for consultees to participate in the consultation, although there is no set timeframe for consultation as the length of time given for consultees to respond can vary depending on the subject and extent of impact of the consultation), and that
- ‘conscientious consideration’ must be given to the consultation responses before a decision is made (decision-makers should be able to provide evidence that they took consultation responses into account).

3.4 The process for the consultation on the Issues and Options document and the Proposed Site Selection Methodology will be designed to meet the first three principles. The final principle will be met in the lead up to the approval of the next stage of plan preparation – the Preferred Options Draft Plan. In addition, the public and other stakeholders will be given a further opportunity to comment at the Preferred Options stage, at which time the proposed policies will be available.

3.5 The Executive is responsible for the preparation of the new LMWLP, including the approval of documents for consultation under Regulation 18. The Executive is therefore being asked to approve the Issues and Options document for public consultation for a period of at least 6 weeks. It is proposed to start this consultation during June to allow sufficient time for the consultation web page to be set up, and for any minor amendments to be made to the documents to ensure that they meet the County Council’s accessibility requirements.

#### **4. Legal Comments:**

The legal provisions that underpin the development of the Plan are explained in the Report.

The decision is consistent with the Policy Framework and within the remit of the Executive

## 5. Resource Comments:

The Council authorised the updating of the LMWLP in February 2021. The recommended actions in this report are the first stage in this process, the cost of which will be met from within the Place directorate's approved revenue budget.

## 6. Consultation

### a) Has Local Member Been Consulted?

n/a

### b) Has Executive Councillor Been Consulted?

Yes

### c) Scrutiny Comments

This item will be reported to the Environment and Economy Scrutiny Committee on 12 April 2022 and the comments of the Committee will be reported to the Executive.

### d) Risks and Impact Analysis

See main body of the Report and Appendix C.

## 7. Appendices

These are listed below and attached at the back of the report	
Appendix A	Lincolnshire Minerals and Waste Local Plan: Issues and Options for updating the plan
Appendix B	Lincolnshire Minerals and Waste Local Plan: Proposed Site Selection Methodology
Appendix C	Equality Impact Analysis

## 8. Background Papers

The following background papers as defined in the Local Government Act 1972 were relied upon in the writing of this report.

Document title	Where the document can be viewed
Core Strategy and Development Management Policies (2016)	<a href="https://www.lincolnshire.gov.uk/directory-record/61697/minerals-and-waste-local-plan-core-strategy-and-development-management-policies">https://www.lincolnshire.gov.uk/directory-record/61697/minerals-and-waste-local-plan-core-strategy-and-development-management-policies</a>

Site Locations document (2017)	<a href="https://www.lincolnshire.gov.uk/downloads/file/2274/adopted-site-locations-pdf">https://www.lincolnshire.gov.uk/downloads/file/2274/adopted-site-locations-pdf</a>
Review of the Lincolnshire Minerals and Waste Local Plan (2021)	<a href="https://www.lincolnshire.gov.uk/downloads/file/5053/review-of-the-lmwp-19-2-21-accessible-version">https://www.lincolnshire.gov.uk/downloads/file/5053/review-of-the-lmwp-19-2-21-accessible-version-</a>
Lincolnshire Local Aggregate Assessment (2021)	<a href="https://www.lincolnshire.gov.uk/downloads/file/6308/lincolnshire-local-aggregate-assessment-2020-data-8-11">https://www.lincolnshire.gov.uk/downloads/file/6308/lincolnshire-local-aggregate-assessment-2020-data-8-11</a>
Lincolnshire Waste Needs Assessment (2021)	<a href="https://www.lincolnshire.gov.uk/downloads/file/6039/overview-report">https://www.lincolnshire.gov.uk/downloads/file/6039/overview-report</a>
Lincolnshire Minerals and Waste Local Development Scheme (2021)	<a href="https://www.lincolnshire.gov.uk/downloads/file/5049/lincolnshire-minerals-and-waste-development-scheme-19-1-21-accessible-v">https://www.lincolnshire.gov.uk/downloads/file/5049/lincolnshire-minerals-and-waste-development-scheme-19-1-21-accessible-v-</a>
Lincolnshire Statement of Community Involvement (2019)	<a href="https://www.lincolnshire.gov.uk/downloads/file/2333/statement-of-community-involvement-pdf">https://www.lincolnshire.gov.uk/downloads/file/2333/statement-of-community-involvement-pdf</a>
National Planning Policy Framework	<a href="https://www.gov.uk/government/publications/national-planning-policy-framework--2">https://www.gov.uk/government/publications/national-planning-policy-framework--2</a>
National Policy for Waste	<a href="https://www.gov.uk/government/publications/national-planning-policy-for-waste">https://www.gov.uk/government/publications/national-planning-policy-for-waste</a>
Planning Practice Guidance	<a href="https://www.gov.uk/government/collections/planning-practice-guidance">https://www.gov.uk/government/collections/planning-practice-guidance</a>

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