



FOR PUBLICATION

DERBYSHIRE COUNTY COUNCIL

IMPROVEMENT AND SCRUTINY COMMITTEE - PLACES

WEDNESDAY, 1 MARCH 2023

Report of the Executive Director - Place

Minerals Local Plan - Update on Progress

1. Purpose

- 1.1 To provide the Committee with an update on the latest position on the preparation of the Derbyshire and Derby Minerals Local Plan.

2. Information and Analysis

- 2.1 The Committee received a report of the Executive Director - Place on 27 July 2022 informing them of the purpose of the Minerals Local Plan and providing an update on the latest position in relation to representations received to the public consultation on the Proposed Draft Minerals Local Plan (MLP) which took place in March/April 2022.
- 2.2 This report summarises the progress made since then and sets out the current position.
- 2.3 The County and City councils are now at the end of the 'preparation' stage of plan making under Regulation 18 of the Town and Country Planning (Local Planning) (England) Regulations 2012. This work culminated in the full draft MLP being consulted on for an eight week period last year, from 2 March 2022 to 29 April 2022. The numbers of representations received and the key themes emerging from this consultation were reported to this Committee in the report of 27 July 2022.

2.4 To meet Regulations 19 and 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012, the next stage of the process is for the two councils to publish a version of the MLP as proposed for submission to the Inspectorate (known as a pre-submission draft), together with:

- (i) a sustainability assessment report;
- (ii) a 'report of representations' detailing consultation carried out under Regulation 18 and the main issues involved;
- (iii) such supporting documents as in the opinion of the authorities, are relevant to the preparation of the local plan; and
- (iv) a 'statement of representations' that will describe a process for consultation to be carried out on these documents

2.5 The Regulation 19 consultation is the final stage of public engagement before the MLP is submitted to the Inspectorate for examination. The matters to be considered and commented on by the public, other consultees and stakeholders at this formal stage may relate to legal compliance, as well as the soundness of the MLP. The MLP should meet all legal requirements, including those under the relevant Regulations. To be 'sound', the MLP should have been positively prepared, justified by evidence and effective in what it aims to achieve. Evidence is also required that, where necessary, the duty to co-operate on cross boundary matters has also been met. Generally, the MLP should also be consistent with national policy.

Key themes and development of the policies in the Pre-submission Draft MLP

2.6 The key themes emerging from the Proposed Draft Plan consultation in March/April 2022 relate to concerns about, and objections to:

- the policies and text of the Vision and Objectives (990);
- Climate Change (1021); and
- Fossil Fuels (664) and Hydrocarbons (466).

and include themes, such as:

- the need to strengthen climate change policies;
- no fossil fuel extraction;
- no hydraulic fracturing;
- no net increase in greenhouse gas emissions;
- downstream emissions should be taken into account;

- there should be a buffer zone around any hydraulic fracturing site as endorsed by the Inspector and included in the MLP covering North Yorkshire; and
 - no mineral extraction unless alternatives not available.
- 2.7 All the comments received on the key themes and those regarding other policies and concerns, and objections raised to site allocations in the draft Plan used for the consultation, have been carefully considered in the final policy development and drafting for the pre-submission draft MLP. This work has also involved consideration of information to update the evidence base and, where relevant, of recent changes to national policy, legal and planning appeal decisions.
- 2.8 The Derbyshire and Derby Development Plans Joint Advisory Committee (JAC), consisting of members from both councils, has been involved in and has contributed to shaping and developing the policies for the Pre-submission Draft MLP.
- 2.9 Officers provided an update to the JAC meeting on 19 December 2022 on suggested alterations to the draft policies around the key themes of climate change, coal and hydrocarbons as compared to the draft policies contained in the previous consultation draft. The alterations suggested are incorporated into the proposed pre- submission draft, now attached at Appendix 2. They raise the bar for what may be needed to address the climate change imperatives, whilst still complying with national planning policy.
- 2.10 The suggested alterations stop short of saying “no” to fossil fuel extraction and hydraulic fracturing as this would currently be against the National Planning Policy Framework. An inspector at the Examination in Public would be likely to reject any policy that was absolutely against such development. The suggested approaches move the MLP forward from the proposed Draft Minerals Local Plan consulted upon earlier this year. The approaches suggested reflect some of the concerns of the Derbyshire public over climate change and hydraulic fracturing but also look to future-proofing policies as the climate change agenda comes more to the fore, and swings in national policy and uncertainty over hydraulic fracturing can be anticipated to continue.
- 2.11 The JAC supported the alterations being worked up into a final form of policy wording for the pre-submission draft MLP to include:
- A strengthening of the climate change policy to require:

- Proposals to demonstrate a reduction in greenhouse gas emissions directly associated with the development over its lifetime in line with national and local greenhouse gas targets.
- Proposals for coal extraction to demonstrate net zero emissions from the outset.
- Proposals to be accompanied by a climate change impact assessment setting out how measures to reduce emissions and adapt to climate change have been considered, incorporated and will be monitored and reported.
- The assessment to also include an assessment of whether there is a causal connection between the proposal and any impact on the environment associated with any indirect emissions and, whether this constitutes a significant indirect effect of the proposed development.
- A presumption against the use of coal for the purposes of electricity generation and a requirement that proposals for coal extraction are 'net zero' for the whole lifetime of the development (including restoration and aftercare).
- A more precautionary approach to proposals for the exploitation of oil and gas involving hydraulic fracturing, with the inclusion of a separation distance requirement for such proposals to protect the local amenity, health, well-being and safety of nearby sensitive receptors, e.g. residences, schools, residential homes, hospitals etc. Where the distance proposed from a well site and associated infrastructure to sensitive receptors is 500 metres or less, proposals will **not** be supported in principle. These proposals will need to include a robust assessment of the adequacy of the proposed separation distances and any proposed mitigation measures to demonstrate the acceptability of impacts.

2.12 The pre-submission draft Derbyshire and Derby MLP is supported by a number of other documents which are considered relevant to the preparation of the local plan; they are listed in the Background Papers section of this report. The sustainability appraisal report and a report of representations (detailing all the comments and objections received to the March/April 2022 consultation and summarising the outcomes from them for the MLP), which are also within the background papers, complete what is required for publication in accordance with Regulation 19.

2.13 The JAC met on 16 January 2023 to consider the final version of the Pre-submission Draft MLP proposed for consultation under Regulation 19, that now forms Appendix 2, and to provide feedback regarding the carrying out of that consultation with this document.

- 2.14 The JAC expressed support for the putting forward of the proposed pre-submission draft MLP, as presented to them (save any minor drafting changes) for approval on behalf of the County and City Councils, to enable the carrying out of publication under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012, and a consultation period of 8 weeks.
- 2.15 Following the JAC meeting, a report of the Executive Director – Place was presented to Cabinet at its meeting on 2 February 2023, seeking approval and support for formal publication of and public consultation on the Pre-submission Draft Minerals Local Plan, attached at Appendix 2.
- 2.16 Cabinet passed a resolution for its approval of the content of the Derbyshire and Derby Pre-submission Draft Minerals Local Plan and for supporting the Executive Director – Place, in liaison with Derby City Council, undertaking under delegated authority any minor amendments as necessary, and presenting the Plan and relevant background papers to Council for its approval to enable:
- a. their publication in accordance with Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012 as the proposed submission documents for the joint minerals local plan for Derbyshire and Derby for the period up to 2038; and
 - b. their use for public consultation in accordance with Regulations 19 and 35 with a period for making representations of eight weeks.
- 2.17 The Pre-submission Draft Minerals Local Plan was presented to Council for its approval at its meeting on 15 February 2023. It is this document that is the MLP version that, together with the relevant background papers (listed under Section 6 below), will form the proposed submission documents for the new joint minerals local plan for Derbyshire and Derby (the MLP) and be formally consulted on under Regulation 19.
- 2.18 Council resolved to approve the Derbyshire and Derby Pre-submission Draft Minerals Local Plan attached at Appendix 2, so as to enable it to be:
- (i) published together with the relevant background papers listed in this report as the proposed submission documents for the joint minerals local plan for Derbyshire and Derby for the period up to 2038, in accordance with regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012; and

- (ii) used together with those papers for public consultation in accordance with Regulations 19 and 35 with a period for making representations of eight weeks.

2.19 The Regulation 19 consultation will commence early March 2023 and run for eight weeks, subject to the approval of Derby City Cabinet which meets on 15 February 2023 and Derby City Council on 27 February 2023.

3. Consultation

3.1 Wide ranging public consultation will need to be carried out to accord with the adopted Statements of Community Involvement of both councils, as well as the Regulations, for eight weeks. This will include consulting district, borough, parish and town councils within and adjacent to the Plan area, statutory consultees, local community and interest groups and the industry. The consultation will include use of the 'Have Your Say' section of Derbyshire County Council's website and social media platforms, including a video promoting the consultation and inviting participation. Drop in sessions in the north, south, east and west of the Plan area will be held.

4. Alternative Options Considered

4.1 The only alternative option to an approval to enable publication under Regulation 19, that might conceivably be chosen, is for the Council to do nothing further towards adoption of a MLP based on the preparation work for a new MLP that has been carried out. Both the City and the County Council would then be set back for a long time from completing preparation of an-up-to-date MLP against which applications for minerals development could be assessed. As a consequence, the Councils might then run the risk of intervention by central Government to take on the preparation of new minerals local plans for Derbyshire and Derby. There is no discernible benefit that would arise from taking this option, so to do so would appear to be likely to be irrational.

5. Implications

5.1 Appendix 1 sets out the relevant implications considered in the preparation of the report.

6. Background Papers

6.1 Derbyshire and Derby Minerals Local Plan Main Supporting Papers:

6.2 Spatial Overview:

- Climate Change
- Secondary and Recycled Aggregates
- Sand and gravel, Crushed Rock
- Reducing Quarrying in the PDNP
- Building Stone
- Industrial Limestone
- Industrial Limestone Cement
- Brick Clay and Fireclay
- Vein Minerals
- Coal and Colliery Spoil
- Oil and Gas Conventional
- Oil and Gas Un-conventional
- Gas from Coal
- Safeguarding Mineral Resources
- Safeguarding Minerals Infrastructure
- Cumulative Impacts

6.3 Development Papers:

- Strategic Priorities - Vision and Objectives
- Sustainable Minerals Development
- Climate Change
- Secondary and Recycled Aggregates
- Sand and gravel
- Crushed Rock
- Reducing the supply of aggregates from the PDNP
- Building Stone
- Industrial Limestone
- Brick Clay and Fireclay
- Vein Minerals
- Coal and Colliery Spoil
- Hydrocarbons
- Safeguarding Mineral Resources
- Safeguarding Minerals Infrastructure
- Restoration of sand and gravel sites in the River Valleys
- Development Management

6.3 Duty to Cooperate (DtoC) papers:

- DtoC Introduction and Overview
- DtoC Statement of Common Ground
- DtoC Evidence

- 6.4 Representations paper:
- Report of Representations including on 2022 Consultation

- 6.5 Assessment papers:
- Sustainability Appraisal
 - Strategic Transport Assessment Stages 1 and 2
 - Habitats Regulations Assessment
 - Strategic Flood Risk Assessment
 - Sand and Gravel Sites Assessments
 - Sand and Gravel Sites Assessment Methodology
 - Equalities Impact Assessment
 - Health Impact Assessment

7. Appendices

7.1 Appendix 1 – Implications.

7.2 Appendix 2 – Derbyshire and Derby Pre-submission Draft Minerals Local Plan.

8. Recommendation

That the Committee:

- a) Note the update of the latest position regarding the preparation of the Derbyshire and Derby Minerals Local Plan.

9. Reasons for Recommendation

9.1 To ensure Members are aware of the current position in relation to the preparation of the Derbyshire and Derby Proposed Draft Minerals Local Plan.

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Implications

Financial

- 1.1 There will be a charge for hiring venues for drop-in sessions should they be held and for producing videos for publicising the consultation. This cost can be met from within existing budget.

Legal

- 2.1 Consultations on the Derbyshire and Derby Proposed Draft Minerals Local Plan are undertaken having full regard to the County Council's responsibilities and services under the provisions of the Localism Act 2011, Planning and Compulsory Purchase Act 2004, Town and Country Planning Act 1990. Town and Country Planning (Local Planning) Regulations 2012 and the National Planning Policy Framework 2021.

Human Resources

- 3.1 None directly from this report.

Information Technology

- 4.1 None in particular. Publication in accordance with regulation 19 of the 2012 regulations will involve making the relevant documents available through the councils' websites. A variety of technologies will be used to deliver the consultation of the Minerals Local Plan, manage the Examination in Public and the subsequent adoption process, including a web-based platform for hosting all the documents, online consultation and production of videos for public viewing.

Equalities Impact

- 5.1 An Equalities Impact Assessment accompanies the Plan

Corporate objectives and priorities for change

- 6.1 Adoption of the Minerals Plan is a corporate and Council Plan priority.

Other (for example, Health and Safety, Environmental, Sustainability, Property and Asset Management, Risk Management and Safeguarding)

- 7.1 There are significant environmental sustainability implications which have been assessed in the preparation of the MLP.