

REPORT OF THE CHIEF EXECUTIVE**NOTTINGHAMSHIRE MINERALS LOCAL PLAN****Purpose of the Report**

1. To seek Council approval to withdraw the current draft Minerals Local Plan and instruct officers to carry out an immediate review of the aggregates need assessment and to initiate the preparation of a revised Minerals Local Plan.

Information and Advice

2. The County Council is the Minerals Planning Authority for Nottinghamshire, with responsibility for the preparation of a Minerals Local Plan to inform land use planning strategy for minerals development within the County.
3. The current Minerals Local Plan (MLP) was adopted in 2005. The County Council has been preparing a new Minerals Local Plan for the period up until 2030. This process began in 2012 with an Issues and Options Consultation followed by a number of consultations on the Preferred Approach document in 2013 and 2014, and on the Draft MLP in 2016.
4. In November 2016, the County Council endorsed the MLP for submission to an independent Examination in Public by a planning inspector appointed by the Secretary of State for Communities and Local Government.
5. The Inspector has been appointed and the draft MLP has reached the Examination stage, with hearings into key issues identified by the Inspector due to open on 27 June and close on 5 July 2017. The veracity of the evidence base for assessing need has been raised by a number of objectors to the Plan and this issue is one which the Inspector has identified for consideration in the Examination.

The assessment of need

6. Section 19(2) of the Planning and Compulsory Purchase Act 2004 provides that, in preparing a minerals local plan, a minerals planning authority is required to have regard (amongst other things) to “national policies and advice contained in guidance issued by the Secretary of State”.
7. The key policies are set out in the National Planning Policy Framework (NPPF) which states that local planning authorities should positively seek opportunities to meet the development

needs of their area and that local plans should meet objectively assessed needs with sufficient flexibility to adapt to rapid change. Paragraph 142 of the NPPF states that minerals are essential in supporting sustainable economic growth and our quality of life and the importance of ensuring “a sufficient supply of material to provide the infrastructure, buildings, energy and goods that the country needs”.

8. Paragraph 145 of the NPPF requires minerals planning authorities to plan for a steady and adequate supply of aggregates by:
 - a. Preparing an annual Local Aggregates Assessment based on a rolling average of 10 years sales data and other relevant local information, and an assessment of all supply options including marine dredged, secondary and recycled sources;
 - b. Making provision for the maintenance of land banks of at least 7 years for sand and gravel and at least 10 years for crushed rock, “...whilst ensuring that the capacity of operations to supply a wide range of materials is not compromised...”.
9. The assessment of ‘need’ is therefore fundamental to the plan making process and, in accordance with paragraph 145 of the NPPF, the starting point for assessing the level of need is the annual Local Aggregates Assessment.
10. When work on the draft MLP began in 2012, the most recent Local Aggregates Assessment data available related to the period 2002-2011. More recently, data for the period from 2005-2014 has become available, which shows a lower than anticipated demand for aggregates in this period.
11. In January 2017, data for the period from 2006-2015 was published, which continues to show a lower than anticipated demand for aggregates. By July/August this year, it is likely that even more up to date data will be available for the period 2007-2016. If the needs assessment for the draft MLP was based on the more up to date figures, it is possible that the level of need would be different and that fewer sites could be required in the MLP to provide for that need in the plan period.
12. Given the changing levels of demand for aggregate and the concerns raised about the veracity of the current evidence base, it is now considered in the best interests of all parties for a review of the assessment of need to be undertaken before proceeding with the Examination.

Withdrawing the draft MLP

13. Withdrawing the draft MLP at this late stage carries risk. The current adopted Minerals Local Plan is over ten years old and consequently, many of the policies are out of date. If the County Council does not have an up to date plan in place, there would be no local policy directing future mineral extraction to the most suitable sites and the consideration of impacts arising from particular applications would be largely determined against policies in the National Planning Policy Framework rather than a locally determined plan.
14. This situation could result in planning applications for minerals development being submitted and decided on an ad-hoc / ‘first come first served’ basis, leading to a loss of control by the Minerals Planning Authority and a lack of certainty for both local communities and the minerals industry as to where development could satisfactorily take place.

15. The Council approved a draft MLP for examination in November 2016 with a number of proposed sites. This draft MLP is likely to be used by any application for minerals extraction and the Council may find it difficult to turn down planning applications relating to any of the proposed sites until such point that a new Plan is adopted. There is a real risk that withdrawing the draft MLP could also result in sites omitted from the plan coming forward. Consequently, mineral extraction may be permitted at sites which have greater social and environmental impacts on their surroundings compared to those sites allocated in the draft Plan.
16. A review of the need assessment and revised site assessment would require the preparation of a revised MLP and it is estimated that this could take in the region of two years from withdrawal to adoption. During this period, new data will become available for consideration in the assessment of need for minerals extraction, and use of this data will help shape a robust MLP for the long term.
17. Following consideration of these competing risks, it is recommended that the County Council halts progress on the current draft MLP and instructs officers to review the methodology for assessing need for aggregates in the light of the most up to date data available, to review the sites allocated to meet projected need throughout the plan period and to draw up a revised timetable for the revision and resubmission of a draft Minerals Local Plan.

Other Options Considered

18. An alternative option would be to continue with the Examination of the current draft MLP. The issue of the needs assessment is one which has been raised by a number of objectors to the Plan, and is also a matter that the Inspector appointed to examine the Plan would consider.
19. If the draft MLP was adopted in its current form, a further option considered was for the County Council to resolve to immediately review selected policies relating to need. Given the timeframe required to see Plans through to adoption, it is not uncommon for a Council to subject certain aspects of a Plan to review immediately following adoption. However, a commitment to early review is unlikely to prevent sites which are allocated in an adopted MLP from coming forward during the review period.
20. As stated previously, as the assessment of need is central to the MLP, it is considered appropriate to withdraw the draft MLP now to carry out this review, analysing new data, rather than continue with the Examination process and attempt to address this retrospectively once the Plan has been adopted.

Reasons for Recommendations

21. For the reasons stated in this report, it is considered in the best interests of all parties to withdraw the draft MLP and to instruct officers to carry out an immediate review of the methodology used to assess aggregates need in the draft MLP taking into account the most up to date data available.

Statutory and Policy Implications

22. This report has been compiled after consideration of implications in respect of crime and disorder, finance, human resources, human rights, the NHS Constitution (public health

services), the public sector equality duty, safeguarding of children and adults at risk, service users, sustainability and the environment and ways of working and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

Financial Implications

23. If the Council withdraws the draft MLP, it will not have to meet the full costs of the Examination in Public, which are estimated at £60,000. It will, however, have to meet the costs incurred in respect of the Examination up to the date of withdrawal, which are estimated at £15,000-£20,000. These costs would be met from the relevant budgetary provision.
24. In the absence of an up to date Local Plan, any application which is refused is likely to be the subject of an appeal. The Council would be at risk of costs being awarded against it if those appeals are allowed. It is impossible to quantify these costs, but they are potentially significant.

RECOMMENDATION/S

- 1) That the County Council withdraws the draft Minerals Local Plan from Examination; and
- 2) That officers are instructed to carry out an immediate review of the methodology used to assess need for aggregates in the draft MLP taking into account the most up to date data available.
- 3) That officers are instructed to prepare for the submission of a revised draft Minerals Local Plan.

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Chief Executive

For any enquiries about this report please contact:

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Constitutional Comments (SLB 15/5/2017)

25. Full Council is the appropriate body to consider the contents of this report.

Financial Comments (SES 17/05/2017)

26. The financial implications are set out in the report.

Background Papers and Published Documents

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

Previous published reports to Full Council dated 14 January 2016 and 24 November 2016.

Electoral Division(s) and Member(s) Affected

- All