

Cabinet

16 November 2022



County Durham Local Development Scheme and Publication Draft Minerals and Waste Policies and Allocations Document

Ordinary Decision

Report of Corporate Management Team

Amy Harhoff, Corporate Director of Regeneration, Economy and Growth

Councillor Elizabeth Scott, Cabinet Portfolio Holder for Economic Regeneration and Partnerships

Electoral division(s) affected:

Countywide

Purpose of the Report

- 1 The purpose of this report is to seek Cabinet's approval to commence consultation on the Publication Draft Minerals and Waste Policies and Allocations Development Plan Document (M&WDPD) which supports the policies and provisions of the County Durham Plan which was adopted in October 2020. It also seeks approval of a new Local Development Scheme (LDS) which sets out the timetable for the preparation of planning documents including the M&WDPD.

Executive Summary

- 2 The County Durham Plan seeks to ensure that County Durham is a successful place to live, work, invest and visit by focussing on supporting and creating vibrant communities. The Plan is a comprehensive document covering all aspects of planning however it only includes high level strategic policies and allocations relating to minerals and waste. There is therefore a need to supplement those policies with more detailed development management policies and non-strategic site allocations in the M&WDPD.
- 3 The M&WDPD has been prepared in line with the latest guidance in the National Planning Policy Framework (NPPF), National Planning Policy for Waste (NPPW), the Planning Practice Guidance (PPG) and other

relevant Government policies. The M&WDPD will be updated as necessary to reflect any changes to Government guidance as the document progresses.

- 4 Following the consultation on the Draft Plan in 2021 and discussions with internal and external stakeholders the content of the M&WDPD has been revised. It includes:
 - Specific policies for a number of economically important minerals, not addressed by the strategic minerals policies of the County Durham Plan,
 - Detailed minerals and waste development management policies, and
 - Four allocations for minerals and waste development.
- 5 Regulations 18 and 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012 require a number of rounds of consultation. Once the final round of consultation is completed the M&WDPD will need to be agreed by Cabinet for recommendation to Full Council for submission to the Planning Inspectorate for an Examination in Public by an independent Inspector. Following adoption, it will form part of the statutory development plan for County Durham and will replace the remaining saved policies of the County Durham Minerals Local Plan (December 2000) and the County Durham Waste Local Plan (April 2005).
- 6 The new Local Development Scheme (LDS) sets out the timetable for the documents included in this report and estimated timescales for future documents.

Recommendation

- 7 Cabinet is recommended to:
 - (a) Agree the Local Development Scheme (Appendix 2); and
 - (b) Agree the Publication Draft Minerals and Waste Policies and Allocations Development Plan Document (Appendix 3) for consultation for a period of 7 weeks from 28 November 2022 to 13 January 2023;
 - (c) Agree the supporting documents to the Publication Draft Minerals and Waste Policies and Allocations Development Plan Document which are:
 - Statement of Consultation (Appendix 4);

- Site Assessment Document (Appendix 5);
- Heritage Impact Assessment (Appendix 6);
- Sustainability Appraisal (Appendix 7a, 7b and 7c);
- Habitat Regulations Assessment (Appendix 8);
- Equality Impact Assessment (Appendix 9).

Background

- 8 At a meeting on 21 October 2020 the Council adopted the County Durham Plan. The report to Members also noted that there would be a further document, the M&WDPD, which will be prepared to complement the minerals and waste policies of the County Durham Plan and will replace the remaining saved policies of the County Durham Minerals Local Plan (December 2000) and the County Durham Waste Local Plan (April 2005).
- 9 The M&WDPD has been prepared in line with the latest guidance in the National Planning Policy Framework (NPPF), National Planning Policy for Waste (NPPW), the Planning Practice Guidance (PPG) and other relevant Government policies. The M&WDPD will be updated as necessary to reflect any changes to Government guidance as the document progresses.
- 10 At a meeting of Cabinet on 16 December 2020 a notification letter to specific consultees identified by the regulations and a call for sites document were both agreed for consultation from 15 January to 26 February 2021. The outcome of this consultation was reported to Cabinet on 15 September 2022 where Cabinet agreed a draft M&WDPD for consultation from 24 September 2021 and 5 November 2021.
- 11 In response to consultation on the Draft Minerals and Waste Policies and Allocations Development Plan Document, 148 comments were received from 25 organisations/groups and individuals including adjacent local authorities and organisations including the Environment Agency, Natural England, Historic England and National Highways. A Statement of Consultation detailing the comments received and the Council's responses to the matters raised is attached at Appendix 4. A report which provides an updated appraisal and final decisions upon the sites which were submitted as potential allocations by the minerals and waste industry is attached at Appendix 5. A further report which undertakes a detailed Heritage Impact Assessment of the sites submitted as potential allocations by the minerals and waste industry is also attached (Appendix 6).

Publication Draft Minerals and Waste Policies and Allocations Development Plan Document

- 12 Following the consultation on the Draft Plan in 2021 and discussions with internal and external stakeholders the content of the Minerals and Waste Policies and Allocations Development Plan Document has been revised. The Publication Draft Minerals and Waste Policies and Allocations DPD (Appendix 3) now includes the following:

- specific policies for a number of economically important minerals, not addressed by the strategic minerals policies of the County Durham Plan but where future planning applications for the 'winning and working of minerals' may occur such as Lithium (which is present in Weardale), vein minerals and for conventional and unconventional oil and gas and for major waste management processes such as for inert recovery, inert landfill/landraise and non-hazardous landfill;
- detailed minerals and waste development management policies including a comprehensive criteria based policy for considering minerals and waste development which amongst its provisions seeks to protect human health, the amenity of local communities, the environment of County Durham including its landscape, biodiversity and geodiversity, the County's historic environment, surface water, groundwater and flood risk; best and most versatile agricultural land and County Durham's soil resource and County Durham's ability to meet the challenge of climate change and transition to a low carbon future;
- additional policies that address in detail matters including noise, air quality and dust, vibration from blasting, the transport of minerals and waste (including road to rail transshipment facilities), borrow pits which are small mineral working proposals directly related to a construction project, ancillary mineral related infrastructure such as concreting and asphalt plants, the restoration and after-use of mineral and landfill/landraise sites and a policy detailing the benefits of minerals extraction;
- two site allocations for minerals and waste site which were included within the Draft Plan. These were for Basal Permian Sand and overlying Magnesian Limestone at a northern extension to Crime Rigg Quarry and for Basal Permian Sand by deepening at Thrislington West Quarry. Both of these site allocations are considered necessary to meet the future needs of County Durham and make an appropriate contribution to wider regional needs for mineral supply; and
- two new site allocations for inert waste disposal, these are for inert waste disposal at land within the existing void of Crime Rigg Quarry and for further inert waste disposal at Cold Knuckles Quarry. Both of these site allocations are located at active mineral sites which already accommodate inert waste landfill operations. They are considered necessary to meet the future needs of County Durham for inert waste disposal and will also

contribute to the waste capacity gap identified within the County Durham Plan.

Supporting Documents

- 13 In order to ensure that the M&WDPD is found sound at examination a number of evidence reports have also been prepared including a Sustainability Appraisal (Appendix 7a, 7b and 7c), a Habitat Regulations Assessment (Appendix 8), and an Equality Impact Assessment (Appendix 9).
- 14 The Sustainability Appraisal (SA) predicted positive cumulative effects against all social and economic objectives and most environmental objectives. It also predicts that the M&WDPD will have positive, overriding cumulative effects on climate change despite negative effects being predicted against a small number of policies. In this regard, collective measures are considered to outweigh negative effects.
- 15 The overall conclusion of the Habitats Regulations Assessment Report was that the proposed sites included within the Publication Draft County Durham M&WDPD do not, alone (or in-combination), have any likely significant effects on European Protected Wildlife Sites.
- 16 The EqIA concluded that there is no evidence of an actual or negative impact on protected characteristics.
- 17 In addition to these assessments a Waste Technical Paper and an updated Joint Local Aggregate Assessment for County Durham, Northumberland and Tyne and Wear are also being prepared. These are both evidence base documents which will be submitted alongside the draft M&WDPD at Submission and will ensure the Inspector has access to an updated evidence base.

Local Development Scheme

- 18 The new Local Development Scheme (LDS) is attached at Appendix 2 and sets out the timetable for the documents included in this report and estimated timescales for future documents. The key milestones for the Minerals and Waste Policies and Allocations DPD are summarised below:

	Reg19 consultation	Submission	EIP	Adoption
Minerals and Waste Policies and Allocations DPD	Nov 2022 - Jan 2023	May 2023	Sept 2023	Jun 2024

- 19 The key milestones for the SPDs and other documents are summarised below:

	First consultation	Second consultation	Adoption
Developer Contributions SPD	NA	Jan/Feb 2023	Apr 2023
Housing Needs SPD	Jan/Feb 2023	Jun/Jul 2023	Sept 2023
County Durham Design Code SPD	Jan/Feb 2023	Jun/Jul 2023	Sept 2023
Trees, Woodland and Hedges SPD	Jan/Feb 2023	Jun/Jul 2023	Sept 2023
Solar Power SPD	Jan/Feb 2023	Jun/Jul 2023	Sept 2023
Ecology SPD	Sept/Oct 2023	Feb/Mar 2024	May 2024

Next Steps

- 20 If agreed consultation will be undertaken on the Publication Draft Minerals and Waste Policies and Allocations DPD (M&WDPD) from 28 November 2022 to 13 January 2023. The consultation will be undertaken in accordance with the Council's Statement of Community Involvement.

- 21 Once the final round of consultation is completed the M&WDPD will need to be agreed by Cabinet and Full Council for submission to the Planning Inspectorate for an Examination in Public by an independent Inspector.
- 22 Once adopted, the policies and provisions of the M&WDPD will replace the 28 remaining saved policies of the County Durham Minerals Local Plan (December 2000) and the County Durham Waste Local Plan (April 2005).

Background papers

- County Durham Plan – Adopted 2020

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Appendix 1: Implications

Legal Implications

The Town and Country Planning (Local Planning) (England) Regulations 2012 set out how to prepare development plan documents and supplementary planning documents. Before the Minerals and Waste Development Plan Document (M&WDPD) can be adopted, it is necessary to undertake a number of rounds of public consultation process. Additionally, in the case of the M&WDPD, an examination in public must be held. The Council's legal team have been involved throughout the preparation of the document.

Finance

As the DPD progresses there will be some costs for appropriate evidence gathering, consultation, printing and eventually the EIP costs. These costs will primarily be met from the Spatial Policy budget.

Consultation

The programme of consultation has been agreed with the Council's Corporate Communications Team and the Council's Consultation Officers Group and will be undertaken in accordance with the Statement of Community Involvement and the 2012 Local Plan Regulations.

Equality and Diversity / Public Sector Equality Duty

The Council acknowledges that, in exercising its functions, it has a legal duty under the Equality Act 2010 to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations. This duty applies to all people defined as having protected characteristics under that legislation. The Council will carefully consider the likely impacts of the Plan on persons with a protected characteristic at each stage of the process. An EQIA has been prepared for the M&WDPD (Appendix 9), the nature of this document means that there are no identified negative or positive impact on the public in general, including all protected characteristics and so a full assessment is not required; it will be reviewed as appropriate.

Climate Change

Climate change is a thread running through the County Durham Plan. The importance of tackling and adapting to climate change is recognised in the Plan's Vision, Objectives, Sustainable Development Statement, spatial strategy and a number of policies. As the DPD sits below and reflects the policies and strategies of the County Durham Plan they similarly reflect this approach. The Publication Draft M&WDPD's content in relation to climate change has been revised and strengthened with greater emphasis being placed on the potential for minerals and waste sites to provide suitable

opportunities for renewable energy generation both during operation and as an afteruse. The Sustainability Appraisal predicts that the M&WDPD will have positive, overriding cumulative effects on climate change despite negative effects being predicted against a small number of policies. In this regard, collective measures are considered to outweigh negative effects.

Human Rights

Protocol 1 Article 1: Every natural or legal person is entitled to the peaceful enjoyment of his possessions, including their property. The Minerals and Waste DPD may allocate land for development which will affect landowners' rights to develop their land. It is noted, however, that rights afforded under this Article are not absolute but qualified. Therefore, any interference with landowner's rights must be balanced against the wider public interest in having an up to date development plan . It is lawful for a local planning authority to take action if that action is clearly necessary and proportionate.

Crime and Disorder

None.

Staffing

None.

Accommodation

None.

Risk

None.

Procurement

If required, consultants may need to be commissioned to deliver evidence studies, in accordance with the Council's procurement rules/procedures.