

**County Durham Minerals and Waste
Policies and Allocations Document
Adoption**

Report of Corporate Management Team

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Councillor Elizabeth Scott, Cabinet Portfolio Holder for Economy, and Partnerships

Electoral divisions affected:

Countywide.

Purpose of the Report

- 1 The purpose of this report is to seek Cabinet's approval to recommend County Council agree to the adoption of the County Durham Minerals and Waste Policies and Allocations Document (MWPAD) following its independent examination by planning inspectors appointed by the Secretary of State.

Executive summary

- 2 The MWPAD has been prepared to supplement the County Durham Plan (CDP) that only includes high level strategic policies and allocations relating to minerals and waste and to replace the remaining saved policies of the County Durham Minerals Local Plan (CDMLP) and County Durham Waste Local Plan (CDWLP), both of which are now dated. The MWPAD covers the whole of the administrative area of County Durham and contains 24 policies including:
 - (a) detailed minerals and waste development management policies;
 - (b) specific policies for a number of economically important minerals not addressed by the strategic minerals policies of the CDP including lithium; and
 - (c) four allocations for minerals and waste development.
- 3 The MWPAD has been prepared to be consistent with guidance in the:

- (a) National Planning Policy Framework (NPPF);
 - (b) National Planning Policy for Waste (NPPW);
 - (c) Planning Practice Guidance (PPG); and
 - (d) other relevant Government policies.
- 4 The MWPAD has also been prepared in accordance with the Town and Country Planning (Local Planning) (England) Regulations 2012 whose provisions require a number of stages of consultation. Three consultation stages occurred in 2021 and 2022, prior to the MWPAD being submitted for examination in July 2023. Public hearings took place in September 2023 followed by further consultation on:
- (a) main modifications (MMs) to the MWPAD;
 - (b) changes to the County Durham policies map; and
 - (c) upon a Sustainability Appraisal (SA) and Habitats Regulations Assessment (HRA) addendum in early 2024.
- 5 A statement of consultation was then prepared to assist the planning inspectors in preparing their inspector's report.
- 6 On 14 May 2024 the Planning Inspectorate provided the council with their report into the examination of the MWPAD for fact checking purposes and then this was formally published by the council alongside a notice under Regulation 25 of the Town and Country Planning (Local Planning) (England) Regulations 2012 on 24 May 2024. The inspector's report concluded that the MWPAD is sound and legally compliant subject to the inspector's MMs. On this basis the MWPAD can proceed to be adopted as part of the statutory development plan for County Durham.
- 7 This report recommends that the council, as local planning authority, adopts the MWPAD incorporating all modifications. On adoption of the MWPAD it will replace all remaining saved policies from the former CDMLP (December 2000) and CDWLP (April 2005). As soon as reasonably practical following adoption of the MWPAD, regulations require the council to make available:
- (a) the MWPAD;
 - (b) an adoption statement;
 - (c) the sustainability report; and
 - (d) a SA/Strategic Environmental Assessment (SEA) post adoption statement.

- 8 Following adoption of the MWPAD, a person aggrieved by the plan, may under Section 113 of the Planning and Compulsory Purchase Act 2004, make an application to the High Court to challenge it. Such an application must be made within six weeks of adoption.

Recommendations

- 9 Cabinet is recommended to:
- (a) consider the contents of the inspector's report into the examination of the MWPAD as detailed in Appendix 2;
 - (b) recommend that County Council adopt the Minerals and Waste Policies and Allocations Document, incorporating the MMs as detailed in Appendix 3, and other additional modifications as presented in Appendix 4;
 - (c) subject to recommendation (b), recommend that the County Council approves the updating of the CDP policies map tiles 22 and 29 as presented in Appendix 5;
 - (d) recommend the County Council authorise the making of any necessary minor textual, presentational or layout amendments to the MWPAD as detailed in Appendix 6; and
 - (e) note the content of the adoption statement as detailed in Appendix 7 prepared in accordance with Regulation 26 of the Town and Country Planning (Local Planning) (England) Regulations 2012.

Background

- 10 All local planning authorities have a statutory requirement to prepare and maintain an up-to-date development plan for their area. The MWPAD is a development plan document and has been prepared to supplement the CDP (October 2020) that only includes high level strategic policies and allocations relating to minerals and waste and to replace the remaining saved policies of the CDMLP (December 2000) and CDWLP (April 2005) both of which are now dated.
- 11 The MWPAD provides an updated policy framework to assist in the determination of planning applications for minerals and waste development thereby ensuring that societies needs for minerals and waste management can be met. Its policies seek to ensure, through future decision making, that the environment of County Durham, the resident's amenity and human health are protected. They also seek to ensure that proposals for new development meet the challenge of climate change and also the ecological emergency. Specific policies and proposals in the plan include:
 - (a) detailed development management policies including a criteria based policy that addresses policy matters such as:
 - i. amenity;
 - ii. human health;
 - iii. the environment and climate change adaptation; and
 - iv. mitigation;
 - (b) specific policies to address matters such as:
 - i. traffic and transport;
 - ii. noise;
 - iii. dust;
 - iv. blasting; and
 - v. mineral and waste site restoration;
 - (c) policies for a number of economically important minerals not addressed by the strategic minerals policies of the CDP including lithium and vein and metalliferous minerals;
 - (d) waste management policies relating to the recovery and disposal of inert and non-hazardous waste; and

- (e) four site specific allocations for future minerals and waste development including allocations for the winning and working of sand and gravel and magnesian limestone and for the disposal of inert waste as part of existing mineral site restoration.
- 12 Regulations 18 and 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012 require a number of stages of consultation including on a draft plan and submission draft plan. Consultation occurred upon the MWPAD in accordance with these regulations and the council's adopted Statement of Community Involvement (SCI) in 2021 and 2022.
- 13 The MWPAD was submitted for examination to the Secretary of State for the Department for Levelling Up, Housing and Communities on 3 July 2023 under Regulation 22(3) of the Town and Country Planning (Local Planning) (England) Regulations 2012. Following the preparation of the detailed response to the planning inspector's matters, issues and questions for the examination, public hearings took place between 26 September 2023 and 28 September 2023. Following the public hearings, further consultation then occurred between 26 January 2024 and 8 March 2024 on:
- (a) a schedule of MMs to the MWPAD;
 - (b) a schedule of changes to the County Durham policies map; and
 - (c) upon an SA and HRA addendum.
- 14 Fifty comments were received from 14 respondents and these were used to prepare a statement of consultation that was published on the council's website and provided to the planning inspectors to assist them in preparing their inspector's report.

Inspector's Report and Main Modifications

- 15 The inspector's report was published on 24 May 2024 and is included as Appendix 2 to this report. The planning inspector's report concluded that the MWPAD was legally compliant and sound and provides an appropriate basis for the planning of minerals and waste in the county, provided that a number of MMs are made to it prior to adoption. The MMs required are listed in Appendix 3 of this report and these are also appended to the inspector's report. They remain, with one minor exception, identical to that which the council agreed with the inspectors and which the council consulted upon in January 2024. They include:
- (a) the renumbering of policy numbers to make clear which policies relate only to minerals or waste development;

- (b) MMs to the policy wording and reasoned justification of policies:
- i. MW1 (general criteria for considering minerals and waste development);
 - ii. MW5 (air quality and dust);
 - iii. M6 (blasting);
 - iv. MW7 (traffic and transport);
 - v. M10 (ancillary minerals related infrastructure);
 - vi. M11 (periodic review of mineral planning permissions);
 - vii. M12 (oil and gas exploration, appraisal, and production);
 - viii. M13 (transport of oil and gas);
 - ix. M14 (vein minerals, metalliferous minerals, lithium, and silica sand);
 - x. W17 (inert waste disposal via landfill);
 - xi. W18 (non-hazardous landfill);
 - xii. W19 (water resources - landfill, landraise and inert waste other recovery);
 - xiii. MW20 (mineral site restoration, landfill and landraise); and
 - xiv. M23 (site specific allocation inert waste disposal at Crime Rigg Quarry);
- (c) MMs to the policy wording only of:
- (i) MW4 (noise);
 - (ii) M21 (site specific allocations at Thrislington West Quarry);
 - (iii) M22 (site specific allocation northern extension to Crime Rigg Quarry); and
 - (iv) M24 (site specific allocation inert waste disposal at Cold Knuckle Quarry);
- (d) MMs to the reasoned justification of:
- (i) M2 (mineral exploration);
 - (ii) M3 (benefits of mineral extraction);

- (iii) M8 (mineral rail handling facilities); and
- (iv) the monitoring and implementation framework;
- (e) changes to the County Durham policies map to illustrate the spatial implications of the four allocations within the MWPAD.

Adoption

- 16 Section 23 of the Planning and Compulsory Purchase Act states that if a planning inspector finds a local plan sound subject to MMs, a local planning authority may adopt that local plan with the MMs which the inspector concludes are necessary for the plan to be sound and any additional modifications. The council is not permitted to adopt the local plan without the MMs. The alternative is for the local planning authority not to adopt the local plan. Regulation 26 of the Town and Country Planning (Local Planning) (England) Regulations 2012 also requires an adoption statement to be prepared to accompany the plan (a copy is attached at Appendix 7).
- 17 This report recommends that the council, as local planning authority, adopts the MWPAD incorporating all MMs as set out in the inspector's report presented in Appendix 3 and additional modifications as presented in Appendix 4.
- 18 On adoption of the MWPAD it will replace all remaining saved policies from the CDMLP (December 2000) and CDWLP (April 2005).
- 19 Following adoption of the plan, a person aggrieved by the plan, may under Section 113 of the Planning and Compulsory Purchase Act 2004, make an application to the High Court to challenge it either on the grounds that it is not within the appropriate power or a procedural requirement has not been complied with. Such an application must be made within six weeks of adoption.

Other Issues

- 20 SA is an integral part of the plan making process and this has been undertaken during the preparation of the MWPAD. To inform and support the MWPAD, an SA report has been prepared to demonstrate how sustainability, including the consideration of alternative strategy, site, and policy options, have informed the document and the policies within it.
- 21 The MWPAD has also been subject to an HRA. This assesses the likely impacts on European protected sites. The assessment concludes that effects arising from the plan can be mitigated such that the integrity of European protected sites will not be adversely affected.

- 22 The SA and HRA findings have fed into decision making on the MWPAD at numerous stages and a comprehensive set of reports have been published for consultation. In their report, the inspector concludes that the SA is suitably comprehensive and legally compliant and that the HRA is appropriate. An SA and HRA post adoption statement is under preparation and will be available on adoption.
- 23 An equality impact assessment has also been undertaken to inform the MWPAD as it progressed. The MWPAD has also been informed by a large number of supporting documents which help justify the strategy, policies, and sites within the MWPAD. All documents are available on the council's website.

Next Steps

- 24 As soon as reasonably practical, following adoption of the MWPAD, the provisions of the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) and the Planning and Compulsory Purchase Act 2004 (as amended) require the council to make available:
- (a) the adopted County Durham MWPAD;
 - (b) the County Durham MWPAD adoption statement;
 - (c) the SA Report (incorporating SEA) alongside the SA/SEA post adoption statement; and
 - (d) details of where the MWPAD is available for inspection and the places and times at which the document can be inspected (this has been incorporated into the adoption statement).
- 25 The council is also required to send the adoption statement to anyone who requested to be kept notified of the MWPADs adoption and the Secretary of State for the Department for Levelling Up, Housing and Communities.
- 26 In accordance with Regulation 26 of the Town and Country Planning (Local Planning) (England) Regulations 2012 and Regulation 16 of the Environmental Assessment of Plans and Programmes Regulations 2004, as soon as practicable following adoption of the MWPAD, the SA and SA/SEA post adoption statement will be made available alongside the MWPAD.

Background papers

- For more information on the development of the MWPAD, please refer to the Cabinet papers dated June 2023, November 2022, and September 2021.

Other useful documents

- None

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Appendix 1: Implications

Legal Implications

Development plan documents must be positively prepared, justified, effective and consistent with national policy in accordance with section 20 of the Planning and Compulsory Purchase Act 2004 (as amended) and the NPPF. The NPPF gives guidance to local authorities in drawing up their local plans. The inspectors have determined that the MWPAD conforms to the NPPF. The preparation of the MWPAD has been informed by a continuous dialogue with the council's legal team.

Finance

The MWPAD had a continuing budget for its preparation including the fees for the planning inspectors.

Consultation and Engagement

The programme of consultation was agreed with the council's consultation officers group and was undertaken in accordance with the SCI 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 has carefully considered the likely impacts of the MWPAD on persons with a protected characteristic at each stage of the process. An equality impact assessment has been prepared in partnership with the community engagement team at each stage of the preparation of the MWPAD including the MMs.

Climate Change

Preparation of the MWPAD has fully take into account guidance within the NPPF on planning for climate change and has had regard to the council's climate emergency and the council's climate emergency response plan. The MWPAD aims to secure development that contributes to the mitigation of and adaption to climate change. The independent SA also predicts that the

MWPAD will have positive, overriding cumulative effects on reducing the causes of climate change, including but not limited to:

- (a) measures that ensure that minerals and waste proposals will not significantly affect County Durham's ability to transition to a low carbon future;
- (b) raise awareness to applicants of County Durham's net zero targets;
- (c) give particular regard to benefits arising from minerals development which help to mitigate climate change; and
- (d) provide a framework to contribute towards reducing transport emissions across a number of policies.

Human Rights

Protocol 1 Article 1: Every natural or legal person is entitled to the peaceful enjoyment of his possessions including their property. The MWPAD allocates land for development which will affect landowner's 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. In this instance, such measures are necessary and proportionate in the public interest to ensure that a local plan is in place to guide development across the county to 2035.

Crime and Disorder

None.

Staffing

None.

Accommodation

None.

Risk

Not having an up-to-date adopted local plan makes it more difficult to provide the necessary certainty to facilitate appropriate development to support the local economy and meet housing needs and to resist inappropriate development. Also, failure to have an adopted local plan risks Government intervention.

Procurement

None.

Appendix 2: Inspector's Report

Please refer to the attached Inspector's Report.

Appendix 3: Main Modifications Document

Please refer to the attached Main Modifications document.

Appendix 4: Schedule of Additional Modifications

Please refer to the attached Schedule of Additional Modifications.

Appendix 5: Updated County Durham Plan Policies Map Tiles

Please refer to the attached Updated County Durham Plan Policies Map Tiles.

Appendix 6: Allocations Document

Please refer to the attached Allocations Document.

Appendix 7: Adoption Statement

Please refer to the attached Adoptions Statement.