

**HAMPSHIRE COUNTY COUNCIL****Decision Report**

<b>Decision Maker:</b>	Cabinet
<b>Date:</b>	22 July 2013
<b>Title:</b>	Hampshire Minerals and Waste Plan
<b>Reference:</b>	4965
<b>Report From:</b>	Director of Economy, Transport and Environment

**Contact name:** Lisa Kirby

**Tel:** 01962 845795

**Email:** lisa.kirby@hants.gov.uk

## **1. Executive Summary**

1.1. The purpose of this paper is to update Cabinet on the progress of preparing the Hampshire Minerals and Waste Plan (HMWP) and to propose that Cabinet make a recommendation to Full Council to adopt the Plan.

1.2. This paper seeks to:

- summarise the plan-making process which has been undertaken, including the Public Examination into the soundness of the Plan;
- summarise the findings of the Inspector's Report into the soundness of the HMWP;
- clarify the position of the HMWP with respect to the revocation of the South East Plan;
- request that Cabinet recommend to the Full Council that they adopt the HMWP as Minerals and Waste Planning Authority, incorporating the modifications identified in the Inspector's Report;
- establish the next steps of the adoption process; and
- identify that the HMWP will supersede the Hampshire Minerals and Waste Core Strategy (2007) and the saved Hampshire Minerals and Waste Local Plan (1998) policies.

## **2. Contextual information**

2.1. The aim of the HMWP is to protect Hampshire's environment and communities and to support Hampshire's economy through the sustainable management of minerals and waste development.

2.2. The HMWP contains revised and updated strategic policies, revised and strengthened development management and spatial policies as well as including strategic minerals and waste site allocations. The Plan will provide a

comprehensive framework for future minerals and waste development in Hampshire to 2030.

- 2.3. The County Council has worked in partnership with Southampton City Council, Portsmouth City Council, the New Forest National Park Authority and the South Downs National Park Authority (the 'partner authorities') to prepare the HMWP.
- 2.4 Throughout the plan preparation process expert legal advice has been sought and this has informed the design and content of this process.
- 2.5. Following approval by the five partner authorities in October 2011 and a subsequent public consultation on the soundness of the Plan, the HMWP was submitted to the Secretary of State on 29 February 2012. Mr Andrew Freeman was appointed as the Planning Inspector to conduct an independent Public Examination into the soundness of the Plan and to report back on the outcomes of the examination to the partner authorities.
- 2.6. The Public Examination of the HMWP commenced upon submission of the Plan and an initial public hearing took place in June 2012. This resulted in the Inspector asking the partner authorities to review specific elements of the submission Plan and to propose modifications to ensure that the plan could be found 'sound' – that is, as set out in Government's National Planning Policy Framework (NPPF), positively prepared, justified, effective and consistent with national policy. Proposed modifications to the Plan were duly prepared taking into account both legal and planning advice and new evidence which arose as a consequence of the first stage of public hearings. As the Plan preparation process is essentially iterative in nature, updates and amendments were to be expected.
- 2.7. It was considered that the changes proposed took into account both legal and planning advice and dealt with relevant new evidence which arose as a consequence of the first stage of the public hearings. The majority of those amendments were minor in nature (additional modifications) rather than amendments which affected the 'soundness' of the Plan (main modifications). The proposed main and additional changes were brought to the attention of Members and approved by the County Council (on 20 September 2012) for public consultation.
- 2.8. A public consultation on the proposed modifications took place between 22 October and 17 December 2012 and the outcomes of this consultation were then considered at a second stage public hearing in March 2013, where they were considered to be appropriate by the Planning Inspector.
- 2.9. The Inspector issued his Report to the partner authorities on the soundness of the Plan in late May 2013. As expected the Inspector recommended non-adoption of the original Plan as submitted (February 2012) in accordance with section 20(7A) of the Planning and Compulsory Purchase Act 2004. However, as the partner authorities requested, the Inspector recommended

main modifications that would make the Plan satisfy the requirements of section 20(5)(a) of the Planning and Compulsory Purchase Act 2004, and be “sound”. As a result the Plan, including these modifications, can now be adopted.

- 2.10. A summary of the findings of the Inspectors Report and the main changes to the HMWP is included in Section 4 of this report. The main modifications comprise changes already considered by Cabinet and Full Council in September 2012. These are set out in Appendix 1 of the report.
- 2.11 The Director of Economy, Transport and Environment was given delegated authority following the County Council resolution in October 2011 to make minor typographical and formatting changes to the Plan. Under this authority a number of minor modifications were also proposed.

### **3. Introduction and plan-making process**

- 3.1. The County Council, as Minerals and Waste Planning Authority, has a statutory duty to plan for the provision of minerals and waste development.
- 3.2. Current policy for minerals and waste development in Hampshire is set out in the Hampshire Minerals and Waste Core Strategy (HMWCS) which was adopted in 2007. The adopted HMWCS was subject to a successful legal challenge in 2008 by Associated British Ports, which resulted in a number of its policies and associated supporting text being quashed. Since the adoption of the HMWCS there have also been significant changes to national planning policy.
- 3.3. The County Council has worked in partnership with Southampton City Council, Portsmouth City Council, the New Forest National Park Authority and the South Downs National Park Authority to prepare the HMWP which enables the delivery of sustainable minerals and waste development to 2030 in Hampshire. The Plan sets out policies to guide minerals and waste development which have been constructed to protect Hampshire’s environment and communities and support Hampshire’s economy.
- 3.4. The HMWP aims to significantly strengthen the protection it affords Hampshire’s environment and communities and provides robust direction for business. The HMWP also aims to ensure that the right development is built at the right time and in the right place. Examples of minerals and waste development include construction, demolition and excavation waste recycling sites, rail depots and marine wharves, local quarries, material recycling facilities, energy from waste facilities and landfill. The HMWP also includes site allocations for the following types of development:
  - rail depots (Basingstoke Sidings, Micheldever Sidings)
  - land-won sand and gravel extraction (Bramshill Quarry Extension, Bleak Hill Quarry Extension, Hamble Airfield, Purple Haze, Cutty Brow, Forest Lodge Home Farm, Roeshot);

- brick-making clay extraction (Michelmerssh, Selborne); and
  - landfill (Squabb Wood, Purple Haze (reserve site)).
- 3.5. The Plan has been developed based on a robust technical evidence base including site appraisal work, Strategic Environmental Assessment, Sustainability Appraisal and Habitats Regulation Assessment. The evolution of the Plan has also considered the numerous responses to various public consultations gathered over several years as part of public consultation. This included the 'Have YOUR say' on planning for minerals and waste in Hampshire and 'Have YOUR say' additional minerals issues consultations in February and July 2011 respectively.
- 3.6. In preparing the Plan, the County Council had a duty to carry out or secure the carrying out of a Strategic Environmental Assessment (SEA) to meet the requirements of the Strategic Environmental Assessment Directive (European Directive 2001/42/EC) (SEA Directive). This is implemented in the United Kingdom through the Environmental Assessment of Plans and Programmes Regulations 2004 (the SEA Regulations).
- 3.7. The preparation of the HMWP has been subject to a full Integrated Sustainability Appraisal (ISA). The ISA comprises a joint sustainability appraisal and strategic environmental assessment of the Plan and has been carried out in parallel to the development of the Plan, informing the Plans aims, objectives and policies. This included various stages of consultation with statutory consultees and other interested parties at the scoping stage (2010), on interim ISA reports on policies and proposals (2011) and on the various versions of the ISA Report which have been published at the publication, submission and public examination stages of the plan making process.
- 3.8. The ISA of the HMWP meets the requirement of the SEA Regulations to prepare an environmental report. How the ISA meets the requirement of Regulations 8 (3), 12(2), 12(3) and Schedule 2 of the SEA Regulations are set out in Appendix 2.
- 3.9. The County Council also has a duty to ensure that the Plan was prepared in accordance with the Conservation of Habitats and Species Regulations 2010 (the Habitats Regulations), specifically Regulation 102 which requires that where a land use plan is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects), and is not directly connected with or necessary to the management of the site, the plan-making authority for that plan must, before the plan is given effect, make an appropriate assessment of the implications for the site in view of that site's conservation objectives. This assessment examines the impact that the Plan would have on the integrity of the sites designated under the EU Habitats Directive.
- 3.10. The HMWP was subject to continuous iterative assessment throughout Plan preparation. Formal Habitats Regulation Assessment (HRA) screening

reports were published throughout 2011 and were subject to consultation with statutory consultees (Natural England) and other interested parties. The HRA Record which concludes the overall findings of the assessment has also been published throughout plan preparation including amendments required following consultation and the public hearings.

- 3.11. The HRA satisfies the requirements of the Habitat Regulations to prepare an assessment of the HMWP on the integrity of European Sites. In accordance with Regulation 102, Natural England has been consulted on the HRA as part of plan preparation. During this process, Natural England, has been in agreement with the conclusions namely that it has been ascertained that the plan will not adversely affect the integrity of the European sites. The final HRA Record has been produced and will be published alongside the Plan upon adoption. This will include concluding comments from Natural England.
- 3.12. On 13 October 2011, the County Council resolved to publish the HMWP for consultation on its 'soundness'. This 'soundness' consultation period ran between 7 November 2011 and 19 December 2011. The consultation also gave consultees the opportunity to comment on the evidence base associated with the Plan. A total of 1,912 representations were received. Following this, in accordance with the resolutions of the County Council in October 2011, some minor changes were made to the Plan and it was then submitted to Government on 29 February 2012. The 'submission' version of the Plan was subject to an independent Public Examination in relation to soundness and the other legal tests by an independent Planning Inspector.
- 3.13. The NPPF was published in March 2012 following the submission of the HMWP. The NPPF sets out what the Government envisages will be required in order to make a plan sound, forming the basis of the examination of Plans. The NPPF states that a sound plan should be:
  - **Positively prepared** – the plan should be prepared based on a strategy which seeks to meet objectively assessed development and infrastructure requirements, including unmet requirements from neighbouring authorities where it is reasonable to do so and consistent with achieving sustainable development;
  - **Justified** – the plan should be the most appropriate strategy, when considered against the reasonable alternatives, based on proportionate evidence;
  - **Effective** – the plan should be deliverable over its period and based on effective joint working on cross-boundary strategic priorities; and
  - **Consistent with national policy** – the plan should enable the delivery of sustainable development in accordance with the policies in the Framework.
- 3.14. A revised Local Development Scheme, reflecting the revised timescales for plan delivery, was approved on 6 March 2013 by the Executive Member for Environment and Transport.

#### **4. Public Examination and Hearing**

- 4.1 Andrew Freeman was appointed as Planning Inspector by the Secretary of State to conduct an independent Public Examination of the HMWP.
- 4.2 The Public Examination included a public hearing which commenced 6 June 2012. It was adjourned on 15 June 2012 to enable the partner authorities to prepare modifications following discussions at the hearings, to address the concerns raised by the Inspector.
- 4.3 The partner authorities prepared a number of 'main modifications'. Main modifications are those changes which are considered to affect the soundness of the Plan. In certain cases, the partner authorities sought expert legal advice on key issues.
- 4.4 Some of the main modifications required were due to the introduction of the National Planning Policy Framework (NPPF) following the submission of the Plan, or due to new information that came to light as a consequence of evidence given at the hearing. Reasons for main modifications included:
  - a) To include a clear statement of the planning authorities' intention to take a positive approach and to incorporate the presumption in favour of sustainable development in accordance with the requirements of the NPPF;
  - b) New evidence was submitted to the Inspector by the operator of Kingsley Quarry in East Hampshire to the effect that the mineral should be re-classified as silica sand (an industrial mineral). Consequently, the Inspector asked the partner authorities to review the HMWP in relation to the provision for silica sand, to ensure that the Plan is in accordance with NPPF;
  - c) New evidence was also submitted to the Inspector by the operator of Michelmersh Brickworks at the first stage of the public examination, which showed that the sites allocated in the HMWP contain a substantially lower amount of brick clay than was previously thought. The Inspector requested that the allocation of sites at Michelmersh should be reviewed to comply with the NPPF landbank requirements;
  - d) During the Public Examination, New Forest District Council challenged the wording of Policy 33 (Long term safeguarding) and proposed revisions. This issue was discussed at both stages of the hearings. NFDC raised arguments relating to the meaning and effect of the safeguarding policy and the approach to be taken to fulfilling the requirements for appropriate assessment under the Habitats Regulations.
- 4.5 The majority of main modifications identified relate to the Hampshire County Council administrative area. This is with exception of the introduction of a policy on provision for silica sand which affects the South Downs National Park and the issues surrounding the safeguarding of potential wharves and rail depots which affect Southampton City Council and Portsmouth City Council.

- 4.6 In addition, the partner authorities took the opportunity to address a number of minor corrections such as typing errors, formatting, matters of clarification or policy consolidation. These are termed as 'additional modifications'. Additional modifications are those which taken together do not materially affect the policies that would be set out in the plan if it was adopted with the main modifications but no other modifications. Additional modifications identified are set out in Appendix 3 of the report.
- 4.7 Following discussions at the hearings, the partner authorities also updated the parts of the Plan's evidence base, including revisions to the Integrated Sustainability Appraisal and Habitat Regulation Assessment, as required.
- 4.8 The main and additional modifications were approved for consultation by the County Council on 20 September 2012. A consultation on the proposed modifications to the Plan took place between 22 October and 17 December 2012. The consultation also gave consultees the opportunity to comment on the updated evidence base associated with the Plan. One hundred and thirty four consultees submitted a total of 304 independent points of submission on the proposed modifications. A summary of the responses can be found at: [http://consult.hants.gov.uk/portal/pdpp/examination\\_library\\_other\\_documents?tab=files](http://consult.hants.gov.uk/portal/pdpp/examination_library_other_documents?tab=files) (see document HMWP201).
- 4.9 Following the completion of the consultation, the Public Examination recommenced with a further public hearing in March 2013, focused on the modifications identified for discussion by the Planning Inspector following the consultation.
- 4.10 The South East Plan was finally revoked (with the exception of two saved policies on RAF land in Oxfordshire and the Thames Basin Heaths Special Protection Area) in March 2013. Therefore, the legal requirement imposed by section 24(1)(a) of the Planning and Compulsory Purchase Act 2004 is for the HMWP to now be in 'general conformity' with the remaining provisions of the South East Plan.

## **5. Findings of the Inspector's Report on the soundness of the Hampshire Minerals and Waste Plan**

- 5.1. The Inspector provided the partner authorities with his final report of the findings of the Public Examination – the 'Inspectors Report' – in late May 2013.
- 5.2. The Inspector's Report only considers those changes to the HMWP which were considered to affect the soundness of the Plan or its compliance with the legal requirements referred to in section 20(5)(a) of the Planning and Compulsory Purchase Act 2004 – main modifications.

Assessment of duty to co-operate

5.3. The Planning and Compulsory Purchase Act 2004 requires constructive, active and on-going engagement with local authorities and a variety of prescribed bodies in order to maximise the effectiveness of plan preparation. The Inspector concluded the partner authorities had worked collaboratively with other authorities and bodies and had co-operated effectively through a continuous period of engagement, fulfilling the duty to co-operate.

Assessment of legal compliance

5.4. The Inspector concluded that the Hampshire Minerals and Waste Plan met all legal requirements. The Inspector noted the following:

- **Local Development Scheme (LDS):** The Inspector concluded that the HMWP was compliant with the approved LDS.
- **Consultation:** The Inspector noted that some consultees had raised concerns over the consultation process. The Inspector concluded that the Plan had been prepared in accordance with the adopted Statement of Community Involvement and that the consultation process was not flawed. He also concluded that the partner authorities had met their duties in line with the relevant regulations which emphasise the use of the internet.
- **Integrated Sustainability Appraisal (ISA):** The Inspector noted that the appraisal of sites had been criticised by some parties as being flawed. However, the Inspector concluded that he did not find the conclusions of the ISA to be flawed and that the ISA is adequate.
- **Appropriate Assessment (AA):** The Inspector noted that some objectors had raised concerns about the AA and that the appraisal of sites, Purple Haze and Bramshill Quarry extension (Yateley Heath Wood) in particular, were considered to be flawed. However, the Inspector concluded that the AA is adequate.
- **Regional Spatial Strategy (RSS):** The Inspector noted that the partial revocation of the South East Plan came into force on 25 March 2013 and concluded that the policies in relation to minerals and waste within the South East Plan therefore no longer formed part of the development plan. The Inspector concluded that the HMWP is in general conformity with the remaining relevant provisions of the South East Plan.

Assessment of soundness of the Hampshire Minerals and Waste Plan

5.5. The Inspector acknowledged that the preparation of the HMWP and its subsequent Public Examination had taken place at a time of change in planning policy and guidance. For example, the Plan was submitted to the Secretary of State approximately one month before the publication of the NPPF. In addition, the material provisions of the RSS (the South East Plan) were revoked late in the Public Examination process. Other relevant documents and guidance have also been published following submission of the Plan. On all of these issues, the Inspector concluded that interested parties had an opportunity to comment on the Plan in light of those new documents and the revocation.



- 5.6. All of the main modifications identified within the Inspectors Report are based on the modifications that the County Council and its partner authorities approved and which were subject to consultation between October and December 2012. Appendix 1 of this report sets out the 22 main modifications to the Plan as required by the Inspector to make the Plan sound.
- 5.7. All other additional modifications to the Plan are not considered in the Inspector's Report as they do not impact the soundness of the Plan. These are largely typographic, formatting or policy consolidation changes – additional modifications.

### **Compliance with the National Planning Policy Framework (NPPF)**

- 5.8. The HMWP clearly states its aim to protect Hampshire's environment, maintain Hampshire's communities and support Hampshire's economy.
- 5.9. The NPPF was issued on 27 March 2012, following the submission of the HMWP on 29 February 2012. The NPPF introduced the presumption in favour of sustainable development, and an additional element of the policy on 'soundness', namely that local plans, such as the HMWP, should be 'positively prepared' (see paragraph 3.13).
- 5.10. The NPPF also introduced the presumption in favour of sustainable development. At the first stage of the public hearings, the Inspector indicated that a policy relating to this issue was required to meet the tests of soundness. A modification was therefore prepared which introduced a new policy and supporting text (see modification MM1 in Appendix 1).
- 5.11. With the modifications in place, the Inspector concluded that the Plan had been positively prepared. He noted that, with the incorporation of the main modifications relating to the presumption in favour of sustainable development (see modification MM1) and the deletion of Policy 13 (Planning conditions and obligations) and its associated supporting text (see modification MM9), this would constitute a clear statement on the partner authorities intention to take a positive approach which reflects the presumption in favour of sustainable development contained in the NPPF.
- 5.12. The Inspector highlighted 11 soundness issues in his Report which he set out his conclusions. These are considered in the remaining part of this section of the report.

### **Issue 1: Whether there is a positive and collective vision for the future of Hampshire, including a clear economic vision, which reflects the aspirations of local communities**

- 5.13. Following the first stage of the public hearing, amendments to the Vision and Spatial Strategy were proposed (see modifications MM2, MM3 and MM4 in Appendix 1) to provide greater links to the policies in the plan and include

links to the NPPF requirements for collaborative working, clarification of strategic priorities and other points of clarification.

- 5.14. The Inspector concluded that with the modifications in place, the Plan would be consistent with national policy and would give greater clarity over the links between the Vision and Spatial Strategy.

**Issue 2: Whether there are clear and appropriate environmental policies that, amongst other things, would ensure that there would be no unacceptable adverse effects on the natural or historic environment**

- 5.15. Following the first stage of the public hearing, policies on protection of designated landscapes (including the National Parks and AONBs) (see modification MM5 in Appendix 1), the protection of the wider countryside (see modification MM6) and the South West Hampshire Green Belt (see modification MM7) were revised ensure that HMWP was consistent with national policy.
- 5.16. With respect to designated landscapes, the Inspector concluded that the modifications update the polices sufficiently to accurately reflect the provisions of national policy, which were absent in the submission version of the Plan. In relation to the policy on the countryside, the Inspector concluded that the modification ensured that the Plan is internally consistent with other policies (e.g. policy on the locations of sites and areas for waste management) and this modification would be clear and appropriate. The Inspector also concluded that the revisions to the policy on the South West Hampshire Green Belt made the policy simpler, clearer, more appropriate and consistent with the NPPF.

**Issue 3: Whether there are clear and appropriate community-related policies that, amongst other things, would ensure that there would be no unacceptable adverse effects on human health**

- 5.17. Following the first stage of the public hearing, the policy on protecting public health, safety and amenity was revised to ensure compliance with the NPPF, to clarify development criteria and to highlight the importance of cumulative impacts (see modification MM8 in Appendix 1).
- 5.18. The Inspector concluded that with the modification in place, the HMWP would accord with national policy and the related soundness of the Plan would be assured. He stated that the modification would mean that there would be a clear and appropriate policy on community related matters.

**Issue 4: Whether appropriate provision is made for the steady and adequate supply of clay and chalk and for any demand for small-scale extraction of building stone**

- 5.19. The draft NPPF included a requirement to plan for at least a 10 year landbank at brick-making clay sites. This was taken into account in the

submission version of the Plan through Policy 21 (Brick-making clay). The publication of the final NPPF increased this requirement to plan for at least a 25 year landbank. As a result, a modification to the policy was prepared to meet the landbank requirements of the NPPF (see modification MM10 in Appendix 1).

- 5.20. The Inspector concluded that with this modification in place, the related provision of the Plan would be sound and would accord with the NPPF.

**Issue 5: Whether there is clear and effective provision for the safeguarding of mineral and waste sites and facilities; also the long-term conservation of mineral resources and the definition of safeguarding and consultation areas**

- 5.21. Following the first stage of the public hearing, the safeguarding list was amended to include concrete batching plants to meet the requirements of the NPPF (see modification MM11 in Appendix 1). The issue of Mineral Consultation Areas (MCAs) was also discussed at the public hearings as the NPPF indicates that local planning authorities are expected to define MCAs.

- 5.22. The Inspector concluded that with this modification in place, the related provision of the Plan would be in accordance with the NPPF and the Plan would be sound in this respect. With regards to the issue of Mineral Consultation Areas (MCAs), the Inspector concluded that clear and flexible provisions are already in place in Hampshire but notes that the partner authorities have also proposed additional modifications to clarify arrangements. Therefore, no main modifications were considered to be necessary in relation to this issue.

**Issue 6: Whether appropriate provision is made for the steady and adequate supply of sharp sand, gravel and soft sand**

- 5.23. The public hearings included detailed discussions on the level of supply for sand and gravel. The Inspector confirmed that the evidence base put together by the partner authorities on supply (the Local Aggregates Assessment) to inform the Public Examination of the HMWP was robust. This he acknowledged outlined the locally derived land-won sand and gravel apportionment (of 1.56mtpa) as set out in Policy 17 (Aggregate supply – capacity and source). The Inspector concluded that the approach undertaken meets the requirements of the NPPF and the recently emerged guidance from DCLG on the Aggregate Supply System (2012). The Inspector acknowledged that some consultees had criticised the soft sand apportionment. However, the Inspector noted that the approach taken meets that advocated in the NPPF. He also noted that there was no evidence that sales of soft sand will differ from those assessed by the partner authorities in the foreseeable future. In overall conclusion on matters related to land-won aggregate supply, the Inspector concluded that he was satisfied that supplying sand and gravel at a rate of 1.56mtpa (including 0.28mtpa for soft

sand) would be an appropriate contribution to a steady and adequate supply of aggregates for the plan area.

- 5.24. In terms of other sources of aggregate supply, the Inspector concluded that there is sufficient and appropriate infrastructure in place and, as such, the supply levels for other aggregates, as set out in Policy 17 (Aggregate supply – capacity and source) could be achieved.
- 5.25. To ensure that any changes in aggregate supply are addressed, changes to the monitoring of the Plan were put forward following the first stage of Public Examination (see modification MM12 in Appendix 1). The Inspector indicated that, with this modification in place, the Plan would be effective and deliverable over the plan period in this respect by ensuring that there is robust monitoring of total aggregate supply and a commitment to vary the required elements of supply should this become necessary.
- 5.26. The Inspector highlighted the partner authorities approach to relying on ‘unallocated’ sites to make up the provision for aggregate supply. He recognised that whilst ideally, the local apportionment should be met from specific allocations, he was satisfied that the Plan in its entirety includes a strategy that will deliver a steady and adequate supply of sharp sand and gravel and soft sand. He also concluded that the modifications to Policy 20 (see modification MM13 in Appendix 1) improved the policy in relation to unallocated sites.
- 5.27. As part of the preparation for the public hearing, the operator of Kingsley Quarry in East Hampshire provided evidence to the Inspector that the mineral at that quarry was silica sand (as well as soft sand) based on its uses. Despite several opportunities and on-going dialogue with the operator, this information had never previously been submitted to the planning authorities at any stage of plan preparation and as such the submitted version of the Plan did not include a policy on silica sand. The NPPF includes a requirement for minerals planning authorities to: *‘plan for a steady and adequate supply of industrial minerals by co-operating with neighbouring and more distant authorities to co-ordinate the planning of industrial minerals to ensure adequate provision is made to support their likely use in industrial and manufacturing processes by providing a stock of permitted reserves of at least 10 years for individual silica sand sites to support the level of actual and proposed investment required for new or existing plant and the maintenance and improvement of existing plant and equipment’*.
- 5.28. At the first stage of the public hearing, the Inspector requested that the partner authorities review the HMWP to make provision for silica sand in accordance with the NPPF of a 10 year landbank for silica sand sites (see modification MM14 in Appendix 1). Following the adjournment of the public hearings, a modification was prepared to meet this requirement. This included the introduction of a new section, policy and supporting text on silica sand and adjustment to other areas of the plan as required. The Inspector concluded that the provision for silica sand was adequately addressed

through the modifications. The modifications did not include any further site allocations for silica sand as site appraisal work concluded that there were no current sustainable opportunities to extend the existing Kingsley and Frith End quarries. The new policy (Policy 21 – Silica sand) incorporates criteria to guide further silica sand development.

**Issue 7: Whether sufficient sites have been allocated; whether they are acceptable in environmental terms and in other respects; whether the sites are deliverable; and whether there is flexibility regarding the availability of sites**

- 5.29. The Inspector concluded that sufficient sites had been allocated within the HMWP and that they are acceptable in environmental terms and in other respects. He also concluded that there are no known deliverability or other issues of significance with the allocations included in the Plan. The Inspector therefore did not remove or add any site allocations to the Plan. The main conclusions of his report in relation to site allocations are outlined below.

**Brick-making clay**

**Michelmersh**

- 5.30. The submission version of the Plan included two site allocations at Michelmersh. During the Public Examination new information appeared that neither of these allocations would be suitable for future extraction of brick-making clay based on the lack of viable resources and other constraints. As a result, the Inspector indicated that the supply of brick-making clay for Michelmersh needed to be reviewed to ensure the soundness of the Plan in relation to this issue. This was in addition to the need to plan for a 25 year landbanks, as already set out in Issue 4 of this report.
- 5.31. Following the adjournment of the hearings, further site appraisal work was undertaken including an assessment of geological constraints and potential community impacts. This indicated that a new area should be put forward for allocation. Therefore, due to the geological constraints and the problematical nature of the areas surrounding the brickworks and the impacts on residents, School House Field and Hillside Field were proposed for allocation. A number of modifications were prepared in relation to this issue covering the changes to the allocation and suitable development management criteria (see modification MM24 in Appendix 1).
- 5.32. The existing permitted reserves alongside the revised allocated site would provide for an estimated 22 year landbank. It was acknowledged by the operator that there are no other viable options for extraction in this locality at this time, and it was agreed that the new allocation is sufficient for their needs.
- 5.33. In his Report, the Inspector recognised the concerns of the local community with regards to the revised site allocations. However he stated that it was clear to him that there were no realistic or alternative sources of brick clay of

the required composition to that at Michelmersh. The Inspector noted that development considerations are of importance in this context to protect the local environment and community. The Inspector clearly states that the NPPF requirement to plan for a steady and adequate supply of brick-making clay is an important consideration meaning that new sites are required to replace those sites identified in the submission Plan. The Inspector therefore concluded that the Plan should be modified to include the allocation of School House Field and Hillside Field, to make the plan sound in this regard.

### **Selborne**

- 5.34. The Inspector noted that he would normally expect the provision of non-energy minerals to be made outside of National Parks, but recognised that the allocation was needed to secure long-term supply of clay for the brickworks. The Inspector highlighted the environmental and amenity concerns raised by some parties but considered those to be covered by the development considerations identified in the Plan. The Inspector also recognised that there was a long history of operations at the brickworks.

### **Rail depots**

#### **Basingstoke**

- 5.35. The Inspector recognised the concerns raised by some consultees over the allocation, namely the impact on residential amenity and regeneration. However, he concluded that the impacts on the local residents and businesses are covered within the development considerations identified for the site and considered that these could satisfactorily be addressed at the planning application stage.

#### **Micheldever**

- 5.36. The Inspector noted that the allocation at Micheldever Sidings was, in itself, relatively uncontroversial although he recognised that access matters would be clarified through an additional modification to the Plan (see DC249 in Appendix 3) which revised an existing development consideration on access.

### **Soft sand**

#### **Forest Lodge Home Farm**

- 5.37. The Inspector highlighted the main considerations in relation to this allocation as traffic impacts and effects on residential amenities. He recognised that the adjacent A326 is congested but noted that he would not expect the predicted traffic movements to have a significant impact on highway operation or safety. He also noted that in relation to residential amenity, adequate mitigation measures could be provided under a detailed scheme through the development considerations identified in the Plan. The Inspector therefore concluded that he found the allocation to be soundly based and that it would make an important contribution to the requirement for soft sand, whilst also giving a more balanced spatial distribution of supply of soft sand.

### **Purple Haze**

- 5.38. The Inspector noted that the objections to the Purple Haze allocation had been wide and varied and included concerns regarding the nature of the reserve, the Appropriate Assessment findings, impact on residential and recreational amenity, restoration and transportation impacts.
- 5.39. On the issue of the reserve, the Inspector concluded that he had no reason to question the estimates or understandings of the partner authorities.
- 5.40. The Inspector acknowledged that the working of the site would encroach into the Moors Valley Country Park. However, he highlighted the importance of the mineral resource and concluded that he considered the dis-benefits on amenity to be acceptable in that regard. He also noted that the allocation would provide an important contribution to the requirement for soft sand.
- 5.41. In the Inspector's discussion on the adequacy of the Appropriate Assessment, he acknowledged that a lack of hydro-geological evidence had created some uncertainty for some consultees. However, he noted that Natural England had advised that these matters had been addressed through the wording of the development considerations included in the Plan.
- 5.42. On the issue of restoration, the Inspector acknowledged the concerns raised in relation to the success of heathland restoration but highlighted that this was not the only element of the restoration identified for the site. As a result, he concluded that any uncertainties on restoration would not override the appropriateness of the allocation.
- 5.43. In relation to traffic impacts, the Inspector concluded that the additional traffic generated was unlikely to have a significant impact on the B3081 or the wider transport network.
- 5.44. In conclusion, the Inspector stated that, even if alternative soft sand sites were available, he would still find the Purple Haze site to be a suitable site for mineral extraction. He indicated that, in his view, any outstanding matters could be resolved at the planning application stage and, if that could not occur, that permission would need to be refused.

### **Sharp sand and gravel**

#### **Bramshill Quarry Extension (Yateley Heath Wood)**

- 5.45. In the Inspector's discussion on the adequacy of the Appropriate Assessment, he concluded that a widely drawn allocation boundary allows greater control over adjacent development and had possible benefits in terms of continued management. This is in line with Natural England advice. He also concluded that other issues of concern raised by some consultees would be addressed by the development considerations identified in the Plan.

### **Bleak Hill and Cutty Brow**

- 5.46. The Inspector concluded that the key issues identified at the two sites are addressed by the development considerations identified in the Plan and would be dealt with at the planning application stage.

### **Hamble Airfield**

- 5.47. The Inspector acknowledged the considerable number of representations received about the allocation and highlighted that he considered the impact on residents, users of local facilities and traffic impacts as being of particular importance.
- 5.48. The Inspector concluded that he would expect mitigation measures to be available throughout the life of the development to address potential impacts on residents and facilities and that he would not expect there to be any unacceptable adverse effects, notably on human health.
- 5.49. In terms of traffic impacts, the Inspector concluded that additional movements generated as a result of the development would represent an insignificant increase in the number of HGVs on Hamble Lane. The Inspector found the allocation to be soundly based.

### **Roeshot**

- 5.50. The Inspector identified the impact on residential amenities, traffic impacts and restoration as the three main considerations in relation to this allocation.
- 5.51. The Inspector concluded that protection of amenity is covered by development considerations identified in the Plan and that he would expect appropriate mitigation measures to be implemented through planning conditions. On the issue of traffic impact, the Inspector concluded that the increase in traffic is unlikely to have a material impact on the operation of the A35 or the wider highway network. In terms of the restoration, the Inspector noted the concerns raised by some consultees over the level of inert fill which will be required to restore the site but concluded that he would not expect this to an overriding issue. The Inspector therefore found the allocation to be soundly based in all circumstance.

### **Non hazardous landfill**

#### **Squabb Wood**

- 5.52. The Inspector acknowledged that there have been concerns about the current operations at Squabb Wood, notably odour, dust and noise and that local residents have a reasonable expectation that the landfill operations will come to an end and that the site would be restored. The Inspector acknowledged that the presence of landfill operations would be prolonged through the allocation but considered that there is no 'in principle' objection to the allocation as these matters will be addressed through the development



considerations identified in the Plan. He also noted that any new planning application for development will need to re-consider these issues. The Inspector concluded that the allocation is soundly based and would enable the site to make a continuing contribution to landfill requirements in the Plan area.

### **Purple Haze**

- 5.53. The Inspector noted the similar concerns and issues raised for the landfill allocation to those raised for the allocation for mineral extraction in this location. He came to the same conclusions; namely that concerns can be addressed by the development considerations identified in the Plan. The Inspector also noted that some consultees questioned the need for the site but highlighted the projected shortfall in landfill capacity identified in the Plan.

### **Non hazardous landfill**

- 5.54. The Inspector also commented on the overarching policy for non hazardous landfill and indicated that the policy (Policy 31- Non Hazardous waste landfill) as submitted was not effective. However, he noted the modification proposed (see modification MM15 in Appendix 1) which introduces a priority order for decision making rectifies this issue. As a result of the modification, and with this being in place, the Inspector concluded that soundness would be ensured in relation to this policy.

### **London's Waste**

- 5.55. Following the completion of the first stage of public hearings, the partner authorities prepared a modification which sought to remove reference to the non-provision of capacity for London's waste from Policy 31 (Non Hazardous waste landfill). This is because, at that time, with the South East Plan still in place (before revocation) its inclusion meant that the Plan was not in conformity with the South East Plan in this respect. However, the relevant policies in the South East Plan have since been revoked, meaning that the reference to London's waste has no bearing on the soundness of the Plan.

### **Issue 8: Whether there is clear and justifiable guidance on the location of new waste management development**

- 5.56. Following the first stage of the public hearing, the policy and supporting text relating to locating waste management development was revised to provide greater clarity and strengthen the guidance for a wider range of waste management land uses (see modifications MM16, MM17 and MM18 in Appendix 1). The Inspector concluded that with these modifications in place, there would be consistency with national policy and the plan would be sound in this respect. He concluded the modification would mean that the guidance on the location of new waste management facilities would be clear and justified.

**Issue 9: Whether appropriate account is taken of the contribution that substitute or secondary and recycled materials and mineral waste could make to the supply of minerals**

5.57. Following the first stage of the public hearing, Policy 29 (Construction, demolition and excavation waste) of the submission plan was modified to include a minimum target for the production of high quality recycled and secondary aggregate (see modification MM19 in Appendix 1). This modification reflects Government intentions on this issue and the principles of the NPPF. The Inspector concluded that with this modification in place, it would make it clear that production of at least 1mtpa would be supported.

**Issue 10: Whether there is clarity in matters relating to the provision and safeguarding of aggregate wharves and rail depots**

5.58. Following the first stage of the public hearing, Policy 19 (Aggregate wharves and rail depots) of the submission plan was modified to include criteria to guide new wharf development, to ensure compliance with the NPPF (see modification MM20 in Appendix 1). The Inspector concluded that the modifications made the policy compliant with the NPPF.

5.59. During the first stages of the public hearing, there was substantial discussion on the issue of safeguarding potential wharves and rail depots. This issue was considered by Policy 33 (Long term safeguarding) and its associated supporting text in the submission plan. The Inspector's report clearly sets out the aims of the policy as ensuring that potential future opportunities for wharves and rail depots are "safeguarded from unnecessary sterilisation from non-mineral development" as defined by the NPPF, if they become available or are released from present uses. The Inspector also acknowledged that the policy does not presume development of the land.

5.60. As part of the Public Examination process, New Forest District Council sought legal opinion, which specifically challenged the process undertaken by the partner authorities relating to Habitats Regulation Assessment (HRA). Their advice suggested that the partner authorities had not carried out the HRA process correctly. The District Council was also of the view that an Appropriate Assessment should be carried out for safeguarding potential wharf and rail depot sites. The partner authorities sought their own expert legal opinion from a specialist planning barrister on this matter and this was taken into account in the revisions to the policy proposed by the partner authorities.

5.61. Following the first stage of the public hearing, Policy 33 (Long term safeguarding) and its associated supporting text were modified (see modifications MM21, MM22 and MM23 in Appendix 1). The revisions take into account amendments to the policy wording and supporting text to make the context for safeguarding clearer. A further HRA screening of the policy was also undertaken as well as revised ISA work.

5.62. The Inspector acknowledged the issues associated with the land to the north west of Hythe (Dibden Bay) in his Report. However, he concluded that, with the modifications in place, there would be adequate safeguarding of potential rail heads and wharves and the related provisions are consistent with national planning policy and is therefore sound. The Inspector also concluded that he was satisfied that the Plan as proposed to be modified in relation to Dibden Bay, would be legally compliant as the policy is restricted to safeguarding and does not encompass development and the supporting text explicitly recognises that any development at Dibden Bay must satisfy the Habitats Regulations.

**Issue 11: Whether there are clear arrangements for monitoring the Plan and reporting the results as part of a delivery strategy with clear targets and measurable outcomes**

5.63. Following discussion at the first stage of the public hearing, a modification was prepared which merged the Monitoring and Implementation Plan and identified new proposed outcomes, mechanisms and indicators for the monitoring of all policies in the Plan (see modification MM12 in Appendix 1). The revised Monitoring and Implementation Plan would provide a cohesive and improved framework to guide minerals and waste development, and monitor progress against the policies in the HMWP.

5.64. The Inspector concluded that with this modification in place, there would be clear arrangements for monitoring of the Plan and reporting the results. As a result, the Inspector stated that the Plan would be sound in this regard and the modification would enable the partner authorities to be able to fulfil statutory responsibilities in respect to monitoring.

Conclusion on soundness of the Hampshire Minerals and Waste Plan

5.65. The Inspector's overall conclusion was the Plan as submitted (February 2012) had a number of deficiencies in relation to soundness and/ or legal compliance for the reasons set out in his Report and he recommended non adoption of the plan as submitted. However, the Inspector recommended the partner authorities incorporate the proposed modifications outlined in his Report to make the Plan sound and/or legally compliant and therefore capable of adoption.

5.66. As a result of these modifications being in place, the Inspector concluded that the HMWP would satisfy the requirements of Section 20 (5) of the Planning and Compulsory Purchase Act and meet the criteria for soundness set out in the NPPF.

5.67. All of the main modifications identified within the Inspectors Report are based on the main modifications approved for consultation by the County Council and its partner authorities in October 2012, following the first stage of the Public Examination and these were subject to public consultation from October –December 2012.

- 5.68. All other modifications to the Plan (additional) are not considered in the Inspector's Report as they do not impact the soundness of the Plan. These are largely typographic, formatting or policy consolidation changes.

## **6. Next steps**

- 6.1. The partner authorities can only adopt a sound Plan. Without implementing the recommended main modifications, the Plan would not be sound. Therefore, the HMWP can only be adopted in accordance with the recommendations of the Inspector's Report on soundness, provided that the main modifications identified are incorporated.
- 6.2. It is important that the work on the HMWP is completed as early as practically possible, so that future planning applications for mineral and waste development can be assessed against a robust and up to date set of planning policies and an agreed list of key, strategic sites for both minerals extraction and major waste operations.
- 6.3. The Plan will provide the statutory development plan policy for the development and management of all minerals and waste in the administrative areas covered by Hampshire County Council, Southampton City Council, Portsmouth City Council, the New Forest National Park Authority and the part of the South Downs National Park Authority which falls within Hampshire, up to 2030.
- 6.4 All of the partner authorities will each need to gain approval to adopt the Plan. If the Council and its partner authorities are minded to adopt the Plan, a notice of adoption for Hampshire County Council, Southampton City Council, Portsmouth City Council, the New Forest National Park Authority and the South Downs National Park Authority to jointly adopt the Plan will be prepared.
- 6.5 Adoption of the HMWP would be in accordance with the agreed Local Development Scheme (2013).
- 6.6 The adoption of the Plan will be subject to a 6 week challenge period once the resolution to adopt has been made by all partner authorities and the adoption notice has been issued.
- 6.7 The Hampshire Minerals and Waste Core Strategy and the saved policies of the Hampshire Minerals and Waste Local Plan will be superseded upon adoption of the Hampshire Minerals and Waste Plan. The policies which will be superseded are set out in appendices 4 and 5 of this report.

## **7. Risks**

- 7.1. The HMWCS is the currently adopted Plan in relation to minerals and waste in Hampshire. If the council is minded not to adopt the HMWP, the County Council and its partner authorities would be left with an out-of-date strategy to

judge minerals and waste planning applications against. The HMWCS does not meet national planning policy in relation to minerals and waste issue in a number of areas. The HMWCS was also subject to a successful legal challenge by Associated British Ports in 2008 which resulted in a number of the Core Strategy policies and their associated references being quashed from the Plan. The HMWP provides greater certainty on the protection of the Plan area's environment, maintaining its communities and enhancing its economy. Non adoption of the Plan could lead to opportunistic applications which would be judged against an out of date adopted Plan.

- 7.2. The Government's position on out-of-date plans is that in such instances the NPPF take priority in decision making. This would mean that no locally specific policies could be applied to decision making within the Plan area if an up-to-date Plan is not in place.

## **8. Recommendations**

- 8.1 To note that the Inspector's Report has been received and his conclusion that with the main modifications identified in his report, the Hampshire Minerals and Waste Plan (HMWP) meets the criteria for soundness and may therefore be adopted.
- 8.2 To recommend that the County Council adopts the HMWP which incorporates the main modifications identified in the Inspectors Report, as outlined in appendix 1 of the report, and the additional modifications as outlined in appendix 3.
- 8.3 To recommend that the County Council adopts the HMWP as a basis for its development management activities with immediate effect.
- 8.4 To recommend that authority is delegated to the Director of Economy, Transport and Economy to undertake all necessary steps to secure the process of statutory adoption including the publication of formal notices on the adoption of the Plan.
- 8.5 To note that the HMWP will supersede the Hampshire Minerals and Waste Core Strategy (2007) and the 'saved' policies from the Hampshire Minerals and Waste Local Plan (1998) as set out in Appendices 4 and 5 of the report.

**CORPORATE OR LEGAL INFORMATION:****Links to the Corporate Strategy**

<b>Hampshire safer and more secure for all:</b>	no
Corporate Improvement plan link number (if appropriate):	
<b>Maximising well-being:</b>	yes
Corporate Improvement plan link number (if appropriate):	
<b>Enhancing our quality of place:</b>	yes
Corporate Improvement plan link number (if appropriate):	

**Other Significant Links**

<b>Links to previous Member decisions:</b>		
<u>Title</u>	<u>Reference</u>	<u>Date</u>
Draft Hampshire Minerals and Waste Plan	4161	20 September 2012
Draft Hampshire Minerals and Waste Plan	2756	13 October 2011
Planning for future minerals and waste development	1964	25 November 2010
Hampshire Minerals and Waste Development Framework Core Strategy Revision	874	28 September 2009
Development Framework Core Strategy Revision Authorisation of the County Council response to the Government Office for the South East Consultation on the partial review of the Regional Spatial Strategy for the South East	719	29 June 2009
<b>Direct links to specific legislation or Government Directives</b>		
<u>Title</u>	<u>Date</u>	
Hampshire Minerals and Waste Plan Inspectors Report	23 May 2013	
Order to revoke the South East Plan	25 March 2013	
Guidance on the Managed Aggregate Supply System	19 October 2012	
National Planning Policy Framework	27 March 2012	
Planning and Compulsory Purchase Act 2004 as amended	2009	

**Section 100 D - Local Government Act 1972 - background documents**

**The following documents discuss facts or matters on which this report, or an important part of it, is based and have been relied upon to a material extent in the preparation of this report. (NB: the list excludes published works and any documents which disclose exempt or confidential information as defined in the Act.)**

<u>Document</u>	<u>Location</u>
Hampshire Minerals and Waste Plan - Plan for adoption (DRAFT) – July 2013	Winchester
Draft Hampshire Minerals and Waste Plan (submission) - February 2012	Winchester
Complete schedule of main and additional changes to the Hampshire Minerals and Waste Plan – October 2012	Winchester

## **IMPACT ASSESSMENTS:**

### **1. Equalities Impact Assessment:**

- 1.1 The proposals in this report have been developed with due regard to the requirements of the Equality Act 2010, including the Public Sector Equality Duty and the Council's equality objectives. The website contains a summary [assessment of the impacts](http://documents.hants.gov.uk/equality-impact-assessments/ete/delivering-infrastructure.doc) on <http://documents.hants.gov.uk/equality-impact-assessments/ete/delivering-infrastructure.doc>.
- 1.2 It is considered that the issues covered by this report will not have impacts requiring further specific actions by the Council above those already established in its existing policies and working procedures.

### **2. Impact on Crime and Disorder:**

- 2.1. None.

### **3. Climate Change:**

- 3.1. How does what is being proposed impact on our carbon footprint / energy consumption?

Sustainable minerals and waste development contributes to the reduction of the carbon footprint of Hampshire

- 3.2. How does what is being proposed consider the need to adapt to climate change, and be resilient to its longer term impacts?

The proposals and the plan have been subject to Integrated Sustainability Appraisal to ensure that they contribute to mitigation of, and adaption to climate change.