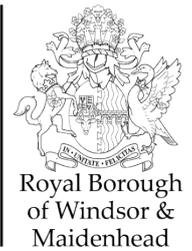


Report Title:	<b>JCEB Minerals &amp; Waste Plan – Additional Regulation 18 Consultation</b>
Contains Confidential or Exempt Information?	No - Part I
Member reporting:	Councillor Coppinger, Lead Member for Planning
Meeting and Date:	Cabinet - 30 January 2020
Responsible Officer(s):	Russell O’Keefe, Executive Director & James Carpenter, Interim Head of Planning
Wards affected:	All

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## REPORT SUMMARY

1. The borough is working with Bracknell Forest, Reading and Wokingham Borough councils to produce a Joint Central and Eastern Berkshire (JCEB) Minerals and Waste Plan. The councils are using Hampshire Services as a consultant to undertake this work.
2. The draft JCEB Minerals and Waste Plan was published in August 2018 for consultation under Regulation 18. Since this consultation, there have been two further call for sites exercises and a Regulation 18 consultation (in July/August 2019) on whether an additional site (Bray Quarry Extension) should be included in the Proposed Submission version of the plan.
3. It is now proposed to hold a further Regulation 18 consultation on a number of issues, including an ‘Areas of Search’ approach (for sand and gravel extraction) and two further sites proposed for allocation. It is also proposed to include a policy that would enable the past performance of the operator to be taken into account at the planning application stage.

## 1. DETAILS OF RECOMMENDATION(S)

### RECOMMENDATION: That Cabinet notes the report and:

- i) Approves a consultation, under Regulation 18 of the Town and Country Planning (Local Planning) (England) Regulations 2012, on several issues related to the emerging Joint Central and Eastern Berkshire (JCEB) Minerals & Waste Plan, including the proposed area of search approach and two new allocations;
- ii) Approves the publication of consultation documents related to the above Regulation 18 consultation for the JCEB Minerals and Waste Plan; and
- iii) Authorises the Head of Planning, in consultation with the Portfolio Holder, to make any minor amendments necessary to the consultation documents prior to community involvement.

## **2. REASON(S) FOR RECOMMENDATION(S) AND OPTIONS CONSIDERED**

### **Background**

- 2.1 The unitary authorities in Berkshire have responsibility for planning for the future production of minerals and for the management of waste disposal within the Berkshire area. Minerals and Waste is an area of planning which is strategic in nature and as such is better planned for on a larger geography than an individual unitary authority.
- 2.2 The Royal Borough of Windsor and Maidenhead is working with Bracknell Forest, Reading and Wokingham Borough councils to produce a Joint Central and Eastern Berkshire (JCEB) Minerals and Waste Plan which will guide minerals and waste decision-making in the Plan area for the period up to 2036. The councils are using Hampshire Services as a consultant to undertake this work.
- 2.3 A draft version of the Minerals and Waste Plan was published from August to October 2018 for consultation under Regulation 18 of the Town and Country Planning (Local Planning) Regulations 2012. Since then, there have been two 'call for sites' exercises and also a further site specific Regulation 18 consultation on whether Bray Quarry Extension should be included in the submission version of the Minerals and Waste Plan as an additional allocation for sand and gravel extraction. 41 responses were received, including from Highways England, Historic England and Environment Agency who all raised concerns. It is not yet clear if any of these are 'showstoppers' but there is uncertainty over whether the site is suitable for allocation.
- 2.4 Following the consultation on Bray Quarry Extension, a planning application at Bridge Farm, Arborfield (one of the proposed allocations in the Draft Plan) for mineral extraction was refused by Wokingham Borough Council. The landowner has shelved any plans for extraction and so the site cannot be allocated in the Plan. Another site in the Draft Plan at Ham Island has also been ruled out.
- 2.5 It is therefore clear that there is a significant shortfall in mineral capacity in terms of site allocations to meet the identified future needs in the JCEB area. If the plan were to be submitted for examination now, it is considered that there would be a significant risk that it would be found unsound due to the shortfall in capacity. Therefore it has been necessary to undertake additional work to reduce this risk.
- 2.6 Two potentially suitable new sites were put forward in the most recent call for sites, and it is necessary to consult on these. Hampshire Services have also proposed other changes to address the mineral supply shortfall, including a sand and gravel 'area of search' and a new policy which seeks to ensure the past performance of minerals and waste operators can be taken into account in decision-making. It is proposed to hold an additional Regulation 18 consultation on these proposed changes to the plan. These changes will be examined in more detail below.

## **Area of Search approach**

- 2.7 National planning practice guidance states that mineral planning authorities should plan for the steady and adequate supply of minerals in one or more of the following ways (in order of priority):
1. Designating Specific Sites;
  2. Designating Preferred Areas (areas of known resources where planning permission might reasonably be anticipated) and/or
  3. Designating Areas of Search (areas where knowledge of mineral resources may be less certain but within which planning permission may be granted, particularly if there is a potential shortfall in supply).'
- 2.8 In preparing the Joint Minerals and Waste Plan, the intended approach was to designate specific sites for minerals development as this provides the most certainty to developers and local residents. Despite numerous 'call for sites', insufficient minerals sites have been identified. Therefore, the Central & Eastern Berkshire Authorities are proposing to demonstrate the potential for provision within the Plan area by outlining a sand and gravel 'Area of Search'. It is important to note that a proposal identified within an Area of Search is not guaranteed planning permission. A planning application will still be required and development will only be permitted if it is in accordance with all relevant policies within the Plan.
- 2.9 There is no formal guidance on defining areas of search. The presence of mineral is the basis for defining any area but the inclusion of other criteria to be applied can vary. The National Planning Policy Framework (NPPF) sets out a clear policy approach on where development should be avoided in order for it to be sustainable. These designations include:
- Special Protection Areas, Special Areas of Conservation and Ramsar sites;
  - Sites of Special Scientific Interest;
  - Ancient Woodland;
  - Listed Buildings and Conservation Areas;
  - Scheduled Ancient Monuments;
  - Historic Registered Parks and Gardens; and
  - Registered Battlefields.
- 2.10 In addition to the above designations, built up areas have been excluded from the Area of Search. Lastly, to encourage viable proposals, areas smaller than 3ha have not been included in the Area of Search as this is not viable for extraction. The resulting 'NPPF compliant' Area of Search is outlined in Appendix A. It is proposed that Policy M4 (locations for sand and gravel extraction) in the Draft Plan will be amended to include the Area of Search.

## **Proposed Additional Allocations**

- 2.11 Two new sand and gravel extraction allocations are proposed, one at land west of Basingstoke Road, Spencers Wood (in Wokingham) and one between Horton Brook and Poyle Quarry in the Royal Borough. Both sites were proposed in the Call for Sites exercise held in October/November 2019. The former is about 25

hectares in size and consists of agricultural land. There is currently limited information on the quantity and quality of sand and gravel on this site.

- 2.12 The latter site is a narrow strip of land with an area of 3.75 hectares between two existing mineral extraction sites, one being worked now (Horton Brook Quarry) and another with planning permission (Poyle Quarry). This is shown in Appendix B. The site has been promoted jointly by the two operators (Summerleaze and Jayflex) and could deliver about 250,000 tonnes of sand and gravel. It would be accessed from the east (Poyle Quarry). However, there is an existing bridleway (public right of way) running through this site and this would need to be diverted during the works and reinstated afterwards. The bridleway suffers from environmental problems at present, including a waste transfer station at its southern end. Lorries using the route to access the waste transfer site can cause conflict with users of the bridleway. This, and the fences either side of the bridleway, mean that users experience a poor quality environment. The proposal therefore has the potential to facilitate significant improvements to this bridleway when it is reinstated. This could help to deliver the aspirations of the Colne Valley Regional Park in terms of improving community access and countryside recreation.

### **Operator Performance Policy**

- 2.13 During the consultation on the 'Draft Plan' in autumn 2018, a number of responses from local residents raised concerns regarding the operation of existing sites. A variety of operational, environmental and amenity issues were raised and the suitability of safeguarding or allocating sites with ongoing or extensive historic issues was questioned.
- 2.14 In 2019, Planning Practice Guidance<sup>1</sup> was amended to say that the planning history of a site may be a relevant consideration in the determination of an application. Building on recent guidance and to address the issues raised, a new development management policy (DM15) is proposed allowing the planning authority to take past operator performance into account in decision-making on minerals or waste applications submitted by the same applicant or operator.

### **Next Steps**

- 2.15 The proposals set out above will be subject to 6 weeks' public consultation, in accordance with the council's Statement of Community Involvement. It is currently anticipated that this will take place in February and March 2020. The main consultation document, along with the response form, will be available to view and download from the Joint Minerals & Waste Plan consultation website [www.hants.gov.uk/berksconsult](http://www.hants.gov.uk/berksconsult). Draft versions of these documents are available to Councillors on request. Finalised versions will be made available via the Council's website as part of the consultation.
- 2.16 Consultation will be undertaken with a wide range of parties, including those on the Royal Borough's Local Plan consultation database. It is also proposed to

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<sup>1</sup> Planning Practice Guidance (Paragraph: 010 Reference ID: 21b-010-20190315, 15/03/2019 revision) - <https://www.gov.uk/guidance/determining-a-planning-application#how-decisions-on-applications>

hold a local engagement event in the Horton area. The date and venue for this event has yet to be confirmed.

## Options

**Table 1: Options arising from this report**

Option	Comments
<p>Hold a public consultation in February/March 2020 on a number of issues in relation to the emerging Joint Central and Eastern Berkshire Minerals &amp; Waste Plan, including an 'Areas of Search' approach (for sand and gravel extraction), two further sites proposed for allocation and a policy that would enable the past performance of the operator to be taken into account at the planning application stage.</p> <p><b>This is the recommended option</b></p>	<p>There is a significant shortfall in mineral capacity in terms of site allocations to meet the identified future needs in the JCEB area. If the plan were to be submitted for examination now, it is considered that there would be a significant risk that it would be found unsound. Consulting on these possible changes will ensure that the Minerals &amp; Waste Plan has the maximum chance of being found sound at examination, so that the councils retain control over where future sites will be located.</p>
<p>Delay a public consultation on these issues (an 'Areas of Search' approach for sand and gravel extraction, two further allocation sites and a past operator performance policy) for the Joint Central and Eastern Berkshire Minerals &amp; Waste Plan until later in 2020.</p> <p>This is not the recommended option.</p>	<p>Officers do not consider this would be the right approach as this is likely to delay the adoption of the Minerals &amp; Waste Plan. This would leave the councils with no control over where sites come forward for a longer period of time. The councils would be vulnerable to sites being imposed through the planning appeal process.</p>
<p>Not hold a public consultation on the issues (an 'Areas of Search' approach for sand and gravel extraction, two further allocation sites and a past operator performance policy) for the Joint Central and Eastern Berkshire Minerals &amp; Waste Plan.</p> <p>This is not the recommended option.</p>	<p>Officers do not consider this would be the right approach as this is likely to significantly increase the possibility that the emerging Minerals &amp; Waste Plan would be found unsound at Examination. This would leave the councils with no control over where sites come forward. The councils would be vulnerable to unsustainable sites being imposed through the planning appeal process.</p>

## 3. KEY IMPLICATIONS

- 3.1 The aim is to publish the 'Joint Minerals & Waste Plan – Focussed Regulation 18 Consultation: Sand & Gravel Provision and Operator Performance'

document for public consultation shortly after a Cabinet decision is made, in order to ensure that the longer term progress with the plan is not unduly affected.

**Table 2: Key Implications**

<b>Outcome</b>	<b>Unmet</b>	<b>Met</b>	<b>Exceeded</b>	<b>Significantly Exceeded</b>	<b>Date of delivery</b>
Publication of the Joint Minerals & Waste Plan – Sand & Gravel Provision & Operator Performance document for Reg. 18 consultation	Consultation commences after 15 February 2020	Consultation commences by 15 February 2020	Consultation commences before 15 February 2020.	N/A	February to March 2020

- 3.2 Following the consultation period, all responses will be considered carefully before a decision is made on whether these proposed changes should be included in the Proposed Submission version of the plan. This version would, subject to Member approval, be published for representations to be made under Regulation 19 of the Town and Country Planning (Local Planning) Regulation 2012. It is currently anticipated that Regulation 19 consultation will take place in Summer/Autumn 2020, with submission in Winter 2020/21.

#### **4. FINANCIAL DETAILS / VALUE FOR MONEY**

- 4.1 The consultation will give rise to costs in the form of printing and advertisements. However, this is already accounted for in the Minerals and Waste budget and as such there are no financial implications arising from this report.

#### **5. LEGAL IMPLICATIONS**

- 5.1 The preparation of the Joint Minerals & Waste Plan will need to accord with current planning policy and guidance on minerals and waste, as well as the procedures set out in the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended).
- 5.2 The Council has already indicated its intention to prepare a Joint Minerals & Waste Local Plan as set out in the previously published Local Development Scheme (LDS). The dates above for future stages are consistent with the most recent LDS updated in October 2019. The LDS will be updated under delegated authority as necessary.

## 6. RISK MANAGEMENT

**Table 4: Impact of risk and mitigation**

<b>Risks</b>	<b>Uncontrolled risk</b>	<b>Controls</b>	<b>Controlled risk</b>
The Council decides not to consult on the issues covered in this report and is subsequently found unsound at examination by the Inspector.	HIGH	Publish consultation document and invite comments on it from residents and other stakeholders.	LOW
That the Council delays the consultation, resulting in the LDS being out of date.	MEDIUM	Proceed with consultation 'JCEB Minerals & Waste Plan – Sand & Gravel Provision & Operator Performance' document for Reg. 18 consultation as soon as practicable.	LOW

## 7. POTENTIAL IMPACTS

- 7.1 **Equalities:** An Equalities Impact Assessment (EqIA) will be produced for the Minerals and Waste Plan.
- 7.2 **Climate change/sustainability:** The Minerals and Waste Plan will be subject to Sustainability Appraisal and Habitats Regulation Assessment during its preparation. The Plan will include a policy on climate change – mitigation and adaptation.
- 7.3 **Data protection/GDPR:** Any personal data received by the Council and their consultants Hampshire Services will be processed in accordance with the requirements of the Data Protection Act 2018.

## 8. CONSULTATION

- 8.1 The Council will, if agreed by Cabinet, consult on the 'Joint Minerals & Waste Plan – Focussed Regulation 18 Consultation: Sand & Gravel Provision and Operator Performance' consultation document for 6 weeks in February and March 2020 under Regulation 18 of The Town and Country Planning (Local Planning) (England) Regulations 2012. The Council's Statement of Community Involvement includes requirements for public consultation on draft Development Plan Documents and it will be necessary to ensure that the consultation complies with this.

## 9. TIMETABLE FOR IMPLEMENTATION

**Table 5: Implementation timetable**

<b>Date</b>	<b>Details</b>
Mid-February 2020	Publication of the 'JCEB Minerals & Waste Plan – Sand & Gravel Provision and Operator Performance' document and associated evidence base documents for 6 weeks' public consultation.

## 10. APPENDICES

10.1 This report is supported by 2 appendices:

- Appendix A - Proposed Area of Search for sand and gravel
- Appendix B - Proposed new site allocation between Horton Brook and Poyle Quarry

## 11. BACKGROUND DOCUMENTS

11.1 The LDS is on the Council website: <http://consult.rbwm.gov.uk/file/4979935>.

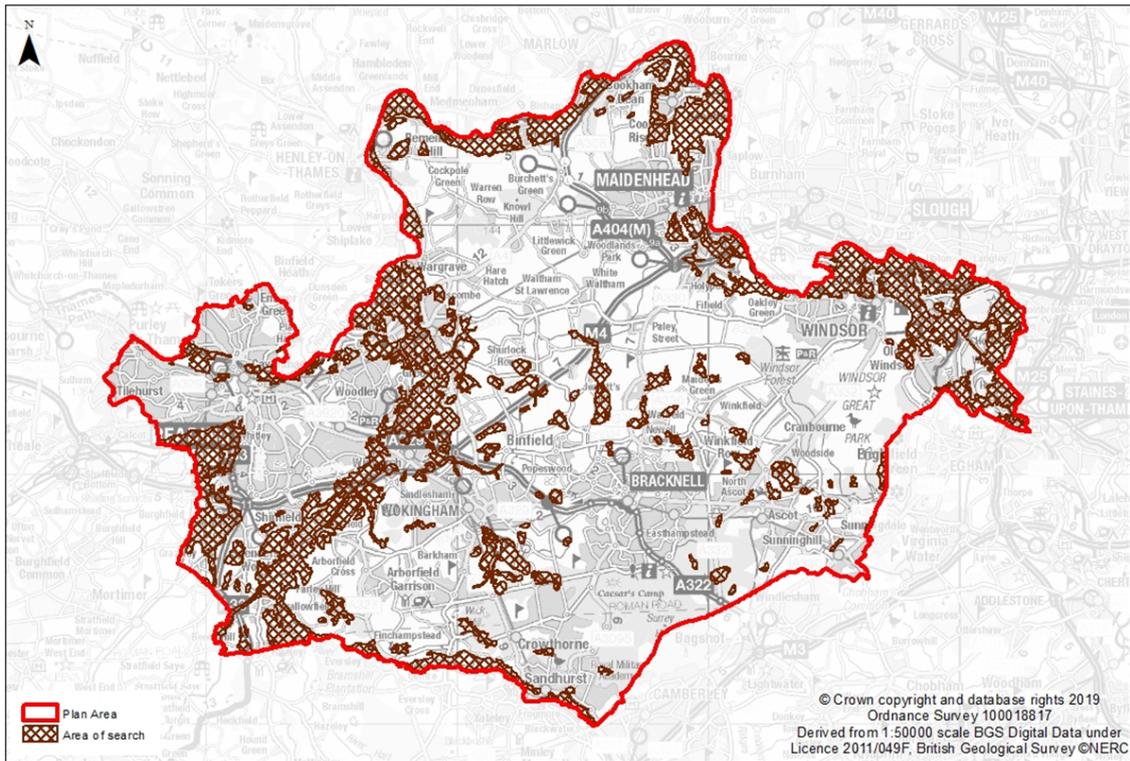
## 12. CONSULTATION (MANDATORY)

<b>Name of consultee</b>	<b>Post held</b>	<b>Date sent</b>	<b>Date returned</b>
Cllr Coppinger	Lead Member for Planning	19.12.20 19	6.1.2020
Duncan Sharkey	Managing Director	6.1.2020	9.1.2020
Russell O'Keefe	Executive Director	6.1.2020	7.1.2020
Ruth Watkins	Deputy S151 Officer	6.1.2020	
Elaine Browne	Head of Law	6.1.2020	15.1.2020
Louisa Dean	Communications	6.1.2020	

## REPORT HISTORY

<b>Decision type:</b>	<b>Urgency item?</b>	<b>To Follow item?</b>
Key decision	No	
Report Author: Ian Motuel, Principal Policy Planner, 01628 796429		

## Appendix A – Proposed Area of Search



## Appendix B – Land between Horton Brook and Poyle Quarries

