

Report Title:	Joint Central and Eastern Berkshire (JCEB) Minerals and Waste Plan Main Modifications Consultation.
Contains Confidential or Exempt Information	No - Part I
Lead Member:	Councillor Coppinger, Cabinet Member for Planning, Environmental Services and Maidenhead
Meeting and Date:	Cabinet - 27 January 2022
Responsible Officer(s):	Andrew Durrant, Executive Director of Place Services & Adrien Waite, Head of Planning
Wards affected:	All

REPORT SUMMARY

1. This report provides an update on the Joint Central and Eastern Berkshire (JCEB) Minerals and Waste Plan, which is currently at its Examination Stage. Following the hearings held in September / October 2021, the draft Main Modifications (MM) schedule and modified Policies Map were submitted to the Inspector for consideration on 16th December 2021. The Inspector is expected to agree with the proposals to amend the Plan, maps, appendices and some background studies.
2. The draft schedule of proposed MMs has been prepared for public consultation. To reduce the risk of delay, delegated authority is sought for the Head of Planning in consultation with the Cabinet Member for Planning, Environmental Services and Maidenhead to agree the detailed wording of the MM schedule under the direction of the Inspector. For consistency, all four JCEB authorities are seeking approval from their elected Members to seek authority to go out for consultation on the Proposed MMs. It is anticipated that the consultation on MMs will start in February with adoption estimated to take place in Summer / Autumn 2022.

1. DETAILS OF RECOMMENDATION(S)

RECOMMENDATION: That Cabinet notes the report and:

- i) **Delegates authority to the Head of Planning in consultation with the Cabinet Member for Planning, Environmental Services and Maidenhead, to approve and publish the Schedule of Proposed Main Modifications (to be agreed with the Inspector), for public consultation.**

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

Options

Table 1: Options arising from this report

Option	Comments
<p>To delegate authority to the Head of Planning in consultation with the Cabinet Member for Planning, Environmental Services and Maidenhead, to approve and publish the Schedule of Proposed Main Modifications to be agreed with the Inspector for public consultation.</p> <p>This is the recommended option</p>	<p>This would reduce the risk of delays to the proposed timetable for the next stages, including consultation on Main Modifications to the plan and adoption, making it more likely that the Minerals and Waste Plan can be adopted in Summer / Autumn 2022.</p>
<p>To not delegate authority to the Head of Planning in consultation with the Cabinet Member for Planning, Environmental Services and Maidenhead, to approve and publish the Schedule of Proposed Main Modifications for public consultation.</p>	<p>Not agreeing to delegate authority would mean that a report would need to be taken to Cabinet after the Schedule of Proposed Main Modifications is agreed by the Inspector. This would increase the risks of delays to the proposed timetable, including the consultation on MMs and adoption and make it less likely that the plan could be adopted before the end of 2022.</p>

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 The Minerals and Waste Plan is currently at its Examination Stage. The key milestones as per the Town and Country Planning (Local Planning) (England) Regulations 2012, are as follows:
 - Regulation 18 – Issues and Options (June – July 2017)
 - Regulation 18 – Draft Plan Consultation (August – October 2018)
 - Regulation 18 – Site Specific Consultation (July – August 2019)
 - Regulation 18 – Focused Consultation (Sand & Gravel Provision and Operator Performance) (February – March 2020)

- Regulation 19 Proposed Submission Consultation (September – October 2020)
- Regulation 22 – Submission of Documents to the Secretary of State (Examination in Public). (February 2021).
- Regulation 24 – Examination in Public – Hearing Sessions were held over 4 days. The first 3 days were held in-person between 28th – 30th September 2021 at Maidenhead Town Hall, and the last session was held virtually on 12th October 2021.

- 2.4 Planning Inspectors Rachael A Bust (Lead Inspector) and Nicholas Palmer were appointed to undertake the independent examination on the soundness of the Plan. The Inspectors' task is to consider the soundness and legal compliance of the submitted Plan. The Inspectors also took into account the representations submitted upon the Submission Plan as far as they relate to soundness considerations. Several informal debates took place on the principal matters identified by the Inspectors.
- 2.5 The Hearing Sessions have not yet been drawn to a formal close as the Strategic Flood Risk Assessment (SFRA) required updating. This has since been updated and submitted to the Inspectors for consideration. We are expecting the hearing sessions to be drawn to a close imminently.
- 2.6 The Schedule of Proposed Main Modifications will be made available to view on the Council's website when received from the Inspector - [Joint minerals and waste | Royal Borough of Windsor and Maidenhead \(rbwm.gov.uk\)](https://www.rbwm.gov.uk)
- 2.7 The draft Schedule of Proposed MMs has now been sent to the Inspectors for review. The preparation of the Schedule will be an iterative process involving the Councils sending the Inspector draft versions of the schedule upon which they will provide informal advice. Once this has been finalised, the schedule and associated documentation will be published for consultation which is expected to take place in February 2022.
- 2.8 It is then expected that the Inspectors' report would be received in the Spring or Summer of 2022 and on the assumption that no further hearing sessions are needed, and the Plan is found sound, it is anticipated that a report would be taken to Full Council in Summer / Autumn 2022, recommending adoption. Once adopted, the Plan would have full weight for planning decisions.

3. KEY IMPLICATIONS

- 3.1 In order to minimise the risk of any unnecessary delays to this timetable, officers recommend that authority to publish the Schedule of Proposed Main Modifications (under the direction of the Inspector) for public consultation is delegated to the Head of Planning in consultation with the Cabinet Member for Planning, Environmental Services and Maidenhead.
- 3.2 A long delay to the consultation on MMs and subsequent adoption of the Plan would have consequences for development management as it would be harder to resist speculative planning applications. This would also increase the risk that the delivery of key Minerals and Waste sites would be delayed, which would have

financial implications for the Council. Furthermore, any delay would affect the delivery of much needed vital Minerals and Waste operations in the Borough.

Table 2: Key Implications

Outcome	Unmet	Met	Exceeded	Significantly Exceeded	Date of delivery
Delegated authority to approve and publish the MMs agreed by Cabinet	MMs published for consultation in Summer 2022	MMs published for consultation in February 2022	n/a	n/a	Minerals and Waste Plan anticipated to be adopted by Autumn 2022.

4. FINANCIAL DETAILS / VALUE FOR MONEY

- 4.1 Work on the Minerals and Waste Plan commenced in 2017 and it has now reached an advanced stage of production, with adoption expected to take place later this year. The cost of producing the Minerals and Waste Plan to date (to October 2021) has been around £1.0m collectively (approximately £250,000 for RBWM) (including evidence studies, legal advice and Inspector and programme officer costs).
- 4.2 The work within this report is funded from existing budgets.

5. LEGAL IMPLICATIONS

- 5.1 The Planning and Compulsory Purchase Act 2004, as amended ("the 2004 Act") requires local planning authorities to prepare Local Plans. The Town and Country Planning (Local Planning) (England) Regulations 2012, as amended, ("the 2012 Regulations") set out the procedures to be followed in the preparation of such Plans.
- 5.2 The powers of the Inspector to recommend modifications at the request of the Local Planning Authority are set out in Section 20 of the 2004 Act.
- 5.3 Pursuant to regulation 4(4) of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 the function of amending, modifying or varying any relevant plan or strategy shall be the responsibility of the executive of a local authority to the extent that this is recommended by the person carrying out an independent examination of a Development Plan Document under section 20 of the 2004 Act.

6. RISK MANAGEMENT

- 6.1 The headline risks are set out in Table 3 below.

Table 3: Impact of risk and mitigation

Risk	Level of uncontrolled risk	Controls	Level of controlled risk
The consultation on Main Modifications does not take place until Summer 2020 due to a delay in gaining approval from Cabinet, resulting in adoption of the Minerals and Waste Plan taking place at the end of 2022 with associated impacts as set out in paragraph 3.3.	High	Actions set out in recommendation	Low

7. POTENTIAL IMPACTS

- 7.1 Equalities. The Equality Act 2010 places a statutory duty on the council to ensure that when considering any new or reviewed strategy, policy, plan, project, service or procedure the impacts on particular groups, including those within the workforce and customer/public groups, have been considered. A [EQIA \(Equalities Impact Assessment\) Screening](#) has been completed and is available in Appendix A.
- 7.2 Climate change/sustainability. The (JCEB) Minerals and Waste Plan includes a number of strategic objectives around the environmental effects of minerals and waste development, including objective 4, which is to:
- “Help mitigate the causes of, and adapt to, climate change by; positive design of development; developing appropriate restoration of mineral workings; prioritising movement of waste up the waste hierarchy; reducing the reliance on landfill; maximising opportunities for the re-use and recycling of waste; and facilitating new technologies to maximise the renewable energy potential of waste as a resource”.
- 7.3 The proposed main modifications to the (JCEB) Minerals and Waste Plan have been subject to Sustainability Appraisal, which assesses the effect of the plans and proposals on environmental, social and economic objectives, and is a statutory requirement of plan making. The Sustainability Appraisal Addendum, which will be published alongside the Proposed Main Modifications, has identified that the modified policies will have either neutral or positive effects on the identified sustainability objectives, which cover environmental objectives relating to climate change and emissions (as well as biodiversity, water quality, landscape and heritage, ground conditions, air quality and flood risk).
- 7.4 Data Protection/GDPR. No impacts.

8. CONSULTATION

- 8.1 As stated in Section 2 above, the Minerals and Waste Plan has been subject to extensive public consultation over several years. Following approval by the Head of Planning in consultation with the Cabinet Member, and the Inspectors, the Schedule of Proposed MMs will be published for public consultation. After this, the Inspectors will consider responses received and finalise their report, along with a final list of Proposed Main Modifications to the Plan. This report will then be publicised in accordance with the 2012 Regulations.

9. TIMETABLE FOR IMPLEMENTATION

- 9.1 Implementation date if not called in: Immediately. The full implementation stages are set out in table 4.

Table 4: Implementation timetable

Date	Details
Early 2022	The Schedule of Proposed Main Modifications is agreed by the Inspector and then approved under delegated authority by the Head of Planning in consultation with Cabinet Member for Planning, Environmental Services and Maidenhead. Other JCEB authorities are seeking similar approval according to their own scheduled Council meetings.
February 2022	Proposed Main Modifications published for six weeks public consultation
Spring / Summer 2022 (estimated)	Inspector's Report received
Summer / Autumn 2022 (estimated)	Report to Full Council recommending adoption of the Minerals and Waste Plan

10. APPENDICES

- 10.1 Appendix A – EQIA Screening.

11. BACKGROUND DOCUMENTS

This report has no background documents.

12. CONSULTATION (MANDATORY)

Name of consultee	Post held	Date sent	Date returned
<i>Mandatory: Statutory Officers (or deputies)</i>			
Adele Taylor	Executive Director of Resources/S151 Officer	12/01	17/01/22

Emma Duncan	Deputy Director of Law and Strategy / Monitoring Officer	12/01	18/01/22
Louisa Dean	Communications	12/01	
<i>Deputies:</i>			
Andrew Vallance	Head of Finance (Deputy S151 Officer)	12/01	
Elaine Browne	Head of Law (Deputy Monitoring Officer)	12/01	
Karen Shepherd	Head of Governance (Deputy Monitoring Officer)	12/01	18/01/22
<i>Other consultees:</i>			
<i>Directors (where relevant)</i>			
Duncan Sharkey	Chief Executive	12/01	13/01/22
Andrew Durrant	Executive Director of Place	12/01	
<i>Heads of Service (where relevant)</i>			
Adrien Waite	Head of Planning	12/01	17/01/22
<i>External (where relevant)</i>			
Cllr Coppinger	Cabinet Member for Planning, Environmental Services and Maidenhead.	12/01	

REPORT HISTORY

Decision type:	Urgency item?	To follow item?
Key decision	No	No

Report Author: Adrien Waite, Head of Planning

ROYAL BOROUGH OF WINDSOR AND MAIDENHEAD

EQUALITY IMPACT ASSESSMENT

EqIA : Main Modifications to the Central and Eastern Berkshire Joint Minerals and Waste Plan

Essential information

Items to be assessed: (please mark 'x')

Strategy	X	Policy	X	Plan	X	Project		Service/Procedure	
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Responsible officer	Garry Thornton	Service area	Planning Policy	Directorate	Place
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Stage 1: EqIA Screening (mandatory)	Date created: 23/12/2021	Stage 2 : Full assessment (if applicable)	N/A
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Approved by Head of Service / Overseeing group/body / Project Sponsor:

"I am satisfied that an equality impact has been undertaken adequately."

Signed by (print): Adrien Waite

Dated: 19/01/2022

ROYAL BOROUGH OF WINDSOR AND MAIDENHEAD

EQUALITY IMPACT ASSESSMENT

EqlA : Main Modifications to the Central and Eastern Berkshire Joint Minerals and Waste Plan

Guidance notes

What is an EqlA and why do we need to do it?

The Equality Act 2010 places a 'General Duty' on all public bodies to have 'due regard' to:

- Eliminating discrimination, harassment and victimisation and any other conduct prohibited under the Act.
- Advancing equality of opportunity between those with 'protected characteristics' and those without them.
- Fostering good relations between those with 'protected characteristics' and those without them.

EqlAs are a systematic way of taking equal opportunities into consideration when making a decision, and should be conducted when there is a new or reviewed strategy, policy, plan, project, service or procedure in order to determine whether there will likely be a detrimental and/or disproportionate impact on particular groups, including those within the workforce and customer/public groups. All completed EqlA Screenings are required to be publicly available on the council's website once they have been signed off by the relevant Head of Service or Strategic/Policy/Operational Group or Project Sponsor.

What are the "protected characteristics" under the law?

The following are protected characteristics under the Equality Act 2010: age; disability (including physical, learning and mental health conditions); gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex; sexual orientation.

What's the process for conducting an EqlA?

The process for conducting an EqlA is set out at the end of this document. In brief, a Screening Assessment should be conducted for every new or reviewed strategy, policy, plan, project, service or procedure and the outcome of the Screening Assessment will indicate whether a Full Assessment should be undertaken.

Openness and transparency

RBWM has a 'Specific Duty' to publish information about people affected by our policies and practices. Your completed assessment should be sent to the Strategy & Performance Team for publication to the RBWM website once it has been signed off by the relevant manager, and/or Strategic, Policy, or Operational Group. If your proposals are being made to Cabinet or any other Committee, please append a copy of your completed Screening or Full Assessment to your report.

Enforcement

Judicial review of an authority can be taken by any person, including the Equality and Human Rights Commission (EHRC) or a group of people, with an interest, in respect of alleged failure to comply with the general equality duty. Only the EHRC can enforce the specific duties. A failure to comply with the specific duties may however be used as evidence of a failure to comply with the general duty.

ROYAL BOROUGH OF WINDSOR AND MAIDENHEAD

EQUALITY IMPACT ASSESSMENT

EqlA : Main Modifications to the Central and Eastern Berkshire Joint Minerals and Waste Plan

Stage 1 : Screening (Mandatory)

1.1 What is the overall aim of your proposed strategy/policy/project etc and what are its key objectives?

To set out modifications to the proposed policies for dealing with applications for minerals and waste development within the plan area.

The CEBJMWP sets out up to date and robust policies around minerals extraction and waste management across the four unitary authorities to 2036. This will enable planning decisions on those forms of development to be based on a sound policy approach. The report proposes some modifications to the document based on the public examination.

This will ensure that the whole community will benefit from sufficient resources being available to provide aggregates to the construction industry and to ensure that sufficient waste management capacity is being planned for.

1.2 What evidence is available to suggest that your proposal could have an impact on people (including staff and customers) with protected characteristics? Consider each of the protected characteristics in turn and identify whether your proposal is Relevant or Not Relevant to that characteristic. If Relevant, please assess the level of impact as either High / Medium / Low and whether the impact is Positive (i.e. contributes to promoting equality or improving relations within an equality group) or Negative (i.e. could disadvantage them). Please document your evidence for each assessment you make, including a justification of why you may have identified the proposal as “Not Relevant”.

ROYAL BOROUGH OF WINDSOR AND MAIDENHEAD

EQUALITY IMPACT ASSESSMENT

EqlA : Main Modifications to the Central and Eastern Berkshire Joint Minerals and Waste Plan

Protected characteristics	Relevance	Level	Positive/negative	Evidence
Age	Not relevant			
Disability	Not relevant			
Gender re-assignment	Not relevant			
Marriage/civil partnership	Not relevant			
Pregnancy and maternity	Not relevant			
Race	Not relevant			
Religion and belief	Not relevant			
Sex	Not relevant			
Sexual orientation	Not relevant			

ROYAL BOROUGH OF WINDSOR AND MAIDENHEAD

EQUALITY IMPACT ASSESSMENT

EqIA : Main Modifications to the Central and Eastern Berkshire Joint Minerals and Waste Plan

Outcome, action and public reporting

Screening Assessment Outcome	Yes / No / Not at this stage	Further Action Required / Action to be taken	Responsible Officer and / or Lead Strategic Group	Timescale for Resolution of negative impact / Delivery of positive impact
Was a significant level of negative impact identified?	No	None. Planning for minerals extraction and waste management does not have a differential effect on racial groups, gender/transgender, disability, sexual orientation, age or religious belief.	Garry Thornton – Planning Policy	N/A
Does the strategy, policy, plan etc require amendment to have a positive impact?	No	None. Planning for minerals extraction and waste management does not have a differential effect on racial groups, gender/transgender, disability, sexual orientation, age or religious belief.	Garry Thornton – Planning Policy	N/A

If you answered **yes** to either / both of the questions above a Full Assessment is advisable and so please proceed to Stage 2. If you answered “No” or “Not at this Stage” to either / both of the questions above please consider any next steps that may be taken (e.g. monitor future impacts as part of implementation, re-screen the project at its next delivery milestone etc).