

Report of the Director of City Development

Report to: Development Plan Panel

Date: 11 December 2013

Subject: Natural Resources & Waste Local Plan Update following a High Court Challenge

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
	All	
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

1.0 Summary of main issues

1.1 The Natural Resources & Waste Local Plan forms part of the Local Development Framework and was adopted by the City Council on 16th January 2013. Following adoption, the Council received a High Court Challenge into a discreet part of the Plan. The purpose of this report is to update Members on the outcome of the Challenge and to explain the further steps now required to address the Judge's ruling.

1.2 Recommendations

Development Plan Panel Members are asked to note the outcome of the High Court Challenge and the further steps now required to address the Judge's ruling.

2.0 Background Information

2.1 The Natural Resources & Waste Local Plan contains a range of planning policies relating to Minerals & Aggregates, Water Resources, Air Quality, Sustainable Energy Use and Waste, as part of an overall integrated approach, which seeks to minimise and manage the use of natural resources. As well as containing specific

planning policies and site allocations, the document supports the City Council's wider strategic objectives for the environment.

2.2 The Plan has the following key objectives:

- planning for sufficient minerals & aggregates supply (whilst managing environmental assets and amenity),
- planning for a shift to non-road based freight,
- planning for municipal, commercial and industrial waste management, including site specific allocations, (whilst seeking to reduce waste arisings overall),
- seeking to reduce flood risk, through mitigation and adaptation, in taking into account the effects of climate change.

2.3 The Plan was adopted at Full Council on 16th January 2013. A High Court Challenge was then received, submitted jointly by two parties both of whom are landowners with land affected by policies Minerals 13 and 14 in the Plan. The two policies are concerned with the second objective above, ie. planning for a shift to non-road based freight. The landowners were seeking an order to quash policies Minerals 13 and 14 in so far as they related to the sites in their ownership.

3.0 **Main Issues**

3.1 D B Schenker objected to the allocation of their site at Bridgewater Road South as suitable for the provision of new rail sidings with the potential for a canal wharf. Towngate objected to the safeguarding of their existing wharf at Haigh Park Road. The claimants objected on three grounds, firstly that the policies conflicted with the National Planning Policy Framework regarding the long term sterilisation of land, secondly that there was an absence of evidence that the policies were deliverable and thirdly that the Council had failed to consider alternative uses in the sustainability appraisal of the Plan.

3.2 The Hearing took place on 20th and 21st August 2013 and the judgement came on 24th September 2013. The Judge found in favour of the claimant on the first two of the three grounds submitted, on the basis that the independent Inspector who had examined the Plan had acted 'irrationally because his report did not adequately explain his reasoning with regard to those matters'. The Judge found in favour of the Council on the third ground of claim. As an alternative to quashing the sites from the Plan, she Ordered that policies Minerals 13 and 14 should be remitted back to the Planning Inspectorate for re-examination.

3.3 The remitting of the policies back to the Inspectorate for examination presents an opportunity for officers to address the concerns that were raised by the Judge. In this regard, it is sensible to update the evidence base that supports the policies and to make modifications to address the weakness identified. The Council will need to engage with interested parties, formally consult on revisions and submit the policies to the Secretary of State for independent examination. Further sustainability

appraisal work and consultation under the 'Duty to Co-operate' will be carried out. The broad timetable for undertaking this work is as follows:

- engagement and consultation - November 2013 to March 2014
- 6 week formal consultation (LDF Regulation 18 Publication Stage) (following consideration of revised Policy wording by Development Plan Panel and Executive Board) March 2014 to April 2014
- formal submission (following consideration by Development Plan Panel, Executive Board and Full Council) Autumn 2014.

4.0 Corporate Considerations

The Natural Resources & Waste Local Plan, forms part of the Local Development Framework and the Development Plan for Leeds.

4.1 Consultation and Engagement

- 4.1.1 The Natural Resources and Waste Local Plan was subjected to a number of informal and formal public consultation stages as part of its preparation and as required by the LDF Regulations.

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1 An Equality Impact Assessment Screening was carried on the Natural Resources and Waste Local Plan when it was submitted to the Secretary of State for Examination. This report was further updated prior to adoption of the Local Plan.

4.3 Council Policies and City Priorities

- 4.3.1 The Natural Resources and Waste Local Plan policies Minerals 13 and 14 support the Local Transport Plan (LTP3), the Climate Change Action Plan and the objective regarding low carbon technologies in the Best Council Plan 2013 -2017.

4.4 Resources and value for money

- 4.4.1 The Local Plan is being prepared within the context of the LDF Regulations, statutory requirements and within existing resources. It is possible that further evidence base work may be required.

4.5 Legal Implications, Access to Information and Call In

- 4.5.1 The Natural Resources and Waste Local Plan policies Minerals 13 and 14 enable Leeds City Council to comply with the guidance in the National Planning Policy Framework regarding safeguarding existing, planned and potential rail heads and facilities for bulk transport by rail or inland waterway. They also help the Council to meet its requirements on climate change and air quality by reducing the reliance on road-based freight.

4.6 Risk Management

- 4.6.1 There is a risk that following re-examination of Minerals 13 and 14 an Inspector may not find them sound. This risk can be reduced by ensuring that the policies are supported by a robust and up-to-date evidence base; that modifications are made to the policies to address the points raised by the Judge and that adequate consultation is carried out on the modifications in accordance with the LDF Regulations.

5.0 Conclusions

- 5.1 The Natural Resources and Waste Local Plan was prepared in accordance with LDF Regulations, examined, found sound and adopted by the Council. Following a High Court Challenge, policies Minerals 13 and 14 of the Plan must be re-examined by the Planning Inspectorate and found sound before they can be adopted.

6.0 Recommendations

- 6.1 That the Development Plan Panel notes the outcome of the High Court Challenge and the further steps now required to address the Judge's ruling.

7.0 Background documents

- 7.1 The adopted Natural Resources and Waste Local Plan is available on the Natural Resources and Waste Local Plan web pages or by contacting Helen Miller on Leeds 2478132. The background document to this Report is the Judge's Order and this is attached.

Appendices

Appendix 1 Copy of the Judge's Order attached.