



The Planning  
Inspectorate

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# Report to Leeds City Council

**by Melvyn Middleton BA(Econ) Dip TP Dip Mgmt MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Date 7<sup>th</sup> December 2012**

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PLANNING AND COMPULSORY PURCHASE ACT 2004 (AS AMENDED)

SECTION 20

## **REPORT ON THE EXAMINATION INTO THE LEEDS NATURAL RESOURCES AND WASTE**

### **LOCAL PLAN**

Document submitted for examination on 22 July 2011

Examination hearings held between 15 November and 7 December 2011

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## Abbreviations Used in this Report

AA	Appropriate Assessment
BGS	British Geological Survey
CDE	Construction, Demolition and Excavation
CG	Companion Guide to Planning Policy Statement 10: <i>Planning for Sustainable Waste Management</i>
C&I	Commercial and Industrial
CS	Core Strategy
CSCS	Consolidated Schedule of Changes for Submission
DP	Development Plan
DPD	Development Plan Document
Framework	National Planning Policy Framework
HRA	Habitats Regulations Assessment
LCC	Leeds City Council
LDD	Local Development Document
LDF	Local Development Framework
LDS	Local Development Scheme
LP	Local Plan
LPA	Local Planning Authority
MM	Main Modification
MPA	Mineral Planning Authority
MSA	Mineral Safeguarding Area
MSW	Municipal Solid Waste
NP	National Park
NRWLP	Natural Resources and Waste Local Plan
PD	Publication Document
Plan	Leeds Natural Resources and Waste Local Plan
PMS	Proposed Modifications at Submission
PPS	Planning Policy Statement
RAWP	Regional Aggregates Working Party
RSS	Regional Spatial Strategy for Yorkshire and the Humber 2008
SA	Sustainability Appraisal
SCI	Statement of Community Involvement
SCS	Sustainable Community Strategy
tpa	tonnes per annum
UDP	Unitary Development Plan
WFD	Waste Framework Directive
WSE	Waste Strategy for England

## **Non-Technical Summary**

This report concludes that the Leeds Natural Resources and Waste Local Plan provides an appropriate basis for the planning of the City over the next 15 years providing a number of modifications are made to the Plan. The Council has specifically requested that I recommend any modifications necessary to enable them to adopt the Plan. All of the modifications to address this were proposed by the Local Planning Authority and I have recommended their inclusion after full consideration of the representations from other parties on these issues.

The modifications can be summarised as follows:

- the insertion of a policy and supporting text confirming the Council's commitment to the presumption in favour of sustainable development as set out in the National Planning Policy Framework;
- revisions to the justification for the strategic objectives that seek to achieve sustainable minerals development and make better use of the water and rail transportation networks;
- changes to the minerals and waste targets and their justifications and revisions to the monitoring framework;
- the safeguarding of viable sand and gravel resources under the urban area;
- a change to the policy that seeks to prevent the extraction of sand and gravel within the Wharfe Valley to the east of Pool to enable it to be justified;
- revisions to the policies and supporting texts that seek to safeguard minerals and transport interchange sites, in order to justify them;
- an explanation of the provisions and opportunities for the treatment of hazardous waste;
- changes to the *Strategic Waste Management Sites* Policy to make it effective;
- the identification of policies in the existing Unitary Development Plan that are to be replaced by the policies of this plan;
- a number of other changes to make the Plan compliant with the National Planning Policy Framework;
- a number of other changes that ensure the effectiveness of the Plan.

## Introduction

1. This report contains my assessment of the Leeds Natural Resources and Waste Local Plan (NRWLP) (the Plan) in terms of Section 20(5) of the Planning & Compulsory Purchase Act 2004 (as amended). It considers whether the Plan is sound and whether it is compliant with the legal requirements. The National Planning Policy Framework (the Framework), at paragraph 182, makes it clear that to be sound a Local Plan (LP) should be positively prepared, justified, effective and consistent with national policy.
2. The starting point for the examination is the assumption that the Local Planning Authority (LPA) has submitted what it considers to be a sound plan. The basis for my examination is the draft NRWLP of November 2010 as amended by the Consolidated Schedule of Changes for Submission (CSCS) in July 2011.
3. My approach to this Examination has been to work with Leeds City Council (LCC) and other participants in a positive, solution-orientated and consensual manner, aimed at resolving differences and overcoming any potential unsoundness in the Plan. All of the twenty nine representors to the pre-submission Plan were consulted about the post-publication changes. Fifteen of them maintained their objection(s) and nine of these participated in the main Hearing sessions, held in November 2011, along with representatives of LCC. A subsequent Hearing session was held three weeks later to resolve some of the outstanding matters.
4. In addition to the Hearing Sessions, I have examined this plan by correspondence with LCC and representors. This process concluded in August 2012 when I was satisfied that the sum of the changes proposed by LCC would make the plan sound.
5. With the exception of the changes, about which there were outstanding objections at the time of submission or subsequent concerns on my part, which are discussed below, the post publication changes (CSCS), which were themselves the subject of additional public consultation, have been accepted by me and do not require further endorsement.
6. In March 2012, the Government published the Framework, which combined previous national planning policies (e.g. in various Planning Policy Statements (PPS)) into a shorter, comprehensive document. The change did not affect waste policy, which is still set out in PPS10: *Planning for Sustainable Waste Management* but it did change national minerals policy. I arranged for additional consultation to be undertaken into the ramifications of the changes to the non-waste aspects of national policy on the soundness of the Plan. I have taken the additional representations received, as a result of this consultation, into account when writing this report.
7. LCC suggested further schedules of Significant and Minor Changes during the course of the examination, including changes to reflect the introduction of the Framework. My report only deals with the additional Significant Changes (now known as Main Modifications) that are needed to make the Plan sound and legally compliant and they are identified in bold in the report (**MM**). In

accordance with section 20(7C) of the 2004 Act LCC requested that I should make any modifications needed to rectify matters that make the Plan unsound/not legally compliant and thus incapable of being adopted. All of the necessary changes have been proposed by LCC and are presented in Appendix A.

8. None of these MMs materially alter the substance of the plan and its policies, or undermine the sustainability appraisal (SA)<sup>1</sup> and participatory processes previously undertaken. Nevertheless, all of the changes that LCC has proposed, following the submission of the plan, have been advertised, publicised on the Council's web-site and notified to all representors. I have taken the representations made in response to this further consultation into account when writing this report.
9. Some of the changes put forward by LCC are factual updates, corrections of minor errors or other minor amendments in the interests of clarity. As these changes do not relate to soundness they are a matter for LCC and not myself and are generally not referred to in this report. However, I endorse LCC's view that they improve the plan.
10. References in my report to documentary sources are provided in footnotes, quoting the reference number in the examination library [ ] where appropriate.

## **Assessment of Soundness**

### **Preamble**

11. The Plan has been prepared in order to provide a framework for the forward planning of minerals, waste, energy, air quality, water and land in the City. It will act as a thematic plan for these aspects of planning within Leeds and contains the long term spatial vision and strategic policies required to deliver the key objectives for resources and waste development up to 2026, including a more efficient use of natural resources. It also contains site specific policies and proposals for minerals and waste, identifying individual sites for future minerals extraction and waste management development, together with a limited range of policies, which will be used to assess planning applications associated with development concerning waste and natural resources.
12. The simultaneous assessment of the soundness, of both strategic and site specific policies, offers the opportunity to consider the interaction of the strategic and implementation aspects of planning, as well as the inter-relationship between minerals and waste planning together. This enables the effectiveness and deliverability of the strategic policies to be tested at the site development level and enables a full consideration and a better assessment as to whether the strategic objectives and policies are capable of being implemented in full.
13. In November 2011, the Localism Act received Royal Assent. In consequence no further Regional Strategies will be prepared. However, the Yorkshire and Humber Plan 2008, Regional Spatial Strategy (RSS) to 2026 remains in force

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<sup>1</sup> Natural Resources and Waste, Sustainability Appraisal, LCC, November 2010.

pending any response to the consultation on environmental assessment initiated by the Department for Communities and Local Government and further orders being laid before Parliament. This document is therefore currently a part of the Development Plan (DP) for Leeds.

14. In addition to being justified, effective and consistent with national policy, Paragraph 182 of the Framework adds 'positively prepared' to the tests of soundness. This means that the plan should be based on a strategy, which seeks to meet objectively assessed development and infrastructure requirements, consistent with achieving sustainable development. I consider the plan's compliance with this additional test of soundness, along with the other three, in the body of the report.
15. In order to clearly reflect the Framework's presumption in favour of sustainable development and be compliant with national policy, **(MM2)** is necessary for soundness. It adds a short section to the Policy element of Chapter 2 that now contains the new model policy and appropriate explanatory text. The introduction of the Framework has meant that a number of references to PPSs (not PPS10) should be replaced by references to the relevant parts of the Framework. The document should also be formally referred to as a LP. In addition to those specifically referred to in this report, I have assumed that LCC will make all of the other changes necessary, to enable the plan to reflect the changed national policy background, as a part of its Further Changes.

## Main Issues

16. Taking account of all the representations, written evidence and the discussions that took place at the examination hearings I have identified twelve main issues upon which the soundness of the Plan depends.

### **Issue 1 –Are the Vision and Strategic Objectives sufficiently focussed, spatial and locally distinctive?**

17. Leeds' Local Development Framework (LDF) Spatial Vision expects Leeds to be a distinctive, competitive, inclusive and successful City, for the benefit of its communities, now and in the future. The Plan translates this into visions for the topics that it covers and each is provided with a set of strategic objectives. A city that has an efficient use of natural resources, a zero waste - high recycling society, a low carbon economy and a high level of environmental protection is the aim of this plan. The visions and the accompanying strategic objectives are either a response to central government policy or seek to contribute to wider local policy objectives.
18. Leeds is a large metropolitan city and consumer of natural resources. The plan recognises that its ecological footprint involves the consumption of natural resources at a rate that is nearly double what is sustainable in the long term. The spatial visions and objectives seek to reduce this unsustainable consumption, although the actual achievement of a low carbon economy was somewhat vague.

19. During the examination, the Council proposed a new paragraph (after 2.27) to explain and justify the reasoning behind the strategic objective that seeks to improve sustainability by making better use of water and rail transportation networks. I endorse this change (**MM1**), which helps to justify how LCC will seek to assist the achievement of its vision of a low carbon economy.
20. Overall, the spatial vision and strategic objectives are justified in this LP and its evidence base and their emergence can be tracked through the various stages of plan preparation<sup>2</sup>. From the beginning they have been informed by engagement with stakeholders and the community through the consultation process<sup>3</sup>. They are aligned with the Sustainable Community Strategy (SCS)<sup>4</sup>.
21. I am satisfied that the objectives, both individually and collectively, reflect national policy, help to deliver the topic visions and the overall vision and provide a framework for the plan's policies and proposals. Consequently, I consider that the visions and strategic objectives, as now justified, provide a sound, relevant and locally distinctive basis for the Plan.

## MINERALS

### Minerals Strategy

#### Issue 2 –Is the Minerals Strategy soundly based?

22. The Plan's original objectives for minerals recognised that they are a finite resource that can only be worked where they are found. The text also pointed out that minerals are a key resource that is vital for growth and a strong economy. However, the narrow set of objectives taken from Minerals Policy Statement 1: *Planning and Minerals* only concentrated on making sufficient provision for future needs, safeguarding resources and providing clear policy direction in relation to ancillary or secondary mineral development, restoration and aftercare. These do not comprehensively reflect the wider national context that now gives an increased focus on the achievement of sustainable development or the plan's wider visions and objectives, including the desired reduction in Leeds' ecological footprint.
23. Their replacement by a more comprehensive set of objectives for sustainable minerals planning (**MM3**) that better reflects the plan's overall vision and objectives for the use of natural resources, as well as national guidance now contained in the Framework, ensures consistency. This suggested change to paragraph 3.1 is appropriate. I endorse it to secure soundness in terms of an effective and justified plan that is compliant with overall national policy requirements.

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<sup>2</sup> Issues and Alternative Options Report, 2008, Policy Position Report 2010, NRWLP Publication Document, 2010.

<sup>3</sup> Vision for Leeds 2004 and 2011, Issues and Alternative Options Consultation Report, 2009, Consultation on Publication NRWLP, 2010.

<sup>4</sup> Vision for Leeds 2004 – 2020, Sustainable Community Strategy, Leeds Initiative, April 2004.

## Aggregates extraction

### Issue 3 – Are the provisions in the plan for the supply of aggregates from within Leeds appropriate?

24. Policy Minerals 1: *Provision of Aggregates* deals with the provision of aggregates. It is accompanied by supporting text and there is a Minerals Topic Paper that, although providing background information, was not referred to in the submitted plan.
25. The Yorkshire and Humber Regional Aggregates Working Party (RAWP) is responsible for producing annual monitoring reports detailing levels of aggregate production and reserves for the region (the latest refers to 2009). It also produces forecasts of regional aggregate consumption and apportionments of production to meet this need. These were used in the RSS.
26. As submitted, the Plan sought to contribute to the regional apportionment of aggregates agreed by the RAWP in conjunction with other West Yorkshire District Councils. However, neither the Plan nor the Topic Paper demonstrated how this was to be achieved. Additionally, neither sought to disaggregate production below the sub-regional level or to extrapolate even the sub-regional forecasts beyond 2016. The Framework suggests that the time horizon of LPs should be 15 years and that they should take account of longer term requirements. There was also no agreement as to how the sub-regional apportionment would be sub-divided among the constituent authorities. In consequence this aspect of the plan had not been positively prepared and could not be effectively delivered or monitored. There was also no reasoned justification for LCC's course of action, which was contrary to national guidance and therefore unsound.
27. In consultation with the other West Yorkshire authorities, LCC has now produced a Local Aggregate Assessment. It has extrapolated the RAWP forecasts for sand and gravel and crushed rock to 2026 and disaggregated the total production to create a local target for Leeds, whilst demonstrating where the remainder of the West Yorkshire supply could come from. These revisions have been incorporated into an updated Minerals Topic Paper (**MM20**) that is referred to in paragraph 3.3 (**MM4**) in the context of the plan's updated objectives for minerals. Based on the Local Aggregate Assessment, Leeds has now set itself targets for aggregate provision, which seek to produce 146,000 tonnes per annum of sand and gravel and 440,000 tonnes per annum of crushed rock. These have been incorporated into Policy Minerals 1: *Provision of Aggregates* (**MM6**).
28. In March 2011 the RAWP agreed that on an interim basis aggregate provision in Mineral Planning Authorities (MPAs) should be based on historic shares over a rolling seven year period. Unfortunately, for confidentiality reasons, there are no historic figures for sand and gravel production in West Yorkshire in the 2009 report. Consequently, the sub-regional forecast to 2026 for sand and gravel is an extrapolation of the RAWP's apportionment to 2016 made for the RSS but tempered by the revised national apportionment (2009). The crushed rock target (1.1 million tonnes) is based on the rolling seven year average in 2009. Leeds has also assumed that it will provide



40% of production<sup>5</sup> in both aggregate sectors, with the remainder distributed among the other four West Yorkshire authorities.

29. National Policy, as now expounded in the Framework, requires MPAs to secure an adequate and sustainable supply of minerals. This is to be achieved by minimising the contribution from quarried minerals and maximising the use of recycled construction, demolition and excavation (CDE) waste, the waste from minerals processing, and marine aggregates. The plan makes a strong commitment to maximising the use of indigenous alternative/recycled material. Recyclable CDE waste from Leeds is expected to increase by more than 10% over the next decade, contributing over 100,000 tonnes of additional material to the aggregate equation. Marine sand and gravel is also expected to make a significant impact after 2021. These considerations are now given appropriate status in Policy Minerals 1: *Provision of Aggregates* and its supporting text (**MMs5&6**), with Leeds committing itself to reducing the amount of primary minerals used through more recycling and the increased use of marine aggregate.
30. The forecasts that the RAWP produced for the RSS were based on an assessment of aggregate production and sales over the period 1997 to 2001. The RSS's apportionments to 2016 were based on the maintenance of these shares. Although West Yorkshire contains over 40% of the population of the Yorkshire and Humber region and has probably consumed a slightly higher proportion of the minerals used in the region in the recent past, in recent times it has contributed less than 10% to the supply of aggregates consumed in the region. Leeds appears to have contributed more to sub-regional mineral production than its share of the West Yorkshire population would suggest but there was still a substantial deficit.
31. The relatively small contribution to regional minerals production from Leeds and West Yorkshire is a product of a number of factors, not least the consideration that minerals can only be worked where they are found and even then their exploitation has to be economically viable. Apart from aggregates and coal, very few minerals are now worked in West Yorkshire, although Leeds is self-sufficient in brick clay and exports bricks. The quality of the aggregate now found in West Yorkshire is not of a high standard. In consequence the best that can be hoped for from this plan is that production of locally sourced minerals is sufficient to meet the sectors of the market that they are able to supply.

## **Crushed Rock**

32. At the time the plan was submitted, the estimated land bank for crushed rock in West Yorkshire stood at 28 years. Nearly half of the 27 million tonnes of reserves identified in 2009 were in Leeds. Unfortunately the quality of the material makes it unsuitable for use in adoptable road construction, asphalt and concrete production. Most of the hard aggregate used in these processes comes from the Peak District and Yorkshire Dales National Parks (NPs). National policy seeks to minimise extraction within NPs because of the environmental damage to their scenic beauty this can

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<sup>5</sup> This is based on the approximate distribution of West Yorkshire's population and likely consumption of minerals between the constituent authorities.

cause. However, in the absence of suitable material in Leeds or the rest of West Yorkshire, it is difficult to see what can be done to reduce the reliance on NP produced aggregate in the context of this plan.

33. Seven quarries within Leeds produce sand from crushed rock, either as a primary product or as the by-product of building stone production. **MM10** confirms that quarries that produce building stone also help to maintain the provision of aggregate. If the preferred area for limestone production at Hook Moor results in the development of a quarry, then this alone could add 6.8 million tonnes of crushed rock to the reserves as a by-product of building stone extraction. Even without this, the revised apportionment (**MM8**) suggests that the crushed rock land bank for the sub-region (including Leeds) still has capacity to satisfy anticipated demand for nearly 30 years.
34. Whilst the projections are based on historic sales generated in West Yorkshire, in the absence of a detailed breakdown of demand for different types and qualities of aggregate, it is difficult to do otherwise. In any event, given the circumstances vis-à-vis the permitted reserves, there is no reason to suppose that Leeds will not continue to maximise its production of crushed rock and its by-products to the extent that there is market demand for the second class material that it can produce, for the duration of the plan period and beyond. Geological conditions dictate that any desirable and sought after reduction in output from the NPs would have to be sourced elsewhere.

## Sand and Gravel

35. The RSS says that the sub-regional aggregate apportionments should be updated in a review of the Plan, in particular by taking account of the second phase of the Yorkshire and Humber Sand and Gravel Study<sup>6</sup>. This study, which was published in 2007, included an appraisal of five apportionment options. It concluded that an option which gave priority to the need to reduce transport distance was the most appropriate and therefore suggested an increase in the West Yorkshire apportionment from 7.5% to 31%.
36. The industry cast doubts upon its ability to increase production within West Yorkshire to the suggested levels and made representations to that effect. This was primarily because of the nature and quality of the resource. British Geological Survey (BGS) were subsequently commissioned to undertake a further review in 2009<sup>7</sup>. This found that exploitable sand and gravel resources in West Yorkshire are relatively limited, there being insufficient volumes of the material on most sites to merit extraction. Because of natural and environmental considerations, within an area with a high population density, most potential sites are difficult to extract commercially. The study therefore concluded that any additional reserves that could be identified are likely to have minimal to moderate impact on the total stock of permitted regional reserves and that the potential for an increased sub-regional apportionment for West Yorkshire is therefore limited.
37. Unfortunately there has not been a review of the RSS, an update in forecasts

<sup>6</sup> Phase 2 Sand and Gravel Study for Yorkshire and Humber: Appraisal of Apportionment Options, Land Use Consultants, 2007.

<sup>7</sup> West Yorkshire Sand and Gravel Resources: Investigating the potential for an increased sub-regional apportionment, British Geological Survey, 2009.

or new agreed apportionments produced by the RAWP. The evidence before this examination nevertheless suggests that there is merit in the BGS's conclusions. Production that recently occurred in three West Yorkshire authorities is now restricted to Leeds and to one remaining site where production decreased from over 200,000 tonnes per annum before 2007 to little more than 50,000 tonnes in 2009 and subsequent years. Although the sub-region probably has only about a year's nominal land bank for sand and gravel, there is no evidence to suggest that the industry is keen to increase production and land banks through the submission of planning applications.

38. To what extent the reduction in output is a product of the recession rather than the availability of better quality reserves in more easily exploited parts of the region, albeit in less sustainable locations, is difficult to assess. The 2007 report<sup>6</sup> suggested that at that time the region had a shortfall of permitted reserves of 32 million tonnes for the period 2006-21 and by implication that additional resources needed to be identified for the period beyond 2015. In this context, the current level of sand and gravel production in Leeds and West Yorkshire points to an urgent need for an up-to-date regional assessment.
39. Notwithstanding the above, Leeds and its neighbours have agreed on an apportionment of 5.5 million tonnes for the plan period and identified five specific sites from which over 8.0 million tonnes could be extracted, subject to industry interest. The revised Minerals Topic Paper<sup>8</sup> also identifies other opportunities within Leeds. By comparison the BGS 2009 report<sup>7</sup> states that industry sources estimate that between 6 and 15 million tonnes could be extracted in total in West Yorkshire. Two of the proposed sites and over half of the potential output are in Leeds. Evidence at the Examination from both Wakefield and Leeds City Councils suggested that with the improvement of market conditions and interest from the industry, all the potential reserves that have been identified are physically capable of exploitation. However, the quality of most of the material is currently an unknown.
40. Additionally, as well as encouraging the further recycling of CDE and mineral waste and making provision within the plan for this to happen, LCC is leading work that seeks to facilitate the wider use of marine aggregates in the region. Some of the country's most extensive marine sand and gravel deposits lie off the Yorkshire coast but none currently enters the regional market beyond Hull. These initiatives could reduce the demand for quarried aggregates and conserve what is becoming a scarce resource in this region. I therefore consider the plan's apportionment for sand and gravel to be appropriate, deliverable and in accordance with national policy.
41. **MM6** revises Minerals Policy 1 to include annual apportionments for crushed rock and sand and gravel. It also makes it clear that LCC is working in conjunction with the other West Yorkshire Metropolitan District Councils to achieve the agreed targets. Amendments to the supporting text link the policy to the revised Mineral Topic Paper. I am satisfied that given the overall circumstances, the provisions in the Plan for the supply of aggregates from within Leeds are appropriate. With the above changes, I also consider

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<sup>8</sup> Updated Minerals Topic Paper, Leeds City Council, July 2011.

that this aspect of the Plan has now been positively prepared and LCC's approach to be justified, effective and in accordance with national guidance and therefore sound.

## **Minerals Safeguarding**

### **Issue 4 – Should the sand and gravel resources under the urban area be safeguarded?**

42. The Framework requires mineral resources to be safeguarded as far as possible, in order that proven deposits are not needlessly sterilised by non-mineral development. It says that LPAs should define Minerals Safeguarding Areas (MSAs) and set out policies to encourage the prior extraction of minerals where practicable and environmentally feasible.
43. Following representations from the Coal Authority the extensive coal deposits under the developed part of Leeds were safeguarded and became the subject of a criteria-based policy that seeks to secure the recovery of deposits of coal from below major development sites where it is economic to do so. Other minerals, particularly sand and gravel, which are present under parts of the Leeds urban area, were not safeguarded in the submitted plan.
44. Whilst recognising that not all safeguarded land will be worked for minerals, the BGS advises that the safeguarding of minerals should not be constrained, by other planning designations such as urban areas, without sound justification<sup>9</sup>. There is no such justification in the plan or its supporting documents. The BGS advice also specifically refers to the need to highlight the existence of river terrace sand and gravel resources, where they exist, beneath potential regeneration projects and brownfield sites. A number of areas within the Aire valley fall into this category.
45. Given the locational constraints on mineral working and the difficulty in finding suitable new sites in order to maintain the supply of materials to support economic growth, it is imperative that scarce minerals are protected for the long term. Sand and gravel resources, because they tend to be associated with river valleys where there are existing settlements and continual development pressures, are particularly vulnerable. Sand and gravel resources are not plentiful in West Yorkshire. In order to maximise indigenous supply and minimise unsustainable movements of sand and gravel and the exploitation of substitute crushed rock in the NPs, over the long term it is essential that all economic resources within Leeds are exploited.
46. Defining MSAs, alongside environmental and cultural designations, also ensures that the impact of any proposed development/redevelopment on mineral resources will be able to be taken into account, alongside other considerations, when development decisions are being made.
47. Arguments about sterilising redevelopment and thwarting regeneration do not stand up to scrutiny. If considered early enough in the development process, prior extraction need not delay essential development and in some

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<sup>9</sup> Mineral Safeguarding in England: *good practice advice*, British Geological Survey, 2011.

instances the commercial value of the extracted mineral can help to support marginal regeneration projects. **MM7** recognises the benefits of identifying potentially recoverable sand and gravel from under parts of the Leeds Urban Area. It establishes an appropriate, criteria-based policy (Minerals 2) against which proposals to remove sand and gravel from under such sites can be assessed.

48. **MM20** identifies the safeguarded areas of sand and gravel deposits under the Leeds Urban Area. **MM7** also combines and revises former Policies Minerals 8: *Surface Coal and Development Sites* and Minerals 9: *Surface Coal and Non-development Sites* as new Policy Minerals 3 so that common criteria apply to the assessment of proposals that could sterilise coal and sand and gravel deposits. The change also introduces new text and revises existing text that explains and supports the policies.
49. LCC also now recognises that valuable mineral resources may also exist outside of the identified MSAs. **MM7**, in its change to paragraph 3.8, recognises this and encourages developers to explore the potential for prior extraction in such cases.
50. I conclude that following the proposed changes concerning the safeguarded areas, this part of the plan has been positively prepared. The changes justify this aspect of the plan, enable it to be compliant with national guidance and thereby make it sound.

## Proximal Development

### Issue 5 - Should mineral extraction and mineral processing sites be protected from incompatible forms of other development by buffer zones?

51. Policy Minerals 2: *Mineral Safeguarding Areas* says that "minerals resources will be protected from development, which could sterilise them for future use", whilst Policy Minerals 3: *Safeguarding Existing Mineral Extraction Sites* says that "existing minerals sites will be safeguarded to ensure that mineral reserves are not compromised by other forms of development". Policy Minerals 13: *Safeguarding Minerals Processing Sites* similarly safeguards minerals processing sites against alternative uses.
52. However, as defined, the mineral sites do not extend beyond the limits of the planning permission, allocation or preferred area. The Framework requires MPAs to define Minerals Consultation Areas based on MSAs and to include them in their LPs. The BGS advice<sup>9</sup> also says that it may often be appropriate to extend the MSA beyond the resource boundary to take account of risks from non-mineral development.
53. The minerals industry advocated the creation of buffer zones around the designated areas on a similar basis to that now required by minerals policy in Wales and as already applied by a number of County MPAs in their LPs. In response LCC, whilst recognising the importance of preventing incompatible development close to minerals sites, pointed out that in most cases the buffer zones would encompass open farmland and woodland within the adopted Green Belt. Additionally some zones, when defined, could affect

existing property and give rise to concerns that might never arise, whilst as the safeguarded sites would be defined on the proposals map, they would be evident to anyone considering development within the vicinity in any event.

54. The minerals processing sites already exist but are primarily within industrial areas and surrounded by existing development. The inclusion of buffer zones around minerals processing sites would not afford them additional protection and their existence would be obvious to anyone considering using or redeveloping adjacent land.
55. Nevertheless, LCC did agree to define a buffer zone around every safeguarded site (including canal wharfs and rail sidings) and to include this on its CAPS system<sup>10</sup>. This would ensure that any council officer considering a proposal adjacent to a minerals site was alerted to the need to consider the impact of the proposal on the mineral resource or processing site and the impact mineral extraction or processing could have on the proposed adjacent use in the future. It also proposed an additional paragraph after paragraph 3.23 (**MM11**) to alert applicants, considering development on sites adjacent to safeguarded and designated minerals sites, of the need to ensure adequate consideration of the potential impact of mineral extraction and/or processing on the proposed land use.
56. The Framework encourages the efficient use of mineral resources and the inclusion of Minerals Consultation Areas in LPs. This has the dual function of alerting the development industry, as well as the district planning authority in areas with a two tier planning system, to the presence of recoverable minerals on adjacent land and to the fact that the protection of the ability to optimise the extraction of this resource will be a significant material consideration when considering a planning application for development on such land.
57. The absence of such areas in Leeds could result in developers unwittingly bringing forward development proposals that could conflict with future mineral extraction. In this context, I consider the inclusion of "stand-off" areas, backed by an appropriate policy, to be the preferred solution. However, the inclusion of Minerals Consultation Areas in LPs beyond the MSAs is not mandatory. Consequently following the proposed change to the supporting text (**MM11**), I consider the plan's treatment of proximal development to be effective and the plan to be sound in this respect.

## **Identification of Aggregate Resources**

### **Issue 6 - Is the plan justified in not identifying areas of search for future crushed rock quarries and additional allocations for sand and gravel extraction?**

#### **Crushed rock**

58. The land-bank for crushed rock in Leeds, at nearly 30 years, is nearly three times that required by the Framework. Because of the quality of the

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<sup>10</sup> A computer software system developed by CAPS Solutions Ltd to assist the processing of planning applications.

reserves, for the most part, this resource tends to come as a by-product from the production of building stone. There is no evidence to suggest that output from existing quarries in Leeds is not fulfilling the requirements of those sectors of the aggregate market that the quality of the material enables it to supply.

59. As well as safeguarding existing mineral extraction sites, in its preferred areas for stone and clay extraction (Policy Minerals 6) the plan identifies extensions to five existing quarries, together with a site for a new magnesian limestone quarry at Hook Moor. I consider this provision to be more than adequate to enable the district to use minerals produced locally, rather than importing them from further away, in the sectors where local geology is favourable to such an outcome.
60. In such circumstances, an area of search accompanied by a criteria-based policy that supports the development of crushed rock resources, is not necessary. I conclude that the plan's proposals for crushed rock have been positively prepared, are justified, effective and compliant with national guidance and that this aspect of the plan is sound.

## **Sand and gravel**

61. The Framework points out that each MPA should plan for a steady and adequate supply of aggregates and make provision for the maintenance of land-banks of at least seven years for sand and gravel. The ideal scenario is for sufficient specific sites and/or preferred areas to be identified so that on adoption of the LP there is adequate provision identified to cover the requirements for the LP time frame. Unfortunately this has not been possible in the case of this LP area where the sand and gravel land-bank is currently about a year. Only a site at Otley, which was previously proposed in the UDP, has been allocated. The other anticipated source of sand and gravel is at Methley, where an area of search is proposed.
62. Although an existing permission at Methley is still being worked, this has limited reserves. Expressions of interest in the exploitation of other reserves in this area have been received from the operator at this site and from other industry players but there is no detailed information on matters such as the extent of the deposit, potential lifespan of extraction, rate and method of working etc upon which firm proposals could be based. In these circumstances, the objections from the industry against the absence of an allocation at Methley are somewhat surprising and suggest a need for greater liaison between the MPA and the industry.
63. Although contrary to the spirit of national guidance, in the circumstances, I am satisfied that the shortage of allocations for sand and gravel are unavoidable and that the Council is justified in taking the revised approach that it has formulated in consultation with its West Yorkshire neighbours. Providing there is liaison between the Council and the minerals extraction industry, to bring forward appropriate sites within the Area of Search and subject to quality, there is no reason to suppose that Leeds will not be able to meet its sand and gravel targets. I therefore find the plan sound in this respect.

## **Limiting Sand and Gravel Extraction in the Wharfe Valley**

### **Issue 7 – Is the resisting of the exploitation of any of this resource during the plan period justified?**

64. The submitted plan seeks, through Policy Minerals 5: *Limiting Sand and Gravel Extraction in the Wharfe Valley*, to resist the extraction of sand and gravel within that part of the Wharfe Valley within Leeds District and to the east of Pool. This is because of the considered high landscape quality of this area, which was covered by a Special Landscape Area designation in the Leeds Unitary Development Plan (UDP) Review (2006)<sup>11</sup>.
65. The maintenance of adequate land-banks of aggregate minerals is a key aspect of current national policy for minerals, as contained in the Framework. At about a year, the land-bank for sand and gravel in Leeds and West Yorkshire is far from adequate. Leeds and the other West Yorkshire Authorities have identified sufficient theoretical supply to more than meet a requirement for the plan period that is largely based on an extrapolation of the area's share of historic sales within the region.
66. However, not all of this is actually proven and accompanied by information on the potential yield or quality of the resource. Additionally, on sustainability grounds, the Yorkshire and Humber Sand and Gravel Study<sup>6</sup> recommended a dramatic increase in West Yorkshire production. Whilst the subsequent BGS study<sup>7</sup> concluded that the potential for an increased sub-regional apportionment for West Yorkshire is limited, it did not say that opportunities to increase West Yorkshire's contribution should not be exploited.
67. The national desire to reduce production of aggregate in the NPs, some of which is used in Leeds for concrete making, is a further consideration that points to the desirability of maximising the production of concrete quality sand and gravel from within West Yorkshire.
68. Within Leeds, in addition to the nearly exhausted Methley Quarry, only the Midgely Farm site at Otley has proven reserves and has been allocated for sand and gravel extraction. The remainder of the plan's proposal and about two thirds of the Leeds contribution has still to be explored. There is clearly an absence of certainty about future requirements and supplies that points to a need for flexibility. At the same time the BGS study<sup>7</sup> suggests that the Wharfe Valley has some of the largest and highest quality unworked sand and gravel deposits in the region.
69. Midgely Farm was allocated in the Leeds UDP but has not been taken up by the industry in the years since its identification. An objection to the exclusion of an area at Methley from the allocated sites, by the existing sand and gravel producer in that area, has not been supported by evidence as to the potential yield or quality of the resource. The objector also declined to participate in the Hearing sessions. Such situations do not provide certainty that Leeds is able to meet its targets for sand and gravel production from the

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<sup>11</sup> Policy N37, Leeds unitary Development Plan (Revised) 2006, Volume 1 Written Statement, Leeds City Council, July 2006.



identified preferred area and areas of search. In such circumstances the resisting of proposals for the extraction of sand and gravel, within the area to the east of Pool in the Wharfe Valley and without qualification, is not justified.

70. The Wharfe Valley between Pool and Wetherby is of high scenic quality. The southern part of the valley, which is within Leeds, has been designated a Special Landscape Area<sup>10</sup>. However, the northern part of the valley, which forms a part of the fine long distance views referred to in the Leeds UDP and is within North Yorkshire, has not.
71. LCC's desire to restrict the exploitation of this sand and gravel resource, as long as the apportionment can be met from other sources in less scenically sensitive areas, is a reasonable standpoint. Clearly, considerable weight should be given to the implications of sand and gravel extraction for the long term quality of the area's landscape when considering any proposal.
72. The area is on the northern edge of Leeds and the potential for the exploitation of the resources within Leeds should ideally be considered in tandem with the adjacent deposits within North Yorkshire. There are also other resources in North Yorkshire that have similar accessibility to the West Yorkshire markets and whose exploitation may be as sustainable but less injurious to matters of scenic importance.
73. Historically, the shortage of good quality, easily exploitable reserves in areas without planning constraints within West Yorkshire has been made up by the exploitation of resources in North and South Yorkshire. The evidence before this examination suggests that at the same time as it is becoming difficult to identify economically viable sand and gravel resources, within West Yorkshire, the resources that have been historically exploited, in North and South Yorkshire to meet West Yorkshire's needs, are becoming exhausted. The BGS study<sup>7</sup> confirms that the possibilities for new sand and gravel developments in southern North Yorkshire to supply the Leeds-Bradford area are quite limited and that materials coarse enough for concreting are becoming scarce in this area.
74. The shortfall after 2015, identified by the Yorkshire and Humber Sand and Gravel Study<sup>6</sup>, suggests that there is an urgent need for a comprehensive, independent, sub-regional study that will identify the most appropriate locations from which sand and gravel resources, to meet the needs of West Yorkshire over the next 20 years, could be extracted. Such a study should objectively look at all of the options, including the Wharfe Valley, giving comparative weighting to its scenic beauty and that of the other river valleys from which the resource could also be exploited. Such a study should also consider the contribution that could be made by recycled aggregate and marine sand and gravel.
75. The Framework at paragraph 113 advises LPAs to set criteria-based policies against which proposals for any development on or affecting landscape areas will be judged. The maintenance or otherwise of the Special Landscape Area designation is a matter for the Core Strategy. However, in the absence of any justification to the contrary, it is not appropriate to resist, under any circumstances, the consideration of sand and gravel extraction in that part of

the Wharfe Valley to the east of Pool.

76. **MM9** revises Policy Minerals5: *Limiting Sand and Gravel Extraction in the Wharfe Valley*, making it clear that the extraction of sand and gravel in that part of the Wharfe Valley to the east of Pool will not normally be supported. Following this revision, the Policy does not close the door on its future consideration. With this change I consider the Council's approach to limiting sand and gravel extraction in the Wharfe Valley to be justified. I therefore find the plan to be sound in this respect.

## **Transport Modes**

### **Issue 8 - Are the plan's proposals for the safeguarding of existing inter-modal transfer sites and the creation of new ones justified?**

77. The Framework at paragraph 29 seeks to promote a rebalancing of the transport system in favour of sustainable transport modes. At paragraph 143 it also says that existing, planned and potential rail heads, wharfage and associated storage for the bulk transport, by rail or inland waterways, of minerals should be safeguarded.
78. In the latter years of the last century there was a notable decline in the volume of waterborne freight on the Aire and Calder canal, which links Leeds with the Humber ports. At the same time, many wharves within the city were abandoned and some have been redeveloped for other purposes, particularly housing. Consequently, there is only one remaining operational wharf within Leeds and that is downstream of the main urban area. There has been a similar decline in rail freight, although two minerals producers still transport large quantities of aggregate by rail to sites within Leeds, where it is used in concrete and asphalt production.
79. The principle of seeking to make better use of rail- and water-based transport has been established in Leeds for some time. The Leeds UDP Review 2006<sup>10</sup>, at Policy E 10, promotes land at Stourton/Knowesthorpe for employment uses, making extensive use of rail and/or water transport. The West Yorkshire Transport Plan 2011 to 2026<sup>12</sup> identifies the Aire and Calder Navigation as having capacity to carry more water-borne freight and the evidence base of the RSS<sup>13</sup> and Regional Freight Strategy<sup>14</sup> also suggests that greater use of both rail and water transport for freight could be achieved if properly promoted. Clearly, without wharves and freight yards, where modal shifts could take place, the existing rail and water network in Leeds would be incapable of carrying any additional goods traffic.
80. Consequently, the plan seeks through Policy Minerals 14: *Transport Modes* to safeguard three canal wharves (one of which is currently used as an oil terminal) and two rail sidings that are in use. In addition it identifies three

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<sup>12</sup> My Journey / West Yorkshire Connecting People and Places, West Yorkshire Local Transport Plan Partnership, 2011.

<sup>13</sup> The Yorkshire and Humber Plan Regional Spatial Strategy to 2026. Department of Communities and Local Government, May 2008.

<sup>14</sup> Yorkshire and Humber Regional Freight Strategy, Yorkshire and Humber Regional Assembly, 2004.

new sites with potential to be developed as wharves and a rail siding respectively. It also seeks to protect a rail spur to a former power station site in order to safeguard the opportunity for industry using rail freight to locate adjacent to it.

81. The plan's consultation rounds demonstrated widespread support for the protection of these facilities and the promotion of the greater use of the local rail and water network for freight purposes. As well as from environmental groups, some of this has come from canal boat operators and local business. Research undertaken by LCC has also revealed a potential interest in canal and rail inter-modal transfer sites, particularly from the minerals industry but also from other sectors such as heavy manufacturing and chemicals.
82. A study led by LCC but involving other minerals authorities and industry players has looked at the potential to substitute the declining good quality sand and gravel resources in the region with marine won aggregate. It concluded that by 2020 it should be possible to land 2 million tonnes per annum at the Humber ports and that this could continue for 50 years, meeting over 40% of current regional demand for sand and gravel. To be effective the material would have to be transported cheaply to the main market areas in the west of the region. This implies the need for water and rail transportation facilities to and within Leeds and an ability to locate minerals processing plants adjacent to the unloading points.
83. The existence of two aggregate plants in Leeds that use rail as a means of mineral supply, the recorded interest from a third and the evidence from the marine aggregate study suggest that the protection and reservation of the rail sidings and adjacent sites is based upon the robust evidence required at paragraph 41 of the Framework and is justified. However, despite the wealth of independent support, there is little direct evidence to prove that the movement of minerals and other heavy or bulky materials to and from Leeds by canal is economically sound.
84. The picture is unfortunately muddled by the inability of some interested operators, who require long term certainty before taking proposals forward, to obtain the support of landowners in both sectors. The carrot of residential development on most of the inter-modal sites that appears to have been dangled by LCC for a number of years, has not helped the situation. Evidence before the examination suggests that residential development on these sites is now an unlikely option, for flooding reasons if nothing else in some instances.
85. In the circumstances, whilst the protection and development of wharves is a laudable aspiration, supported in principle by national and local policy, the long term protection of the canal-side sites affected by Policy Minerals 14: *Transport Modes* and the prevention of other permanent development on these sites is not justified by the current evidence base. It is also not compliant with paragraph 22 of the Framework, which seeks to avoid the long term protection of sites where there is no reasonable prospect of them being used for the protected purpose. A proposed marketing study by the Commercial Boat Operators Association should throw some light on this dilemma.

86. In the meantime LCC has proposed a new paragraph (3.30) that recognises that land should not be sterilised indefinitely, despite the limited opportunities for rail and wharf facilities within Leeds (**MM12**). It also commits LCC to a review of the policy as a part of its Annual Monitoring Report in the first such report to be prepared after a period of five years from the date of the plan's adoption.
87. LCC has also recognised that in any event, there needs to be a mechanism by which proposals to use the safeguarded sites for other uses can be objectively assessed. The inclusion of an additional Policy (Minerals 15) and a paragraph in the supporting text to the policy (3.31) (**MM13**) removes this deficiency. The policy includes a set of criteria by which proposals for non-canal or non-rail related development can be assessed. Following the introduction of these changes I find Policy Minerals 14 to be sound.
88. I note the points raised about the appropriateness of using a NRWLP, rather than a more comprehensive plan, as the vehicle for the introduction of policy to safeguard transport facilities. However, there is an urgent need for policy certainty in this field and the NRWLP is the first available document in which LCC could advance the policy. Minerals are and are likely to continue to be, the largest users of rail and water transportation. Consequently, it is not inappropriate for policy that has a wider application than minerals and waste to find a home in this document.
89. Whilst the disposal of operational railway land may require the approval of the Office of the Rail Regulator, that body is established to look after the interests of the railways and rail users, whereas LCC has a wider responsibility for the overall planning of the City.
90. I note the points about other options for some of these sites that have been considered by other LDF documents that are being prepared. However, there is no evidence to suggest that LCC is not coordinating its planning policies and proposals as ultimately advanced through its different Development Plan Documents (DPD). Additionally, it has clearly taken a decision that these sites need the protection of a statutory plan against development that would prejudice their future use in association with rail and water-borne freight.

#### **Site 14 Haigh Park Road**

91. Evidence at the site visit confirmed that there is an existing wharf along the canal-side adjacent to this site, albeit an overgrown one. There is also interest from the current tenant of the site to use the canal to transport steel from the Humber ports. In such circumstances LCC is justified in including this site in the list of sites affected by the policy and its inclusion does not make the plan unsound. LCC has proposed an amendment to the overall extent of the site (**MM21**), which I endorse. The current tenant uses all of the land affected by the revised proposal and not adjacent to the canal and would be likely to continue to do so if steel was transported by water. There is no evidence at this point to justify further reducing the area affected by the proposal.

### **Site 15 Old Mill Lane**

92. The recent development of housing on the adjacent Yarn Street site has added another factor to the considerations that need to be assessed if firm proposals for the reuse of this canal-side facility come forward. Nevertheless, this is a large site and it would be possible to screen a canal development from the housing and to locate any noisy aspects of such a development away from it. Its inclusion in the plan as a safeguarded inter-modal transfer site is therefore justified and effective as well as contributing to a requirement expounded by national policy.

### **Site 21 Bridgewater Road**

93. There is already an established rail-based aggregate plant on the other side of the rail spur that would service this site. There is also an expression of interest from an aggregate operator to use this site and an ability to use the canal as well as the railway to import or export goods to and from the site. No other site with such locational advantages for the development of inter-modal transport facilities and associated processing has been put before the examination.
94. Whilst I note the constraints relating to the incline on the branch line that serves this site, these have not deterred the successful operation of a minerals processing facility on its north-eastern side. I am not persuaded that congestion on the Leeds to Micklefield railway line is such or likely to be such as to prevent the use of the branch line by trains servicing this site. There is no evidence at this point to justify reducing the area affected by this proposal. Its inclusion in the plan as a safeguarded inter-modal transfer site is therefore justified and effective as well as contributing to a requirement expounded by national policy.

## **WASTE**

### **Waste Strategy**

#### **Issue 9 –Is the Waste Strategy soundly based?**

##### **Self Sufficiency**

95. The close proximity of the major settlements and the waste facilities within West Yorkshire means that waste, particularly in the private sector, is transported between different local authority areas. There is also interaction with North Yorkshire. At the present time, much of Leeds's waste is disposed of at two landfill sites within the City, which also accept waste from other parts of the region. The plan envisages that as waste disposal is moved up the waste hierarchy, disposal to landfill will be minimised. In making provision for this diversion, the Council has assumed that waste produced in other authorities and currently land-filled in Leeds will be diverted from landfilling by those authorities in accordance with their waste planning strategies and thereby significantly reduced. The LP makes provision for Leeds to be self-sufficient in waste management in the future,

apart from some cross- border movements of specialist waste.

96. Given the location of existing facilities and proposed sites for new facilities in Leeds and adjacent districts, it is unlikely that cross-border movements, particularly of private sector waste, will be minimised. However, the Council has consulted extensively with adjacent authorities, who basically support the aspirations of this strategy and have indicated the life expectancy of specialist facilities within their areas that treat waste from Leeds. Whilst it is likely that because of geography some of the planned private sector facilities in Leeds will treat waste from elsewhere the reverse is also the case. The plan is to be monitored and if it becomes apparent that Leeds is on balance importing general waste, to its non- landfill facilities, then the provision could be subsequently reviewed and increased. With this proviso, I therefore find a spatial strategy based on overall self sufficiency to be sound.

### **Waste forecasts**

97. The plan is seeking to achieve a major change in the way waste is managed. In line with national policy, a fundamental objective is to drive the treatment of waste up the waste hierarchy thereby reducing disposal to landfill to an absolute minimum. To achieve this, the plan's strategy provides a framework for a significant increase in the non-landfill forms of waste management capacity.
98. In order to meet the waste objectives, the plan establishes requirements for the treatment of different types of waste in Leeds in the future. In the submitted plan the projections only went as far as 2021. This neither meets the advocated minimum time horizon of 15 years for LPs advanced by the Framework or the minimum period of 10 years put forward in PPS10: *Planning for Sustainable Waste Management*. The Council subsequently revised its Waste Topic Paper (**MM20**), providing projections until 2026 that are incorporated into proposed amendments to paragraph 4.4 and Table 4.1 (**MM14**).
99. In doing this, it has assumed that the previous forecasts to 2021 apply equally well to 2026. The current National and European forecasts are only to 2020 and those in the RSS and Municipal Waste Strategy are to 2021. These together have contributed to the evidence base for the forecasts, which is contained in a separate Waste Topic Paper. Any forecasts produced for periods beyond 10 years are in consequence likely to be increasingly unreliable.
100. Evidence now suggests that the amount of waste produced and requiring treatment is in decline. Consequently the amount of waste produced in 2026 could very likely be less than that produced in 2021. As the plan will have to provide for the creation of capacity to meet the requirements of 2021, it is not inappropriate to keep this figure constant until the end of the plan period. In any event, the plan is likely to be reviewed before 2021, by which time there will be a more comprehensive evidence base on waste management performance in Leeds and further national forecasts upon which more accurate waste arisings in 2026 could be based.
101. The forecasts for Municipal Solid Waste (MSW) were derived from the Leeds

Integrated Waste Strategy 2005 and updated in the light of subsequent experience. They are somewhat lower than those produced for the RSS. The forecasts for Commercial and Industrial (C&I) and CDE wastes, which were independently produced for this LP, are slightly higher than those produced for the RSS. They are nevertheless a reasonable basis on which to plan the future waste treatment needs of the City and in this respect I now find the plan's waste strategy to be positively prepared, justified and sound.

### **Safeguarding Existing Waste Management Capacity**

#### **Issue 10 – Is the safeguarding of Site 68, Richmond Works, Garforth justified?**

102. Policy Waste 2: *Safeguarding Existing Waste Management Capacity* seeks to safeguard the existing waste management capacity within the City. Applications for change of use must either demonstrate that there is no longer a need to retain a site for waste management purposes or that there is an overriding case for the proposed development. Given the ambitious shift in waste treatment proposed by this plan and the need for a significant number of new facilities to achieve this, the protection of existing facilities is justified, particularly as the plan allows for the removal of sites through evidence-based planning applications.
103. Richmond Works is an existing waste recycling site with a valid planning permission. Although there was a recent fire, this appears to have resulted from one or more activities taking place on the site without the benefit of planning permission or an environmental permit. Without these activities, the site made a significant contribution to recycling in a part of the city that has no other similar waste sites. It also has good access to the primary road network. Its continued use for its lawful activity should not give rise to planning or environmental concerns and in any case there is a mechanism whereby a case could be made to change the use to a non-waste site if the appropriate circumstances exist. The removal of this site from the Policy's protection is therefore not justified and the Policy is sound in this respect.

### **Hazardous Waste**

#### **Issue 12 –Is the plan's treatment of hazardous waste justified, effective and in accordance with national policy?**

104. PPS10 says that planning authorities should provide sufficient opportunities for new waste management facilities of the right type, in the right place and at the right time and that this should include provision for hazardous wastes. The Submitted Plan was silent on requirements for the treatment of hazardous waste. At the same time, the Waste Topic Paper noted that although Leeds was a net importer of hazardous waste, there was an identified gap in the treatment of solid hazardous waste, some of which has to be transported long distances outside of Leeds for treatment and disposal.
105. The amount of hazardous waste generated within the plan area at over 100,000 tonnes per annum (tpa) is not insignificant. **MM15** recognises the

contribution that the existing Clinical Waste Incinerator and Effluent Treatment Plant make to the treatment of clinical and liquid hazardous waste from Leeds and neighbouring authorities. It also refers to the Waste Strategy for England<sup>15</sup> which, whilst seeking to reduce the amount of hazardous waste generated, points out that there needs to be additional hazardous waste treatment facilities to assist in meeting the changes brought about by the Landfill Directive. The modification suggests that there is scope for soil washing processes and bio-remediation to be accommodated on any of the strategic waste sites and that some processes could be located on the industrial estates identified as suitable for waste treatment facilities. It also notes the potential to provide new hazardous waste cells at both Howley Park and Swillington landfill sites.

106. Following the modification, the plan now clearly identifies the potential for new proposals for hazardous waste disposal, including at landfill sites, within Leeds. It also encourages the further provision of treatment facilities, which would be supported in appropriate circumstances. As a result of these modifications, I consider the plan to be justified, effective and in accordance with national policy in its treatment of hazardous waste and is now sound in this respect.

### **Strategic Waste Management Sites**

#### **Issue 11 - Is the framework for the development of Strategic Waste Management Sites justified and effective?**

107. The plan advances an overall recovery capacity of around 600,000 tpa, whereas the research undertaken for the Waste Topic Paper suggests that up to 750,000 tpa of additional recovery capacity may be required by 2021. Three strategic sites are put forward in the plan on which facilities to treat this waste could be built. These are the product of an extensive site selection process that in particular considered site availability and deliverability as a part of the selection criteria, as well as the other criteria listed in PPS10. Being largely away from residential areas, the Lower Aire Valley is the traditional area within Leeds where utility and heavy industries have located. Following the extension of the M1 motorway and the completion of the new A63 link into the City Centre, it now has excellent road transportation links. Consequently, four sites in this area performed the best against the analysis criteria and three of these have been allocated in the plan for the development of strategic waste facilities. I am satisfied that all of these sites and the discounted fourth site are appropriate in principle for the location of strategic waste facilities.
108. The City Council has recently concluded a procurement process for the construction of a residual waste treatment facility to treat MSW. At the same time LCC is considering a planning application at Skelton Grange (site 200) for an energy recovery plant and anaerobic digestion facility to treat residual waste from the C&I sector. The implementation of these proposals or similar is fundamental to the delivery of the plan.
109. Discounting the recycling capacity, if built these facilities could process up

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<sup>15</sup>Waste Strategy for England 2007, Department for the Environment, Food and Rural Affairs, 2007.



to 540,000 tpa. Although a major step forward in meeting Leeds' future residual waste treatment needs, this falls short of the adopted recovery capacity and well short of the possible maximum capacity put forward in the Waste Topic Paper. Additionally, the assessment specifically identifies a further need for an additional organic waste facility to treat MSW.

110. Furthermore, the provision is based on the assumption that Leeds will be effectively self sufficient in strategic waste disposal facilities. Whilst this objective reflects the results of public consultation and may be deliverable in the MSW sector, a more significant waste stream requiring residual treatment will come from the C&I sector and the private sector companies that source and treat this waste are not bound to respect municipal boundaries.
111. The proposed private sector residual treatment plant, if constructed in the Lower Aire Valley, would be more accessible to much of Wakefield District than to large parts of Leeds. The proximity principle and the significance of transport costs in waste disposal viability suggest that this facility will attract C&I waste from Wakefield. In the absence of a private sector residual treatment facility in Wakefield, it cannot be realistically assumed that the net cross-boundary flow between Leeds and Wakefield would be zero. Although strategic private sector facilities are proposed in Bradford, the evidence suggests that cross-boundary movements to these facilities would be from Calderdale rather than from Leeds.
112. An amendment to paragraph 4.32, proposed as a result of a representation against the submitted draft plan, enables, following the conclusion of LCC's procurement process, either site 201 Wholesale Market Site or site 202 Knostrop to be used for other employment purposes. The above evidence suggests that this is not justified. Additionally, there is no certainty that following the acceptance of a tender or the grant of planning permission, facilities will be built and operated on the chosen site(s). Land for strategic waste facilities is not easily identifiable. Until MSW and C&I residual facilities, to a capacity that meets forecasted requirements, are operational in both Wakefield and Leeds and an objective assessment can be made as to their catchments, it is not appropriate to change the plan in this way.
113. In any event, Policy Waste 6: *Strategic Waste Management Sites* is not closed and allows other uses on the strategic sites if it can be demonstrated that a site is no longer required to meet the strategic waste management needs of the LCC area. **MM16** removes the amendment and reverts to the original text. I endorse this change, which enables the text in Paragraph 4.32 to effectively justify Policy Waste 6 and makes this aspect of the plan sound again.
114. Three strategic waste processing plants could potentially be located in the same part of the City. Whilst I note the potential cumulative impact of negative aspects of these operations, there is no evidence to suggest that three strategic waste plants could not operate in the same area without giving rise to unacceptable adverse impacts. Each detailed proposal will require the preparation of an Environmental Impact Assessment; and, in establishing a baseline environment on which to assess any potential impacts, each assessment will have to include the effects of any other

existing or proposed major developments, including strategic waste plants.

115. The strategic waste sites will attract significant numbers of heavy vehicles as well as being notable sources of employment that would generate further movement. Although all three sites are well connected to the highway network, in the circumstances, it is appropriate for proposals at these sites to be accompanied by a Transport Assessment, which should consider the impact on the Strategic Road Network and a Travel Plan. **MM17**, which I endorse, amends Policy Waste 6 to accommodate this. With this amendment, I consider the proposed strategic waste sites, taken together, to be capable of accommodating the plan's strategic waste requirements until 2026. The amended plan has been positively prepared and the selected sites are justified. They will facilitate the effective delivery of Leeds' strategic waste needs. The plan is consequently sound in these respects.

### **Site 201 Wholesale Market Site**

116. This site is on the edge of the Lower Aire Valley industrial area. Although surrounded by industrial/warehousing uses on three sides and the Neville Hill railway sidings on the fourth, there are residential properties on Halton Moor Road within 200 metres to the north-east, beyond which is a large housing estate. The emissions from any waste facility located on this site would be subject to the pollution control regulations enforced by the Environment Agency through the Environmental Permitting Regime. There is no reason to suppose that a new facility would not comply with these stringent regulations.
117. Policy Waste 9: *Waste Management Facilities-Potential Issues and Impacts* sets out eighteen criteria that waste management facilities seeking planning permission must address. Included among these are visual amenity, the design of built features, environmental and amenity aspects and the routing of vehicles. In principle, there is no reason why strategic waste treatment facilities located on this site, if properly designed and accompanied by appropriate mitigation measures, adequately assessed and scrutinised against the policy criteria, should result in harm to the living conditions at nearby residential properties.
118. (A) very high building(s) located on this site, for whatever use, could appear overbearing and visually intrusive at the nearby housing. Being located to their south-west it/they could also impact upon the receipt of sunlight at the dwellings. However, not all strategic waste disposal facilities require high buildings, so the use of this site for an appropriate strategic waste disposal facility is justified in principle. In any event detailed matters such as the height and design of a building and its consequent impact are more appropriately considered through the planning application process, utilising the criteria set out in Policy Waste 9.

## **OTHER NATURAL RESOURCES**

### **Issue 12 – Are the strategy and policies for other resources soundly based?**

119. As well as minerals, the plan sets out objectives and policies through which the planning interface with energy production, air quality, water and land will be implemented.
120. Its objectives for energy follow national policy in seeking to reduce the carbon burden of the UK energy supply, whilst at the same time increasing the resilience of its infrastructure. A framework for the judging of large scale wind energy generation is established, whilst micro-generation, combined heat and power energy recovery and heat distribution infrastructure development are all encouraged and supported in policy.
121. LCC intends to assist the management of air quality by requiring all applications for major development to incorporate low emission measures, to ensure that the overall impact of proposals on air quality is mitigated.
122. The plan notes the uncertainties to future water supplies that could be caused by climate change. LCC also recognises the need to encourage a more efficient use of water and to reduce wastewater quantities whilst improving water quality. The plan includes policies that seek to secure an improvement in overall water efficiency, the protection of water quality, the avoidance of flooding and reductions in the rate of surface water run-off within and from new developments.
123. The plan recognises that land is a finite resource and that national policy requires it to be used in a sustainable and efficient manner. LCC supports the principle of developing previously developed land in preference to "Greenfield" sites and commits itself to assisting developers to identify appropriate remediation for contaminated sites so that they can make a full contribution to the development process. The plan also seeks to conserve trees wherever possible and to introduce new tree planting as part of creating high quality living and working environments and enhancing the public realm.
124. I am satisfied that the strategy and policies for other resources, reflect national policy as well as local circumstances. They will help to deliver the topic visions and the overall vision, by providing a framework for the interface of planning with resource management. Consequently, I consider that the other natural resources sections provide a sound, relevant and locally distinctive basis for these aspects of the Plan.

## **IMPLEMENTATION AND MONITORING**

### **Issue 13 – Does the monitoring framework ensure that failures in the implementation of the plan will be effectively identified and corrected?**

125. In order to test whether or not its policies are being delivered and the Plan is therefore effective, the Plan should have in place procedures that will

secure its monitoring over time. If policies are not being delivered, then there needs to be a mechanism to trigger remedial action. Consequently, there should be a delivery strategy that contains clear targets or measurable outcomes to assist the monitoring process.

126. The monitoring chapter as submitted did not contain a comprehensive set of clear targets that would demonstrate that all of the plan's outcomes are being delivered to a timetable and meeting all of the plan's objectives or that all of its policies are effective. These deficiencies would have rendered the monitoring itself ineffective and the plan unsound in this respect.
127. LCC recognised these problems and submitted a new paragraph explaining how monitoring will be undertaken (**MM5**) and an amended monitoring framework (**MM18**) as suggested changes.
128. Table 4 has been replaced by a new table. Table 7.1 *NRWDPD Monitoring Framework* now sets out the related key outcomes for each policy and establishes meaningful performance indicator(s) and related monitoring method(s). These are accompanied by clear, measurable targets. 'SMART' targets (specific, measurable, achievable, realistic and time-bound) and related trigger points have been set, having regard to the availability of data and to the Council's resources. The table also indicates the corrective action that would be taken if the targets are not being met and the trigger points are reached.
129. In accordance with the requirements of the Framework the Monitoring Framework now includes a section to monitor the actions LCC are taking to ensure that engagement with other relevant bodies continues throughout the implementation phases of the plan and to demonstrate that it is fulfilling all of its responsibilities under the Duty to Cooperate.
130. Sufficient information should now be provided to assess policy implementation, thereby enabling transparent and effective monitoring. These suggested changes are reasonable and appropriate, and I endorse them to secure soundness in terms of the effectiveness of the plan's delivery.

## Assessment of Legal Compliance

131. Regulation 8 (5) of The Town and Country Planning (Local Planning) (England) Regulations 2012 requires that where a local plan contains a policy that is intended to supersede another policy in the adopted development plan, it must identify that fact and identify the superseded policy. The submitted LP did not indicate which Policies in the UDP that are currently saved will be replaced by policies in this DPD. **MM19** rectifies this and contains a list of Saved UDP policies that are to be replaced by ones in this DPD.
132. My examination of the compliance of the Plan with the other legal requirements is summarised in the table below. I conclude that the Plan meets them all.

<b>LEGAL REQUIREMENTS</b>	
Local Development Scheme (LDS)	The Local Plan is identified within the approved LDS April 2010, which sets out an expected adoption date of Summer 2011. The LP is described as a Core Strategy. Its content and timing are compliant with the LDS.
Statement of Community Involvement (SCI) and relevant regulations	The SCI was adopted in February 2007 and consultation has been compliant with the requirements therein, including the consultation on the post-submission proposed 'main modification' changes.
Sustainability Appraisal (SA)	SA has been carried out and is adequate.
Habitats Regulations Appropriate Assessment (AA)	The Habitats Regulations AA has been carried out and is adequate.
National Policy	The Local Plan complies with national policy except where indicated and modifications are recommended.
Regional Spatial Strategy (RSS)	Having regard to the limited life of the RSS's forecasts, the Local Plan is in general conformity with the RSS.
Sustainable Community Strategy (SCS)	Satisfactory regard has been paid to the SCS.
2004 Act (as amended) and 2012 Regulations.	The Local Plan complies with the Act and the Regulations.

## **Overall Conclusion and Recommendation**

133. **The Plan has a number of deficiencies in relation to soundness and legal compliance for the reasons set out above, which mean that I recommend non-adoption of it as submitted, in accordance with Section 20(7A) of the Act. These deficiencies have been explored in the main issues set out above.**
134. **The Council has requested that I recommend main modifications to make the Plan sound and legally compliant and capable of adoption. I conclude that with the recommended main modifications, set out in the Appendix, the Leeds Natural Resources and Waste Local Plan satisfies the requirements of Section 20(5) of the 2004 Act and meets the criteria for soundness in the National Planning Policy Framework.**

*M Middleton*

### **Inspector**

This report is accompanied by an Appendix containing the Main Modifications.