

Report of the Director of City Development

Report to: Development Plan Panel

Date: 3rd April 2012

Subject: Natural Resources & Waste Development Plan Document – “Post Submission Changes”

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

Summary of main issues

1. The Natural Resources & Waste Development Plan Document (DPD) is one of a number of planning documents currently being prepared as part of the Local Development Framework (LDF). The preparation of this document has been driven by the requirements of national planning guidance (PPS10), the implications of European Waste Management Directives, the City Council’s commitments to managing environmental resources and tackling climate change and the need to identify sufficient sites for waste management activities (aligned to the Council’s own municipal waste strategy).
2. At the Full Council meeting on 6th April 2011, and subsequent to the recommendation by Executive Board Members on the 30th March 2011, Members agreed to the formal Submission of the Natural Resources and Waste DPD to the Secretary of State for independent Examination in Public. The DPD was submitted to the Secretary of State on 25th July 2011 and an independent Inspector, Mr Melvyn Middleton BA (ECON) MRTPI, as appointed to examine the DPD for soundness. The Examination in Public took place from 15th November to 8th December 2011 as a result of which a number of minor changes to the DPD were proposed. Officers of the Council have subsequently received correspondence

from the Inspector (attached) advising that further changes are required to the DPD in order to make it 'sound'.

Recommendations

Development Plan Panel is requested to consider this report and recommend that Executive Board is asked to agree the attached Post Submission Schedule of Changes for a 6 week period of public consultation, and to authorise the Director of City Development to take such steps as he considers necessary to progress the DPD in the light of any representations received and the Inspector's considerations of these, prior to the Inspector issuing his report.

1.0 Purpose of this Report

- 1.1 Following the Examination in Public of the Natural Resources and Waste Development Plan Document from 15th November to 8th December 2011, Executive Board is requested to agree a 6 week public consultation into the Post Submission Schedule of Changes.

2.0 Background Information

- 2.1 Within the context of national guidance (PPS10), European Directives and a range of City Council strategies (including municipal waste and climate change), the Natural Resources and Waste DPD has been in production since 2007. It should be noted also, that the Department of Communities & Local Government's Chief Planning Officer wrote to all LPAs to urge progress in the preparation and adoption of 'Waste DPDs, as the Government have announced that they intend to pass on fines under the European Directives to the offending Authorities, where such plans have not been prepared.
- 2.2 The Natural Resources and Waste DPD has been subject to previous consultations with the aim of achieving consensus on, or 'front-loading', the policies of the DPD. Consultation on an Issues & Alternative Options document took place in May – June 2008. This was subsequently followed by a further 6 week period of public consultation (18th January – 1st March 2010) on a 'Policy Position' document and an 8 week period of consultation on the Publication draft (15th December – 9th February), following consideration of the consultation material at the Development Plan Panel (12th October 2010) and Executive Board (3rd November 2010).
- 2.3 The Publication Draft and First Schedule of Changes were approved for formal Submission to the Secretary of State by Full Council on 6th April 2011 (subsequent to the recommendation by Executive Board on the 30th March 2011). The DPD was submitted to the Secretary of State on 25th July 2011 and an independent Inspector, Mr Melvyn Middleton BA (ECON) MRTPI, was appointed to examine the DPD for soundness. The Examination in Public took place from 15th November to 8th December 2011 as a result of which a number of minor changes to the DPD were proposed. Officers of the Council have subsequently received correspondence from the Inspector advising that further changes are required to the DPD in order to make it 'sound'.
- 2.4 These changes have been included in the attached Post Submission Schedule of Changes. They are the changes that arose during the Examination process as a result of the need to pass the 'Tests of Soundness' as set down in the PDF Regulations. The Council will not be able to adopt the DID unless it has been found to be 'sound' by an independent Inspector.

3.0 Main Issues

- 3.1 The Natural Resources & Waste DPD 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, it is also envisaged that the document will have an influencing role in supporting the City Council's wider strategic objectives for the environment.

3.2 A number of key issues have emerged, which are addressed through the document. These include:

- 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 activity, including site specific allocations, (whilst seeking to reduce waste raisings overall)
- Seeking to reduce flood risk, through mitigation and adaptation, in taking into account the effects of climate change.

3.3 Examination in Public into the DPD took place from 15th November to 8th December 2011. Key attendees included the Mineral Products Association, British Waterways and North Yorkshire County Council. The Inspector thoroughly explored the issues raised by objectors and also other issues that he had identified as needing further investigation. The Inspector wrote to the Council on 14th December to advise us that a number of changes were required to the DPD in order to make it 'sound' (letter attached as Appendix 1). This included a recommendation that the Mineral Safeguarding Area for sand and gravel should be extended to include parts of the urban area. The Council wrote back to the Inspector on 18th January explaining our concerns with some of the things that he was suggesting (this letter is attached as Appendix 2). Primarily we were concerned that a requirement to consider prior extraction on development sites might deter developers by creating uncertainty and additional costs or slow down delivery of other important objectives on employment and housing.

3.4 The Council also sought legal advice on the Inspector's recommendations. The response from Counsel was that it was not unreasonable for the Inspector to seek these changes to the plan. Counsel advised that the Council ran a serious risk of the DPD being found unsound if we did not do as the Inspector recommended. A final reply came back from the Inspector on the 8th February (attached as Appendix 3). The Inspector reaffirmed that changes were required however he did suggest some ways that the changes could be progressed in a way that took account of the Council's concerns. Since receiving the Inspector's correspondence the Chief Executive has raised our concerns at a senior level with Communities and Local Government and there has also been correspondence with the Secretary of State. The response on both counts was that whilst economic objectives are important, so are minerals and MSAs are the best way to ensure that minerals are not needlessly sterilized. It is reasonable to conclude that the Council has little or no option but to incorporate the changes advocated by the Inspector if it wishes to progress to an adopted plan.

- 3.5 The Natural Resources and Waste DPD is vitally important for the future of Leeds, it provides sufficient sites to enable us to manage all our waste for the next 15 years and thereby avoid penalties from the European Union and it sets out sufficient locations where minerals should be extracted from and thereby reduces pressure on other locations that we want to protect. It has a whole suite of policies designed to help us manage flood risk and contains the LDF's only policy on air quality. Additionally, the DPD has reached a very advanced stage now and has generally achieved a very high level of consensus and support. For these reasons a new MSA policy has been written which attempts to deal with the Inspectors recommendations in a sensible way, enabling the DPD to be found sound but not creating a burden for developers. We have done this by defining the sand and gravel MSA as only the area most likely to have viable deposits and not the whole resource, by writing a criteria policy with a 1 hectare threshold, recognising that the need for and benefits of development might outweigh those associated with sand and gravel and by not including buffer zones in the policy.
- 3.6 The complete list of Post Submission Schedule of Changes is attached to this report as Appendix 4. The majority are minor word changes however a very small number are more significant and these are summarised below:

Key Issues in the Post Submission Schedule of Changes

1. Inclusion of Leeds targets for waste arisings until 2026.
The Regional Spatial Strategy included waste arisings till 2021 so the DPD also included waste arising till 2021. The Inspector asked for targets to be shown till 2026 as the Plan period is until 2026. The proposed changes therefore include annual targets that have been extrapolated to 2026.
2. Inclusion of Leeds targets for aggregates until 2026.
The Inspector asked for the DPD to include targets for sand and gravel and for crushed rock till 2026, to show how the District proposed to meet the Leeds share of the Sub-regional apportionment for West Yorkshire.
3. The re-drawing of the Mineral Safeguarding Areas (MSAs) for sand and gravel to include urban areas along the Aire Valley but excluding the tributaries.
This is accompanied by the re-drafting of the Minerals 2 Mineral Safeguarding Area Policy to include a policy specific to coal and a policy specific to sand and gravel. The sand and gravel MSA policy only applies to sites over 1 hectare in size and the text explains that there are unlikely to be many instances where prior extraction would actually be viable.
4. A new criteria-based policy for assessing planning applications for alternative uses on safeguarded and allocated wharves and rail sidings.
5. Minor word changes to Policy Minerals 5 Limiting Sand and Gravel Extraction in the Wharfe Valley. The original wording stated:

'Proposals for the extraction of sand and gravel within the area to the east of Pool in the Wharfe Valley will be resisted.'

The proposed word change is:

'It is unlikely that proposals for the extraction of sand and gravel within the area to the east of Pool in the Wharfe Valley will be supported.'

This still delivers the same message but is more factually correct.

4.0 Corporate Considerations

As noted above, the Natural Resources & Waste DPD, forms part of the Local Development Framework and once adopted will form part of the Development Plan for Leeds.

4.1 Consultation and Engagement

4.1.1 The Natural Resources and Waste DPD has been subjected to a number of public consultation exercises as part of its preparation and as required by the LDF Regulations. The Independent Inspector who is examining the DPD has indicated that he is content with the public consultation that has been undertaken so far. The Post Submission Schedule of Changes are changes that have arisen during the Examination process and therefore also need to be subject to a 6 week period of public consultation. Responses to the consultation will be sent to the Inspector and considered by him.

4.2 Equality and Diversity / Cohesion and Integration

4.2.1 An Equality Impact Assessment Screening was carried on the Natural Resources and Waste DPD and submitted with the DPD to the Secretary of State for Examination. The Post Submission Changes are changes to the main DPD and do not result in any specific implications for equality and diversity / cohesion and integration. The EIA Screening Report is one of the background documents to this report.

4.3 Council Policies and City Priorities

4.3.1 The Natural Resources and Waste DPD allocates the wholesale market site as a strategic waste site and therefore supports the delivery of the Council's Residual Waste PFI which is a key priority for the Council.

4.4 Resources and value for money

4.4.1 The DPD is being prepared within the context of the LDF Regulations, statutory requirements and within existing resources. There are no specific resource implications for the City Council arising from the consultation since it will largely be handled by the Planning Inspector and Programme Officer.

4.5 Legal Implications, Access to Information and Call In

- 4.5.1 The Natural Resources and Waste DPD enables Leeds City Council to comply with the requirements of the European Waste Directive and thereby avoid penalties incurred for non-compliance. The DPD is being prepared within the context of the LDF Regulations and statutory requirements. The DPD is a Budgetary and Policy Framework document and as such this report is exempt from call-in by Scrutiny.

4.6 Risk Management

- 4.6.1 Without the changes in the Post Submission Schedule of Changes the Natural Resources and Waste DPD is not likely to be found sound and the Council would not be able to adopt it. This would create uncertainty over how and when the matters covered in the DPD would otherwise be addressed through the LDF. It would also expose the Council to potential EU penalties.

5. Conclusions

- 5.1 The preparation of the Natural Resources and Waste DPD has been through several phases of consultation and Examination by an independent Inspector. The Post Submission Schedule of Changes represent the changes that the Inspector has indicated are necessary in order to make the DPD sound. The 6 week consultation on the changes is a necessary requirement of the LDF Regulations. It will be for the Inspector to consider any new representations received as a result of re-consultation. He may decide to reopen the Hearing Sessions as a result or may simply have regard to these in his report. When that point is reached the conclusions and recommendations of the Inspector will be reported back to Executive Board.

6. Recommendations

- 6.1 Development Plan Panel is requested to consider this report and recommend that Executive Board is asked to agree the attached Post Submission Schedule of Changes for a 6 week period of public consultation, and to authorise the Director of City Development to take such steps as he considers necessary to progress the DID in the light of any representations received and the Inspector's considerations of these, prior to the Inspector issuing his report.

7. Background documents¹

- 7.1 A substantial number of documents are available representing various stages in preparation of the DPD and the background evidence base and Equalities Impact Assessment Screening. A Sustainability Appraisal / Strategic Environmental Assessment (SA/SEA) of the post submission changes has also been completed. These are all available on the Natural

¹ The background documents listed in this section are available for inspection on request for a period of four years following the date of the relevant meeting. Accordingly this list does not include documents containing exempt or confidential information, or any published works. Requests to inspect any background documents should be submitted to the report author.

Resources and Waste DPD web pages or by contacting David Feeney on Leeds 2474539.

Appendices

Appendix 1 Letter from Mr Middleton to Leeds City Council 14.12.11

Appendix 2 Letter from Leeds City Council to Mr Middleton 18.1.12

Appendix 3 letter from Mr Middleton to Leeds City Council 8.2.12

Appendix 4 Schedule of Post Submission Changes including maps