

Decision maker:	Cabinet member infrastructure
Decision date:	11 January 2019
Title of report:	Draft Minerals & Waste Plan consultation
Report by:	Senior planning officer

Classification

Open

Decision type

Non-key

Wards affected

All wards

Purpose and summary

To approve a 6 week public consultation for the draft Minerals and Waste Local Plan.

The Minerals and Waste Local Plan (MWLP) is an element of the Herefordshire Local Plan. It will align with the principles and strategic direction established in the Core Strategy, providing the council's preferred strategy and planning policy framework for meeting the county's minerals and waste management needs up to 2031 and beyond.

Recommendation(s)

That:

the draft Minerals and Waste Local Plan (appendices 1 and 2) and its supporting documents (appendices 3 - 7) are approved for the purpose of public consultation.

Alternative option

1. To abandon preparation of updated minerals and waste policies and continue taking guidance from the saved UDP policies. This is not recommended because the document is a required element of the Local Development Scheme and, when adopted, will form part of the Herefordshire Local Plan.

Key considerations

- 2 Minerals and waste management infrastructure are essential to support a modern economy. Minerals provide many of the raw material necessary for construction, energy and industry and are therefore essential in helping to sustain economic growth. Dealing with waste is a major challenge for society and needs to be addressed alongside other initiatives to improve the sustainability of our environment and economy. Managing waste and making the most of re-use and recycling has the benefits of reducing the amount of natural resource that are consumed and reducing the amount of waste being landfilled.
- 3 Once adopted, the MWLP will form part of the statutory development plan for the area. Its main purpose will be to provide guidance to developers, local communities and other interested parties on where and when minerals and waste development may be expected over the plan period, as well as how such development will be managed to reduce adverse impacts and maximise benefits. As part of the statutory development plan, the council will use it, along with the Core Strategy, as the starting point for decisions on planning applications for development relating to these activities.
- 4 Not to progress the MWLP would leave the council in a position where the extant Unitary Development Plan policies are out of date. This would be contrary to the recommendation of the Assistant Inspector in 2015 during the Core Strategy examination. The approach to minerals supply and waste management provision should be considered in line with the revised National Planning Policy Framework (NPPF), the National Planning Policy for Waste and all relevant policy guidance, to ensure that Herefordshire has a modern policy framework in place.
5. Work to produce the MWLP began with an initial call for minerals and waste sites in 2016. Minerals and Waste Needs Assessments were prepared in 2017. These documents accompanied an Issues and Options Report through public consultation, carried out during 14 August to 16 October 2017. A second call for sites was held concurrently. Throughout autumn and winter 2017/18, the responses to the Issues and Options Report were reviewed and site analysis was undertaken. The Minerals and Waste Needs Assessments were updated for a second time. (See https://www.herefordshire.gov.uk/downloads/download/101/minerals_and_waste_documents)
6. A Spatial Context and Sites Report was prepared in 2018, which addresses matters relevant to the spatial context of the MWLP and identifies those sites that should be allocated for future development (see background papers). It incorporates discussion of spatial and site related responses made to the Issues and Options Report. In addition, a paper entitled Preparing the Draft Plan was produced in the same year, which reports on all other matters relevant to understanding how the draft MWLP has been prepared and the policies drafted. This Preparing the Draft Plan report addresses the following:
 - Non-spatial or site relevant responses to the Issues and Options Report;
 - The relationship between the Core Strategy and the MWLP;
 - The sites and locations identified to be appropriate to allocate for mineral development against forecast demand;
 - The sites and locations identified to be appropriate to allocate for waste development against the forecast demand;
 - Actions undertaken to date under the Duty to Cooperate; and
 - The consequent structure of the MWLP.

7. The different types of issues and challenges that need to be addressed through the MWLP are summarised in the tables below.

Minerals
<ul style="list-style-type: none"> • Ensuring a continuity of minerals supply to meet the social and economic needs of the county up to 2031, taking account of cross-boundary supply challenges.
<ul style="list-style-type: none"> • Maximising the use of alternative sources of supply of minerals, such as secondary and recycled aggregate, to reduce the demand for primary land-won minerals.
<ul style="list-style-type: none"> • Maintaining the required landbanks for sand and gravel and crushed rock but, as far as practicable, providing for these outside the Areas of Outstanding Natural Beauty.
<ul style="list-style-type: none"> • Continuing to provide a supply of building stone for the repair and maintenance of Herefordshire's traditional buildings and for new build development.
<ul style="list-style-type: none"> • Considering how to address the potential positive and negative impacts of exploiting unconventional hydrocarbon resources, such as shale gas, as well as planning for conventional forms of energy minerals.
<ul style="list-style-type: none"> • Safeguarding important minerals resources and infrastructure from sterilisation by other uses in order to meet local and regional needs by current and future generations.
<ul style="list-style-type: none"> • Ensuring there are sufficient safeguards in place to minimise the impacts of minerals extraction on communities, the environment and other important assets.
<ul style="list-style-type: none"> • Providing for a range of enhancements, including ecological services and biodiversity, particularly through reclamation workings.
<ul style="list-style-type: none"> • Developing an appropriate locational strategy for minerals supply, reflecting, where practicable, the likely levels of economic and housing growth and future requirements for minerals.

Waste
<ul style="list-style-type: none"> ▪ Enabling a circular economy to develop within Herefordshire and considering opportunities to co-locate waste management facilities with complementary uses.
<ul style="list-style-type: none"> ▪ Promoting the management of waste further up the waste hierarchy i.e. reducing the amount going to landfill and encouraging the re-use, recycling, composting and recovery of waste, as well as supporting an overall reduction in the generation of waste.
<ul style="list-style-type: none"> ▪ Developing an appropriate locational strategy for new waste management facilities, reflecting, where practicable, the likely levels of economic and housing growth and future requirements.
<ul style="list-style-type: none"> ▪ Supporting the delivery of additional waste management capacity expected to be required, taking account of cross-boundary movements, where relevant.

- Incorporating flexibility to reflect uncertainties resulting from waste data limitations and evolving technologies and practice.
- Ensuring there are sufficient safeguards in place to minimise the local impacts of waste management on communities, the environment and other important assets.

General	
○	Establishing policies that are appropriate across the diverse characteristics of the plan area.
○	Developing an appropriate approach to the protection and enhancement of the plan's area's important landscapes and natural and heritage assets.
○	Ensuring minerals and waste development contributes to and supports economic growth both within the plan area and nationally, including the employment opportunities that they provide.
○	Seeking to reduce carbon emissions, particularly in relation to the transportation of minerals and waste, promoting re-use and recycling of materials and recovery of energy from waste; and providing opportunities to assist in adapting to the effects of climate change, such as reducing flood risk and enhancing habitat connectivity.
○	Considering accessibility to major transportation networks and sustainable transport infrastructure, recognising the constraints and opportunities for the movement of minerals or waste.
○	Recognising the potential for mutually beneficial links between minerals and waste activities, such as utilising specific waste streams in the sustainable reclamation of mineral workings.
○	Ensuring that an element of flexibility is built into the draft MWLP.

8. The draft Herefordshire MWLP sets out the council's preferred strategy for meeting the county's minerals and waste management needs until 2031 and beyond. It is not the final plan, but represents the council's preferred approach, based on the evidence and the results of the previous early-stage consultations as described above.
9. At this point in the plan's preparation, we are seeking views on the appropriateness of its approach and content. The draft MWLP has been prepared to meet the tests of soundness set out in the NPPF, which expect that local plans should be positively prepared, justified, effective and consistent with national policy. In pursuance of this, papers (as discussed above) have been produced which provide evidence for the suitability of the policy approach taken and these will be available to view on the council's web pages as part of the public consultation.
10. The Town & Country Planning (Local Planning) (England) Regulations 2012 (as amended) set out those bodies that the council must consult when preparing development plan documents. For example, the Environment Agency, Natural England, Highways England, adjoining local authorities and local parishes, amongst others. In addition, a database of consultees is used. This contains local business with an interest in the subject matter and those individual or bodies who have previously commented or expressed an interest in the MWLP. The plan will be more relevant to some groups than others and this will be taken into consideration when compiling the list of direct consultees to be contacted.

Correspondence will be sent out to residents and business owners based across the county, with the aim of capturing responses from as broad a geographic range of consultees as possible, whilst also targeting those who are likely to be most affected by the MWLP's policies and proposals.

- 11 The six-week long consultation will be carried out in accordance with the Statement of Community Involvement 2017, which sets out how the council will engage with the community in respect of planning matters. Consultation methods will be primarily via electronic communication in order to reach as wide an audience as possible (council's website, email and social media). In addition, there will be formal advertisements in the local press and press releases, and the documents will be made available for inspection at appropriate locations and on the web. The minimum requirements, including those who need to be consulted are set out in the council's Statement of Community Involvement https://www.herefordshire.gov.uk/info/200185/local_plan/143/statement_of_community_involvement
- 12 A public exhibition will form part of the consultation, as will a targeted presentation and discussion event with invited stakeholders, industry and affected parish representatives. There will be opportunities for members of the community to gather information about the MWLP and speak face to face with representatives from the council.
- 13 The council will keep a record of all consultation responses received and make these publicly available.
- 14 The responses received to this draft MWLP consultation will inform preparation of the Pre-submission MWLP, likely to be approved by Council in July 2019, which will subsequently be submitted for examination in public by an independent planning inspector (end of 2019 or early in 2020)

Community impact

- 15 The MWLP will directly contribute to the corporate plan priority of supporting the growth of the local economy and helping to ensure a safe and attractive environment for residents, workers and visitors.
- 16 The Statement of Community Involvement identifies groups considered to be more of a challenge to engage with and sets out suggested methods to achieve greatest participation. A range of approaches will be used in order to ensure these groups have equal opportunity to contribute.

Equality duty

- 17 Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to –

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 18 In order to ensure that due regard for equality and diversity is met, the following measures will be taken:
- the list of consultees will include a broad cross-section of society, as well as key organisations representing minority groups; and
 - contact details will be publicised for anyone needing further assistance or information in an alternative format.

Resource implications

- 19 Sufficient budget is available to prepare the full suite of local plan documents, of which the MWLP is one. The costs of draft document consultation will be kept to a minimum with the use of electronic communication where possible. The main cost will be associated with printing and exhibition materials/ room booking and is unlikely to exceed one thousand pounds.

Legal implications

- 20 The Cabinet member infrastructure has delegated authority from Cabinet in exercise of its functions under Part 3 Section 3 of the constitution for formulating or preparing the documents consisting of the budget and policy framework: policy which includes DPDs pursuant to Section 15 of the Planning and Compulsory Purchase Act 2004 (as amended). The subsequent adoption thereof is a Council function under Part 3 Section 1.
- 21 The Town and Country Planning Act 1990 confers statutory obligations on Herefordshire Council as the local planning authority for the administrative area of Herefordshire.
- 22 Sections 15 and 16 of the Planning and Compulsory Purchase Act 2004 (as amended by the Localism Act 2011) places a duty on local planning authorities to prepare a Minerals and Waste Development Scheme which will specify documents such as proposals and policies to guide minerals and waste related planning decisions to be produced for the area, including the MWLP. The MWLP is required to take account of national government policy and planning practice guidance when being formulated, including the NPPF and Guidance Local Plans.
- 23 Section 20 of the Planning and Compulsory Purchase Act 2004 (as amended) requires the MWLP to be submitted to the Secretary of State for independent examination, once the council is satisfied it has complied with procedural requirements on preparation, publication and consultation (regulations 18-20) as laid out in the Town and Country Planning (Local Development) (England) Regulations 2012 (as amended). This report recommends the resolution be made to commence consultation on the MWLP in accordance with the regulations.

Risk management

Risk / opportunity	Mitigation
<ul style="list-style-type: none"> Financial: representations received during the consultation may highlight areas where additional evidence should be considered. This could result in slippage to production timetables and additional resource requirements. 	<ul style="list-style-type: none"> Additional funding may need to be considered to ensure that unforeseen highlighted issues have been taken into account during the Draft MWLP's production. Engage with specialist advisors.
<ul style="list-style-type: none"> Procedural: introduction of new Government guidance on minerals and waste planning during the plan's production journey. 	<ul style="list-style-type: none"> Keep up to date with changes as and when they occur and respond to them in a timely fashion.
<ul style="list-style-type: none"> Procedural: not progressing with the production of the Draft MWLP would be contrary to the recommendation of the Assistant Inspector (during the examination of the Core Strategy) and would leave the council in a position where the saved Unitary Development Plan policies are considerably out of date, effectively creating a policy vacuum. 	<ul style="list-style-type: none"> Continue with the development of the MWLP in accordance with regulatory requirements.

24 These risks will be managed at service level.

Consultees

25 The process of preparing the draft plan has been subject to consideration by a general scrutiny committee panel – consisting of a range of elected members. The engagement of the panel will continue following the completion of the consultation on the draft MWLP. The panel will report to the general scrutiny committee upon completion of their review of evidence received. The general scrutiny committee may then seek to make recommendations to go forward for consideration by the executive, prior to the approval of the pre-submission plan at full Council.

26 In pursuance of the regulatory requirements to consult and cooperate with adjacent minerals and waste planning authorities on cross-boundary matters, officers have discussed Herefordshire's approach to evidence gathering and policy making with members of both relevant West Midlands organisations (which include representatives from industry and statutory bodies such as the Environment Agency) and, more specifically, with officers of Worcestershire, Gloucestershire, Shropshire and Powys councils. Two memoranda of understanding are currently in the process of being drawn up to formalise the agreed approaches to minerals and waste matters between these authorities, outlining agreement on data collection, sharing and monitoring and ongoing consideration of cross-boundary movements of minerals and waste. There are no specific minerals or waste issues of concern between the authorities with regard to Herefordshire's emerging minerals and waste planning policy approach. The memoranda will need to be completed and signed off prior to the submission of the plan to the secretary of state.

27 Representations made to this consultation on the Draft MWLP will be published on the council website, along with supporting documentation.

Appendices

Appendix 1 – Draft Minerals & Waste Local Plan (November 2018)

Appendix 2 – Draft MWLP Annex A: Allocated Sites and the Key Development Criteria (November 2018)

Appendix 3 – Spatial Context and Sites Report (Jan 2018)

Appendix 4 – Preparing the Draft Plan (Nov 2018)

Appendix 5 – Annex A to Preparing the Draft Plan (Nov 2018)

Appendix 6 – Annex B to Preparing the Draft Plan (Nov 2018)

Appendix 7 – Annex C to Preparing the Draft Plan (Nov 2018)

Background papers

Issues and Options Report and related papers can be found on this link:

https://www.herefordshire.gov.uk/consultations/article/10049/minerals_and_waste_local_plan_mwlp_issues_and_options_consultation

Statement of Community Involvement

https://www.herefordshire.gov.uk/info/200185/local_plan/143/statement_of_community_involvement