

Supplement to the agenda for

Cabinet

Tuesday 1 December 2020

6.00 pm

online meeting

6. MINERALS AND WASTE LOCAL PLAN (MWLP)

Pages

3 - 20

1. Responses to Herefordshire MWLP since General Scrutiny Committee

Introduction

1. Since the General Scrutiny Committee was held (on 28 September 2020) the Minerals and Waste Local Plan (MWLP) making team has received 3 responses:
 - Habitats Regulations Assessment, by consultants LUC, received 12 November 2020 (HRA 2020);
 - Sustainability Appraisal (incorporating Strategic Environmental Assessment) by consultants LUC, received 12 November 2020 (SA 2020); and
 - Informal, without prejudice comment from Natural England (NE), by emails dated 13 and 17 November.
2. In this report KDC has been used as the abbreviation for key development criteria, the site specific areas of focus that are assigned to each of the allocated sites.

Habitats Regulations Assessment

3. Chapter 5 of the HRA 2020 presents a series of recommendations for the P'Draft MWLP, which can be summarised as:
 - amending the KDC for Wellington Quarry to require detailed protected species surveys for Otter to determine site specific mitigation and protection measures;
 - requiring project-level/site specific HRA and targeted ecological survey for proposals located in preferred area C;
 - adding specific reference to requiring Ecological Mitigation Plans; and
 - adding reference to the potential for dust to cause adverse ecological impacts to sensitive sites and noting that this might be a reason to prompt a dust assessment.
4. All of the recommendations made in the HRA 2020 have been incorporated in the MWLP.

Sustainability Appraisal (incorporating Strategic Environmental Assessment)

5. Chapter 7 of the SA 2020 presents a series of recommendations for the P'Draft MWLP, which can be summarised as:
 - amending the KDC for Leinthall and Perton Quarries to require consideration of the level of effect on residential amenity;
 - cross-checking the KDC with the findings of the SA 2020 for historic environment;
 - updating all KDC to reflect the key recommendations of the SFRA Level 2;
 - updating the MWLP and KDC to reflect the key recommendations of the HRA 2020;
 - cross-checking the KDC with the findings of the SA 2020 for water environment;
 - cross-checking the KDC with the findings of the SA 2020 for biodiversity and geodiversity;

- updating supporting text in section 5 of the MWLP to refer to SPZ and designated waterbodies.
6. All of these recommendations have been incorporated in the MWLP.
 7. The process of undertaking the Sustainability Appraisal and preparing the MWLP is iterative, and consequently the SA report is yet to be finalised. This is because there are two recommendations made within the SA 2020 that remain under discussion to determine if they are still required:
 - Amending the KDC for Shobdon, Upper Lyde and Wellington Quarries to require demonstration that lighting will be kept to the minimum required to ensure safe working conditions on site.
 - LUC had not fully appreciated that this KDC was informed by the dark skies analysis and is not intended to be applied to all sites.
 - Amending the KDC for all sites to require consideration of the level of effect on the road network and that sites can be accessed safely.
 - LUC had not fully appreciated that this is a standard development management requirement already addressed through policy of the Core Strategy and supplemented as appropriate within the MWLP.

Comment from Natural England

8. An officer from Natural England provided without prejudice and informal review of the Preparing the Publication Draft Plan Report, focussing only section 3 'Phosphates in the River Wye SAC'.
9. Her comments were relayed to Herefordshire Council in two separate emails. The comments relate only to section 3 of the Report and require no change to the MWLP.
10. The Preparing the Publication Draft Plan Report has been amended to reflect the edits proposed.

2. Table of changes made to Herefordshire MWLP since General Scrutiny Committee

11. This table has been prepared to report all the changes that have been made to the Publication Draft Herefordshire Minerals and Waste Local Plan since its consideration at General Scrutiny Committee.
12. The amended text is shown in bold text, with new text underlined (**for example**) and deleted text crossed through (~~for example~~).
13. The table provides only those whole sentences within which a change has been made. There may be additional text either side of the sentence, but if it is not reported it has not been changed.

Event driving change	Consequent change(s) made	
	Reference	Amended text/description of the change made
General Scrutiny Committee	Paragraph 4.3.1	Consequently, waste development will be focussed at Hereford <u>and the market towns, Bromyard, Kington, Ledbury,</u> Leominster and the market towns <u>Ross-on-Wye.</u>
28 September 2020	Paragraph 5.2.6	Early consultation will enable good design throughout the life of the site to be enhanced, especially for larger scale proposals. It is expected that developers will consult ²⁶ with local communities and other stakeholders on proposals for mineral <u>and waste</u> development before the planning application is submitted.
	Including new footnote 26	<u>The Statement of Community Involvement provides details of basic expectations.</u>
	Paragraph 5.5.13	Car boot and jumble sales are probably the most common and well known form of <u>waste reuse, reusing unwanted goods.</u>
	Policy SP2/2	Development that affects a right of way or existing open space will only be <u>permitted supported</u> where it is demonstrated that:
	Policy SP4	Development that requires reclamation will only be <u>permitted supported</u> where it is demonstrated that the proposal incorporates measures for safe working and satisfactory reclamation, including its delivery, at the earliest opportunity, and phasing where appropriate, to a beneficial after-use of the required standard.
	Policy M2/1	Within the minerals safeguarding areas, non-minerals development will only be <u>permitted supported</u> in the following circumstances:
	Policy M3/2	In order of preference, sand and gravel extraction shall be <u>permitted supported</u> at the following locations:

Policy M3/3	Only where it is demonstrated to be necessary to maintain an adequate landbank or there is a shortfall in production capacity available at the Specific Sites or Preferred Areas of Search, will sand and gravel extraction will be permitted-supported in any other area of reserve.
Policy M4/2	In order of preference, crushed rock extraction shall be permitted supported at the following locations:
Policy M4/3	Only where it is demonstrated to be necessary in order to maintain an adequate landbank or there is a shortfall in production capacity available at the Specific Sites or Preferred Areas of Search, will limestone extraction be permitted supported in any other area of reserve
Policy M5/1	In order to maintain an adequate supply of sandstone to preserve local distinctiveness within Herefordshire, proposals will be permitted supported for: <ul style="list-style-type: none"> a. the extension of time for completion of extraction at permitted consented sandstone extraction sites; b. the lateral extension and/or deepening of workings at the following permitted consented sandstone extraction sites, subject to the key development criteria set out at Appendix A:
Policy M5/2	The working of sandstone at the above locations will be permitted-supported where:
Policy M6	Proposals for the development of borrow pits will be permitted supported where:
Policy W3/1	Planning permission for livestock units on agricultural holdings will be permitted-supported where it is demonstrated through a waste management method statement that:
Policy W3/2	Anaerobic digestion will be permitted supported where its use is primarily intended to manage natural wastes generated on the agricultural unit within which it is located.
Policy W7/1	Facilities for the reuse, recycling or recovery of materials shall be permitted-supported where it is demonstrated that the proposed development will enable delivery of the waste hierarchy and/or make a positive contribution to achieving the circular economy in Herefordshire.
Policy W7/2	Facilities for the recovery of energy shall only be permitted supported where it is demonstrated:
Policy W7/3	Proposals for new landfill or landraising facilities or extensions to existing facilities shall be permitted supported where it is demonstrated that the proposed development will enable delivery of the waste hierarchy and the proposal incorporates measures for safe working and satisfactory reclamation, particularly in accordance with policy SP4.
Table 3	All references to ' permitted ', amended to consented

Cabinet Feeder Meeting	Paragraph 1.2.3	As appropriate at the time to ensure COVID19 guidance is fulfilled, p Paper copies of the documents will be available to view at the Herefordshire Customer Service Centre, Blueschool House, Blueschool Street, Hereford, HR1 2LX and at the following libraries:
12 November 2020	Paragraph 1.2.4	Please check the council's website for details of library opening hours and document availability.
	Paragraph 1.2.7	The closing date for representations is 1700 hours on DATE 2020 1 SUGGEST IT IS A SUNDAY?.
	Paragraph 2.4.10	The updated need assessments were finalised in November 2018 and accompanied the consultation on the Draft MWLP.
	New paragraph 3.3.11	<u>In 2019, this legislative framework was extended by the UK wide target to bring all greenhouse gas emissions to net zero by 2050. Net zero means any emissions would be balanced by schemes to offset an equivalent amount of greenhouse gases from the atmosphere, such as planting trees or using technology like carbon capture and storage.</u> ¹²
	Including new footnote 12	<u>https://www.gov.uk/government/news/uk-becomes-first-major-economy-to-pass-net-zero-emissions-law</u>
	Former paragraph 3.3.11 became 3.3.12	Similarly the T The Government's 25 Year Environment Plan ¹³ (2018) presents policy relevant to both minerals and waste development as it sets out the priority actions intended to ' <i>help the natural world regain and retain good health.</i> '
	New paragraph 3.3.25	<u>Herefordshire Council's third Carbon Management Plan is titled 'Pathway to Carbon Neutral Carbon Management Plan 2020/21-2025/26'. It sets out the council's targets and achievements towards being carbon neutral by 2030. In addition, a new countywide Climate Emergency Steering Group was set up in 2019 to work collaboratively to develop an action plan to get Herefordshire to net zero carbon by 2030. The group includes representatives from environment, business and community sectors including Herefordshire Wildlife Trust, Hereford Green Network, Extinction Rebellion and Herefordshire Council.</u>
	Paragraph 3.3.32 (formerly 3.3.31)	<u>This document will undergo review and updates through the lifetime of the MWLP.</u>
	Paragraph 5.5.9	Examples of waste prevention include designing and buying goods without packaging, using/purchasing only the materials/services required and subsequently disposing of less waste.

	Policy W3/3	All development proposals will be required to demonstrate the approach undertaken within that unit that contributes to achieving nutrient neutrality, or betterment, within the River Wye SAC will be required with all development proposals.
HRA and SA/SEA Reports	Paragraph 2.4.18	Habitats Regulations Assessment (HRA) has been used to assess the emerging MWLP to assess whether there would be likely significant effects on sites of international importance for wildlife (European designated sites).
12 November 2020	Paragraph 5.4.10	A management strategy associated with a minerals or waste development should include an Ecological Mitigation Plan appropriate to the development proposed. The Ecological Mitigation Plan should specify working methods, timings and buffers may include a buffer within the development site to protect vulnerable features, including European sites.
	Paragraph 5.7.6	Dust can also cause adverse ecological impacts to sensitive sites.
	Paragraph 5.7.7	A dust assessment will be required where fugitive dust emissions are likely to cause a nuisance or significant adverse ecological impact ; atmospheric dispersion modelling may be required to determine whether there is a risk of health effects due to dust emissions.
	New paragraph 5.9.2	The Environment Agency has defined Source Protection Zones for groundwater sources such as wells, boreholes and springs used for public drinking water supply. These zones show the risk of contamination from any activities that might cause pollution in the area; in short, the closer the activity, the greater the risk. Environment Agency mapping shows the three main zones (inner, outer and total catchment) and a fourth zone of special interest, which is occasionally applied.
	Paragraph 6.2.9	There is no key development criteria for the preferred areas of search; they are too extensive. However, this does not mean that development proposals within these areas will not be subject to the same level of scrutiny. Not least the Habitats Regulations Assessment undertaken of this plan recommends that any development proposal located within Area C should be accompanied by project level Habitats Regulation Assessment and targeted ecological surveys.
	Appendix A – Wellington Quarry KDC	Otter: Detail protected species survey required to determine any site-specific mitigation and protection measures

	Appendix A – Leinthall Quarry KDC	<u>Sensitive properties: Need to demonstrate the level of effect on the amenity, health & safety and environment of nearby sensitive properties (housing)</u>
	Appendix A – Perton Quarry KDC	<u>Sensitive properties: Need to demonstrate the level of effect on the amenity, health & safety and environment of nearby sensitive properties (housing)</u>
Natural England, informal email responses	No changes made to the MWLP. The only changes made were clarifications/updates to the Preparing the Publication Draft Plan Report.	
13 and 17 November 2020		
Updated Figure 1 received	Figure 1	Updated
18 November 2020		

Notes

HRA = Habitats Regulations Assessment

SA/SEA = Sustainability Appraisal/ Strategic Environmental Assessment

KDC = Key Development Criteria

Date: 30 November 2020

- Herefordshire Minerals and Waste Local Plan

Publication Draft

- Cabinet Meeting

1 December 2020

Introduction to the MWLP

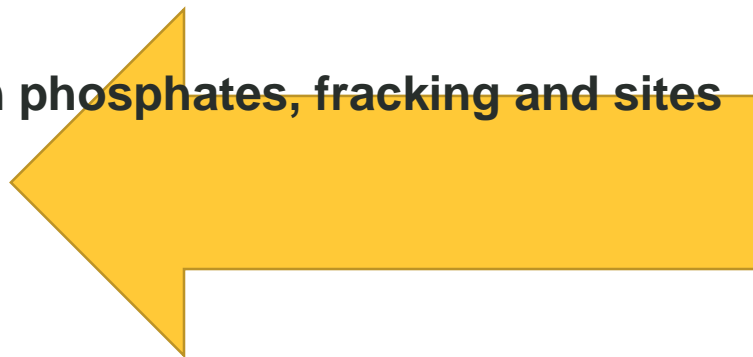
- Part of the development plan
 - Sits beneath Core Strategy
 - Minerals can only be worked where they are found
 - Waste should be integrated as a key element of infrastructure
- Policy framework
 - How much development should be provided
 - Where sites should be located
 - Key requirements for development
- Content
 - Introduction and Herefordshire context
 - Vision, Objectives and Spatial Strategy
 - Strategic Policy and General Principles, including development management
 - Minerals: strategy and site locations
 - Waste: strategy and site locations
 - Delivery, Implementation and Monitoring

Preparation of the MWLP

- Collate the evidence base
 - other policy
 - need assessments
 - consultation
- Call for sites and Issues and Options Report, July 2017
- Refreshed evidence base and Draft Plan, January to March 2019

- **Refreshed evidence base; updates on phosphates, fracking and sites**
- **Publication Draft Plan**
- **Consultation** ... planned for early 2021

- Examination
- Adoption



Key updates and issues addressed in Publication Draft MWLP

- Core Strategy
- Unconventional hydrocarbons
- Phosphates in River Wye SAC and agricultural waste
- Site allocations and Historic England
- ¹⁴• Environment Agency
- Minerals and Waste Needs Assessments
- Strategic Flood Risk Assessment, Dark Skies

Core Strategy, Sites and EA

- Core Strategy

- Respondents considered inappropriate lead policy
- Evidence base of Core Strategy has been reviewed, remains relevant to MWLP
- Bespoke updated evidence base for MWLP
- Plan making teams remain in dialogue

- Sites

- Historic England sought greater specificity and other site comments received
- Supplementary site assessment work has been undertaken
- Site allocations reviewed and updated to amend any errors, reflect additional data gathered and make more accessible

- Environment Agency

- Statutory consultee made wide ranging comments
- All have been considered carefully and in discussion with relevant officers within Herefordshire Council, some changes have been made

Unconventional hydrocarbons

- Identified as key issue at Issues and Options
 - Cabinet resolution of 16 December 2016
- Petroleum Exploration and Development Licence (PEDL) SO51a
 - Coalbed methane located in south of the county
 - OGA confirmed PEDL not taken up and not awarded (March 2018)
- National Planning Policy Framework
 - 2012 - neutral
 - 2018 - promoted unconventional hydrocarbons
 - May 2019 - promotion text removed by MWS
- MWLP policy
 - Draft Plan – draft policy M7 directed development of unconventional hydrocarbons
 - Publication Draft Plan – draft policy M1 restricts development of unconventional hydrocarbons

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Phosphates in River Wye SAC and Agricultural Waste

- Phosphates in River Wye SAC
 - Known to be exceeding conservation objectives set by NE
 - Recognised to be from two key sources: agriculture & sewage systems (housing)
 - Minerals and waste development not focus for source of phosphates, but can impact
 - Herefordshire Council part of a partnership looking to resolve the matter
 - NE seeking nutrient neutrality or betterment in relation to new development
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- MWLP
 - Is one element of the solution – but cannot do everything
 - Agricultural waste is one element of the problem - Policy W3 highly unusual
 - enable Herefordshire Council to have some control over on-farm waste management
 - requires demonstration of the approach to achieve nutrient neutrality/betterment
 - Other provisions
 - requires for nutrient neutrality/betterment to be demonstrated by minerals and waste development
 - promotes development for phosphate capture and recovery
 - requires waste water treatment plant to recover phosphate for beneficial uses
 - requires energy from waste facilities to recover phosphate for beneficial uses

Other key updates

- Minerals and Waste Need Assessments
 - Both fully updated late 2019/early 2020 with data up to 2018
 - Reviewed forecasts in light of comments received
 - Extended end date to 2041
- SFRA
 - Strategic Flood Risk Assessment Level 1 for Herefordshire
 - Strategic Flood Risk Assessment Level 2 for MWLP
- Other Assessments
 - Dark Skies
 - SEA/SA
 - HRA
- GIS mapping
 - Making digital

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Next Steps

- Approval process
 - Cabinet meeting on 1 December
 - Full Council meeting on 11 December
- Consultation in early 2021
 - Any final edits
 - Submitted for Examination
- Examination
 - Potentially late 2021
- Adoption
 - Potentially mid 2022

