

Subject:	Adoption of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Sites Plan		
Date of Meeting:	26 January 2017 19 January 2017 – Policy, Resources & Growth		
Report of:	Executive Director for Economy, Environment & Culture		
Contact Officer:	Name:	Steve Tremlett	Tel: 29-2108
	Email:	steve.tremlett@brighton-hove.gov.uk	
Ward(s) affected:	All, but particularly North Portslade, Hove Park, Rottingdean Coastal and Hollingdean & Stanmer		

FOR GENERAL RELEASE

1. PURPOSE OF REPORT AND POLICY CONTEXT

- 1.1 The purpose of this report is to inform the Policy, Resources & Growth Committee and Council of the outcome of the Public Examination of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Sites Plan (WMSP), and seek approval for the formal adoption of the Plan.
- 1.2 If adopted the WMSP will provide site specific planning policies for waste management and minerals production in East Sussex and Brighton & Hove, including that part of the South Downs National Park within East Sussex and Brighton & Hove (the Plan Area) to 2026. Combined with the adopted Waste & Minerals Plan (2013), it will complete the full 'Waste & Minerals Local Plan', and will replace the remaining saved policies in the Waste Local Plan (2006) and Minerals Local Plan (1999).

2. RECOMMENDATIONS:

That the Policy, Resources & Growth Committee recommends Council to:

- 2.1 Note the responses to the consultation on main modifications to the WMSP and contents of the Inspector's Report with his conclusion that the WMSP is legally compliant and 'sound';
- 2.2 Adopt the WMSP, incorporating the Main Modifications and minor modifications, as part of the Development Plan for the City, subject to the Head of City Planning agreeing any further minor non-material changes to the text of the Waste and Minerals Plan with East Sussex County Council and the South Downs National Park Authority.

3. CONTEXT/ BACKGROUND INFORMATION

- 3.1 Following the Council resolution on 22 October 2015, a Proposed Submission Waste and Minerals Sites Plan was published for statutory public consultation for

an eight week period commencing on 28 October 2015. The 49 representations received during this period were reported to P&R Committee in March 2016. These were submitted on 15 April 2016, alongside the Plan and supporting evidence, to the Secretary of State for independent Examination. Between 2 August and 4 August 2016, Planning Inspector Brian Cook MRTPI held public hearings at County Hall, Lewes, on aspects of the WMSP as part of the Plan's Examination.

3.2 Prior to and during the Public Examination the three authorities proposed a number of Main Modifications to the Plan. These are summarised as follows¹, with a full schedule included in Appendix 3:

- Site SP-A/A Coal Yard adjacent to Sackville Trading Estate, Hove was withdrawn from the Plan and is no longer a safeguarded waste site;
- Site SP-S/E Whitworth Road, Hastings was also withdrawn;
- The site area of S/A-Burgess Road, Hastings was extended;
- Policy wording in relation to Development Considerations and Opportunities and other Local Plans has been strengthened;
- Additional guidance has been added to indicate which specific types of waste management activities are unlikely to be acceptable / feasible on each site;
- An area known as Broomhill, near Lydd close to the East Sussex/Kent border, has been safeguarded as a mineral resource.

3.3 Following the Examination public hearings, a six week consultation on these modifications took place from 26 August to 7 October 2016. 15 responses were received and submitted to the Inspector for consideration; these are included in Appendix 4 to this report. The Inspector accepted the modifications listed in paragraph 3.2 and did not consider that any further main modifications to the Plan were necessary. The remainder of the Sites Plan is consistent with that approved at Policy & Resources Committee and Council in October 2015.

3.4 The Inspector submitted his report to the authorities on 7 November 2016 concluding that the WMSP is 'sound' and legally compliant, providing that the main modifications are made to the Plan.

3.5 A copy of the Inspector's Report is available in Appendix 1. The Report has been published for public inspection and is available to view on the Council's website. In light of the Inspector's conclusions the WMSP may now be adopted. The text of the WMSP proposed for adoption is included in Appendix 2.

3.6 In summary, the WMSP proposed for adoption identifies 18 sites in the Plan Area (the geographical area of East Sussex and Brighton & Hove) as being suitable for new waste development, although only five are specifically safeguarded for this purpose. Within Brighton & Hove, only Hangleton Bottom is safeguarded and alternative development proposals on this site would be resisted. The remainder of the Hollingdean Industrial Estate site and the former Gasworks, Roedean Road are identified as locations where new waste development might also be

¹ The first two bullet points in the list were proposed before the submission of the Plan and agreed at P&R Committee in March 2016.

suitable, although they are not safeguarded sites and the Local Planning Authority would not resist alternative development proposals.

- 3.7 Modern waste management facilities are often indistinguishable from other general industrial uses, and the WMSP reflects this by also supporting appropriate waste uses on industrial estates across the Plan Area. A Schedule of Suitable Estates has been published to accompany the WMSP and can be made available in Members' Rooms on request.
- 3.8 The Plan also safeguards minerals reserves and mineral wharf capacity at ports across the Plan Area, including Shoreham, to ensure that a steady, reliable supply of minerals is available to support new development and economic growth in the city and elsewhere.
- 3.9 Adoption of the WMSP will be considered by the South Downs National Park Authority on 31 January 2017 and East Sussex County Council on 7 February 2017. A six week period for legal challenge would then begin. If the three Authorities adopt the WMSP it will become part of the statutory Development Plan for the Plan Area. That means that it will be used by the City Council as the basis for determining planning applications for waste and minerals related development and other development affecting existing waste and minerals sites.
- 3.10 It is proposed that authority should be delegated to the Head of City Planning to agree any further necessary minor modifications to be made to the WMSP for factual updates and clarity, which do not materially affect the Plan, following consideration by the South Downs National Park Authority and East Sussex County Council.

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

- 4.1 The different waste and minerals site options were considered as part of the preparation of the Sites Plan.
- 4.2 The WMSP has been found to be sound and legally compliant subject to the main modifications required by the Inspector. As provided by s23(4) of the Planning and Compulsory Purchase Act 2004 the council cannot adopt a Plan that is materially different from that recommended by the Planning Inspector; the Council cannot choose to accept some of the modifications and not others. The only options available to the council at this stage are to either adopt the Plan in its entirety, with all of the Main Modifications required by the Inspector, or to not adopt the Plan at all.
- 4.3 A considerable amount of resources have been expended on the preparation and examination of the Plan to date and to not adopt the Plan at this stage would risk this being wasted and undermine the joint working which has occurred with the City Council's two partner authorities. As the council is expected to have an up-to-date, National Planning Policy Framework (NPPF) compliant, sound waste and minerals local plan in place, if this Plan is not adopted the process will have to be started again, either in its entirety or on focused elements. Each of the legal stages of its preparation, including submission and examination would need to be undertaken.

5. COMMUNITY ENGAGEMENT & CONSULTATION

5.1 The Waste and Minerals Sites Plan has evolved through a number of stages of public consultation, as follows:

- Call for Sites and Proposed Content of the Plan (summer 2013)
- Sustainability Appraisal Scoping Report consultation (winter 2013)
- Draft Plan consultation (summer 2014)
- Proposed Submission Plan consultation (autumn 2015)
- Main Modifications consultation (autumn 2016)

6. CONCLUSION

6.1 Progression of the WMSP to a stage where it has been found sound, legally compliant and able to be adopted is a considerable achievement, and represents the culmination of three years' work.

6.2 Adoption will complete the new waste and minerals planning policy framework for the Plan Area by replacing the final saved policies in the 1999 Minerals Local Plan and 2006 Waste Local Plan. It will incorporate the site specific policies necessary to deliver the aims of the adopted Waste and Minerals Plan 2013 into the development plans of the three partner Authorities.

7. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

7.1 The costs associated with the development, inspection and consultation of the Waste and Minerals Site Plan have been met proportionally between Brighton and Hove City Council, East Sussex County Council and the South Downs National Park Authority. The council's proportion of costs associated with any modifications will be funded from within the existing revenue budgets for City Planning.

Finance Officer Consulted: Sue Chapman

Date: 7/12/16

Legal Implications:

7.2 The Waste and Minerals Sites Plan is a development plan document for the purposes of the Planning and Compulsory Purchase Act 2004 and its adoption is governed by s23 of that Act. As such it may only be adopted as recommended by the examining Inspector or (if relevant) as recommended by the examining Inspector but with modifications that do not materially affect the Plan's policies.

7.3 As noted in the body of the report there is a statutory period of 6 weeks following adoption within which any challenge to the plan must be made. The legislation limits challenges to grounds that the document is not within the appropriate legislative power or that a procedural requirement has not been complied with.

7.4 It is not considered that any adverse human rights implications arise from the recommendations in the report.

Lawyer Consulted:

Name Hilary Woodward

Date: 7/12/16

Equalities Implications:

- 7.1 An Equalities Impact Assessment has been produced to support the Sites Plan.

Sustainability Implications:

- 7.2 A Sustainability Appraisal (SA) has been produced to support the Sites Plan. As Sites Plan sets a framework for future development consent of projects that are likely to have significant environmental effects a Strategic Environmental Assessment (SEA) is also necessary. These have been combined into a single joint appraisal to ensure that all issues are considered.
- 7.3 The SA process plays an important role in demonstrating that a Development Plan Document (DPD) is contributing to achieving sustainable development through the integration of environmental, social and economic considerations into the DPD. It is a systematic and iterative process which assesses the likely significant effects of the Plan on the environment, the economy and society.

Any Other Significant Implications:

- 7.4 None.

SUPPORTING DOCUMENTATION

Appendices:

1. Inspector's Report (20 pages - in Members' Rooms).
2. Waste and Minerals Sites Plan and policy maps proposed for adoption (161 pages - in Members' Rooms).
3. Schedule of Main Modifications to the Plan.
4. Responses to the consultation on Main Modifications (autumn 2016).

Documents in Members' Rooms

1. Schedule of Suitable Industrial Estates (122 pages - available on request);
2. Sustainability Appraisal (447 pages - available on request).

Background Documents

1. Waste and Minerals Plan (adopted 2013)
2. Equalities Impact Assessment.