

	REPORT TO PLANNING & DEVELOPMENT COMMITTEE TO BE HELD ON 10 APRIL 2014
	Key Decision NO Forward Plan Ref No N/A
Corporate Priority: N/A	Cabinet Portfolio Cllr D Holder Bastiman

REPORT OF DIRECTOR OF SERVICE DELIVERY – 14/117

WARDS AFFECTED: ALL

SUBJECT: RESPONSE OF THE BOROUGH COUNCIL ON THE MINERALS AND WASTE JOINT PLAN ISSUES AND OPTIONS CONSULTATION UNDERTAKEN BY NORTH YORKSHIRE COUNTY COUNCIL, NORTH YORK MOORS NATIONAL PARK AND CITY OF YORK COUNCIL

RECOMMENDATION (S):

To note the contents of the North Yorkshire Minerals and Waste Joint Plan Issues and Options, and make the following comments:

- (a) Whilst generally supportive of the principle of the extraction of minerals close to the markets requiring product the Borough Council objects to the site identified at Seamer Carr for sand and gravel extraction due to its potentially adverse impact on Cayton and Flixton Carrs, the Burton Riggs Site of Importance for Nature Conservation and the network of public rights of way;
- (b) In noting the limited commercial interest to date in new technologies for oil and gas extraction (including hydraulic fracturing – ‘fracking’) in the Plan area, the Borough Council supports a precautionary approach towards the use of these evolving extraction technologies, reserving the right to comment on individual proposals should they arise;
- (c) The Borough Council raises concerns in relation to the sustainability appraisal of the options and, in particular, the assessment of the options for potash mining in the Plan area. The assessment is considered to be skewed against

locating further extractions at any location within the National Park and the scoring substantially flawed in nature, and as such does not form a robust basis for the development of policies within the Minerals and Waste Plan.

REASON FOR RECOMMENDATION (S):

To ensure that the concerns of the Borough Council are taken into account in preparing the next stage of the Minerals and Waste Plan.

HIGHLIGHTED RISKS:

If the Borough Council's concerns regarding the issues discussed and the individual sites submitted are not expressed at this time, or not taken into account, future policy and development could have adverse environmental, social and economic consequences for the Borough.

1. INTRODUCTION

- 1.1 Reports HPIg/08/05 and HEHS/08/02 were considered by Members of the Planning and Development Committee of 10 January 2008 and Cabinet of 22 January 2008, concerning the Preferred Options stage of the Site Allocations of the North Yorkshire County Council Minerals and Waste Development Framework. North Yorkshire County Council subsequently elected to stop work on the Minerals and Waste Development Framework.
- 1.2 North Yorkshire County Council, working alongside the City of York Council and North York Moors National Park, has now produced a Minerals and Waste Joint Plan at "Issues and Options" stage which aims to present all of the key issues relating to drawing up new policies for minerals and waste and offer realistic options for addressing these. The consultation also includes the publicising of sites that have been submitted as part of a "call for sites", however, no recommendation has been made on these sites at this stage.
- 1.3 The deadline for responses to this consultation is 11 April 2014.
- 1.4 The responses to this consultation will be taken into account in preparing a "Preferred Options" document. The target is to consult on this is by October 2014, with further publication of a draft Plan in December 2014; submission to the Secretary of State in April 2015; examination in June – August 2015 and adoption in October 2015.
- 1.5 The Borough Council is not the body responsible for minerals and waste planning (in terms of policies or planning applications), however, it is a consultee on minerals and waste matters both in terms of Plan production and in responding to planning applications. The technical implications of the effects of minerals extraction is such that these are considered by other appropriate bodies, including the Environment Agency and water regulators.

- 1.6 This report sets out the main issues discussed in the issues and options consultation of relevance to the Borough.

2. CORPORATE OBJECTIVES AND THE COMMUNITY PLAN

- 2.1 The Corporate Plan has several aims that are considered relevant. Aim 2 relates to prosperity and suggests that a strong economy is crucial and underpins improving the quality of life for all.
- 2.2 The Corporate Plan also reflects on the Boroughs greatest assets including the natural environment and the need to protect it now and for the future. There is therefore a need to ensure that whilst prosperity is desirable it should not be at any expense.
- 2.3 The Sustainable Community Strategy reiterates these principles.

3. BACKGROUND AND ISSUES

- 3.1 Issues for consideration are:

The implications of the Minerals and Waste Joint Plan Issues and Options for Scarborough Borough.

4. CONSULTATION

- 4.1 The subject of this report is a consultation document produced by North Yorkshire County Council, alongside the City of York Council, and North York Moors National Park Authority. In this instance the Borough Council is a consultee and will be making formal representations to the aforementioned authorities.

5. ASSESSMENT

Context

- 5.1 This “Issues and Options” consultation is aimed at ensuring all of the key issues associated with Minerals and Waste are identified with realistic ‘strategic’ options generated. No formal policy or site specific recommendations have been made at this stage of the process.
- 5.2 The Plan is being undertaken jointly by North Yorkshire County Council, City of York Council and the North York Moors National Park Authority as they have responsibility for minerals and waste planning within their respective areas.
- 5.3 The National Planning Policy Framework (NPPF) provides guidance on mineral extraction. It states the importance of ensuring the availability of a continuous supply of minerals to support economic growth and adds that great weight should be given to the economic benefits of minerals extraction.

There is also an emphasis that minerals should, where possible, be used locally. The Minerals and Waste Plan consultation notes “it is the developers themselves who decide specifically where to source minerals from, the role of the Plan being to ensure that there is sufficient supply to meet the theoretical demands that will arise.”

- 5.4 The Waste Framework Directive (2008) informs waste planning policy. The plan area is covered by the Municipal Waste Management Strategy, which aims to reduce the amount of waste produced and promote the value of waste as a resource. The emphasis is on moving up the waste hierarchy to deliver greater levels of re-use, recycling and recovery of waste so that only ‘residual’ waste is disposed of. The linkages between minerals and waste are also explored, including opportunities such as re-using spoil as an alternative to further primary extraction and as part of the reclamation process, using disused quarries for waste disposal as landfill.
- 5.5 The Borough Council is responsible for collecting household waste (often referred to as Local Authority Collected Waste), however, North Yorkshire County Council has responsibility to ensure arrangements are in place to manage the waste which is collected. Following the closure of Seamer Carr landfill site the primary method of disposing of waste that cannot be recycled or reused is to transport it to landfill sites elsewhere in the Plan area outside of Scarborough Borough. Allerton Park, near Knaresborough and Harewood Whin, to the west of York have remaining capacity but planning permission for landfill expires in 2018 and 2017 respectively.

Minerals

- 5.6 A Local Aggregates Assessment identifies the need for aggregates (sand and gravel, and crushed rock used mainly by the construction industry). This indicates there is a shortfall of 27.5mt of sand and gravel provision over the period to 2030. The consultation document provides an overview of the current quarries and mining facilities in the Plan area and assesses the availability of reserves; this includes highlighting that reserves of some minerals including sand, gravel and clay are expected to run out soon in the absence of new permissions. NYCC commissioned the British Geological Survey to carry out work on the location of minerals including the distribution of potentially viable sand and gravel resources in the area. A minerals spatial map shows key areas of resources, alongside existing facilities and major transport networks.
- 5.7 The Plan looks in turn at each mineral type, assessing the need and potential sources of supply before generating options for the continuation of supply. This report focusses on those most related to the Borough.

Aggregates Supply

- 5.8 The Local Aggregates Assessment identified a need for the provision of sand and gravel, and shows resources are available in various locations along the A1 corridor but also within the Vale of Pickering. The Plan asks whether the

provision should be restricted to locations outside the National Parks and Areas of Outstanding Natural Beauty (AONB), and whether there should be a locational approach to extraction (i.e. should the location of minerals extraction take into account the markets it exports to and therefore look favourably on sites near to main transport corridors or consider the whole Plan area as suitable in this regard?).

- 5.9 It is considered appropriate to support the principle of sourcing aggregates near to areas of potential development (subject to the appropriate site specific considerations), whilst acknowledging the need to consider where material is likely to be exported to when determining appropriate locations. The Borough Council has provided comments on a site submitted for the mining of sand and gravel in the Borough, these comments can be found later in the report under Paragraph 5.31 and 5.32.

Building Stone

- 5.10 The NPPF requires planning authorities to include policies for the extraction of building stone. The Plan acknowledges the “provision of building stone is important for the upkeep of traditional buildings and historic assets and for ensuring new development reflects the character of its surroundings... The colour and appearance of stone varies greatly depending upon where it is found, which means that building stone must often be sourced locally if the character and appearance of local buildings is to be maintained.”
- 5.11 It is considered important to acknowledge the need to source the appropriate local building stone and therefore it is recommended that the Borough Council expresses support to the extraction from existing sites, and the consideration of new sites on an individual basis.

Oil and Gas

- 5.12 The Plan confirms there is no known oil resource in the area, but confirms resources of gas are present and have been exploited over a substantial period of time. The Plan considers conventional on-shore oil and gas (COG) as well as emerging technologies. Conventional gas reserves are identified as being present in the eastern part of the Plan area including the western part of this Borough and parts of the North York Moors National Park. Development licences (PEDLs) are granted by the Government, and some parts of the western part of the Borough are covered by these licences. The Plan says it is understood that the Government intends to commence a further onshore oil and gas licencing round in the near future. It should be noted that the licensing system operates separately to the planning regime.
- 5.13 The Plan considers the approach to conventional onshore gas and asks whether locations for new production and processing gas developments should be located outside of National Parks and Areas of Outstanding Natural Beauty, or located across the Plan area.

- 5.14 The Plan also discusses the issue of hydraulic fracturing, or ‘fracking’ as a means of shale gas extraction. This is discussed alongside other emerging technologies associated with coal and gas extraction. The British Geological Survey has identified areas of deep shale rocks, particularly parts of the Ryedale, Scarborough, York and Selby Council areas and the southern part of the North York Moors National Park. In spite of this, and the increasing interest in the prospects for exploitation of shale gas resources in the UK, the report states there is no evidence of any current commercial interest in the Plan area “although a recent planning application for an exploratory borehole at Kirby Misperton in Ryedale District identified drilling and coring of the Bowland shale as one of its objectives.”
- 5.15 The Plan acknowledges the concerns that have been expressed in relation to ‘fracking’ techniques but emphasises the planning system only has a certain role to play and that drilling operations are subject to a number of other regulatory regimes. Government Policy states that planning authorities should assume that the regimes of other regulatory organisations will operate effectively.
- 5.16 Ryedale District and Scarborough Borough have also been identified as potentially suitable geologies for Carbon capture and storage (CCS). This is a means of capturing carbon dioxide either before or after burning and permanently storing it deep underground in suitable geological formations. The Government believes CCS has potential to be an important technology in climate change mitigation. The Plan says the potential for CCS is not known but needs acknowledging within the emerging plan.
- 5.17 The Plan proposes a number of options in relation to identifying a suitable approach to these methods of extraction in addition to carbon and gas storage. These are summarised below:

Option 1	Support the principle of the methods of extraction and storage but would in particular require robust assessments into the potential impacts including those on geology and hydrogeology resources and process, water resources, amenity and safety. It advocates a precautionary approach and support would be provided where impacts and benefits can be demonstrated (including community benefits). High standards of design and siting will be required in or adjacent to the National Park, AONBs or where it may impact on the setting of the historic City of York.
Option 2	No express support for the methods of extraction or storage referred to due to uncertain nature of impacts and risks involved within the Plan area. Any proposals would be considered against relevant policies in the Plan and the NPPF.
Option 3	Reiterates the in principle of support under Option 1, but extends the precautionary principle further. Would require applications for the development of these methods of extraction or storage to also demonstrate that the site has been identified so as to avoid sensitive locations, including residential areas, environmental designations and other assets that the planning system can protect.

5.18 It is noted part of the area has been identified as a potential source of shale gas extraction and has a potentially suitable geology for Carbon capture and storage, however, at this present time, there are no specific proposals. It is therefore recommended that the latter option in the table above is endorsed, along with a request for further consultation on any future proposals, reserving the right to consider the impacts of development on a site by site basis as a consultee.

Coal

5.19 The British Geological Survey identifies an area from the north of Cloughton extending as far as Sandsend as being a source of deep coal (defined as being deeper than 1,200m). There are significant resources in the south of the Plan area (Selby/York). Much of this is already subject to mining at the Kellingley Colliery. The Plan says there is no known commercial interest elsewhere. The Plan generates options regarding the safeguarding of deep coal, this includes whether it should be limited to the Kellingley Colliery area. The Coal Authority recommends an alternative by which only areas licenced by the Coal Authority should be safeguarded.

5.20 The approach recommended by the Coal Authority is noted.

Potash

5.21 The Plan shows the extent of Potash resources covering the eastern part of the Plan area. It discusses the existing Boulby Potash Mine and says the operators are aiming to increase production significantly over the coming years through proposed investment and have confirmed they will be looking to extend the lifetime of the mine beyond the end of the current planning permission of 2023. The Plan also states York Potash is expected to submit a revised planning application in summer 2014 and that the Marine Management Organisation has granted a licence for extraction below the North Sea. Due to the NPPF stating there is no need to require a certain level of reserves and the ongoing proposals, the Plan is not considering allocating land. However, it generates a number of options regarding the supply of potash as follows;

Option 1	Support an indigenous supply of potash from one location only
Option 2	Support the principle of multiple sources of potash supply from within the Plan area
Option 3	Support new locations for potash extraction outside the National Park only
Option 4	Support extraction of potash from under the National Park as well as outside of the National Park but only support siting of surface infrastructure outside the National Park.

5.22 The issue of a potential new Potash Mine is very likely to be determined outside the auspices of the emerging Minerals and Waste Plan, and in due course the Plan may need to reflect on the strategic situation if and when a

decision on the new mine is made. Clearly the planning application process provides the opportunity for the Borough Council to consider all relevant issues and make representations as a consultee. The Major Development Test is the correct framework for assessing proposals of such a nature in National Parks once all details and facts are available. In this regard it is not considered necessary to take a stance on the options raised within the current consultation.

- 5.23 However, officers are concerned that the Sustainability Appraisal (pages 295 to 304 of volume 2) appears to take a stance that sets out its stall for the future consideration of the proposed Potash Mine and seeks to preclude development in the North York Moors National Park solely due to its designation. This is apparent in terms of the scoring between the different options being considered, with the first option scoring 'positively' on many of the sustainability criteria. Your officers are of the view that each option should be assessed on its own merits and are concerned at the sustainability appraisal's suggestion that the limiting of production to one mine is positive because it prevents harm at a second theoretical site. The assessment of Option 1 implies any other potash mine within the National Park regardless of location and scale would be negative on all accounts apart from employment and addressing the need of a changing population. The assessment recognises that there may be an expansion of the Boulby mine but still scores it as positive in objectives such as biodiversity, water quality and reducing transport miles and emissions. Your officers consider it flawed to reach these conclusions whilst at the same time reaching the conclusion that a new mine would have to have a negative effect on these objectives. Similarly the consideration of Option 3 suggests positive effects on objectives such as biodiversity, air quality and traffic, whilst in assessing Option 2 these are all negative. There is no evidence to support these conclusions as a site outside the National Park could have an equally negative effect on these objectives depending on its location. It would appear that the assessment that it has been written in a way that is very much influenced by the potash mine proposals in the National Park, and this has arguably reduced the strategic objectivity of the assessment. Your officers would take the view that unless the production from the one mine will actually have a positive effect on, for example biodiversity, it should be scored as neutral. The sustainability appraisal is a key element of the plan-making process, and any fundamental weaknesses would threaten the overall soundness of the plan, as well as individual policy elements. It is therefore recommended that the Borough Council expresses concern over this element of the sustainability appraisal, and the implications for the Plan as a whole.

Waste

- 5.24 The Plan assesses future waste management needs in the area over the period up to 2030, including assessing the capacity of various types of waste (i.e. agricultural; construction, demolition and excavation; commercial and industrial; low-level radioactive; sewage sludge; spoil; and Local Authority Collected Waste). The Plan generates options on a number of issues, mainly relating to new facilities, including a locational strategy, principles for

identifying new sites, and a strategy for moving waste up the waste hierarchy. There are no specific shortfalls identified in the Borough.

- 5.25 It is important to note the proposals to identify the new Allerton Waste Recovery Park as the principal site for waste disposal in the County, Mindful of the ongoing issues associated with the proposal and its funding the Plan acknowledges the possibility of this facility not coming forward and therefore this is an aspect of the Plan that will need to be kept under scrutiny.

Additional Considerations

- 5.26 The Plan considers the infrastructure requirements necessary to meet the strategy for Minerals and Waste and generates options regarding safeguarding necessary infrastructure. This includes road, rail and water transport infrastructure, and minerals ancillary infrastructure such as ready mixed concrete plants and roadstone coating plants.
- 5.27 A range of issues are considered with regards forming general development management policies associated with minerals and waste. This includes using the NPPF presumption in favour of sustainable minerals and waste development and developing criteria to be used for determining planning applications for minerals and waste developments, such as:
- Local Amenity Issues including the cumulative impact of development;
 - Transport of minerals and waste and associated traffic impacts;
 - The appropriate protection of important assets such as National Park and AONB's;
 - Landscape;
 - Biodiversity and Geodiversity;
 - The Historic Environment;
 - Water Environment.
- 5.28 Development Management policies regarding the reclamation and after-use of waste sites; sustainable design, construction and operation of development; and development in mineral safeguarding areas and mineral consultation areas are also discussed.

Further Comments

- 5.29 A sustainability appraisal accompanies the Plan. Officers have some concerns in respect of the objectivity of the appraisal. As noted above, Officers acknowledge the scoring should reflect the implications of development within the National Park, whilst also considering how other designated sites of landscape importance may also be affected. The scoring potentially appears to have been skewed too heavily towards options that favour development away from the National Park. This is especially obvious when assessing the options for Potash extraction within the plan area and this is referred to in Paragraph 5.23.

Site Submissions

5.31 As part of this stage of the Plan process, sites submitted through the “call for sites” are presented, however, no recommendation on whether they should be developed has been made. The following sites are located within the Borough;

- Site Ref: MJP34 – Land between Sandsend, Scarborough and West Ayton, by R Hunt (on behalf of York Potash Ltd.), for the extraction of potash by underground methods.
- MJP49 – Land at Metes Lane, Seamer Carr, by James Stockdale Ltd, for the extraction of sand and gravel.
- MJP59 – Land at Spikers Quarry, Cochrah Road, East Ayton (*In National Park), by MCJA (on behalf of W Clifford Watts), for the proposed extension to quarry.
- WJP15 – Land at Seamer Carr, Eastfield, by Yorwaste Ltd, for retention of existing recycling, open windrow composting, and energy from waste (biomass) facilities beyond end of current permissions which are limited to 2020 and new inert waste screening facility.
- WJP19 – Land at Fairfield Road, Whitby, by Yorwaste Ltd, for continued use as recycling and transfer of municipal and commercial waste.

5.32 It is recommended that the Borough Council objects to the potential allocation ref: MJP49. At the 2008 Preferred Options stage, the County Council discounted this site for the following reasons: “Lack of need. Potentially adverse impact on Cayton and Flixton Carrs Wetland Project, and adverse impact on the Burton Riggs SINC and upon network of public rights of way.” This was accompanied by a Sustainability Appraisal which referred to the ‘Major Negative’ impact on the Historic Environment and Cultural Heritage, concluding that the negative effects on the archaeology could not be effectively mitigated against.” It is considered these reasons remain valid.

5.33 It is considered that there be no objections made with regard to the remaining sites where they are located within the Local Plan area. Site ref: MJP59 is located within the National Park. It is not recommended to comment on ref: MJP34 at this stage, given the imminence of a planning application on that particular site.

6. IMPLICATIONS

(a) Policy

6.1 The policy implications relate to planning and are those covered under (d) Planning.

(b) Financial

6.2 There are no financial implications.

(c) Legal

6.3 The Borough Council is a statutory consultee on the Plan under the Planning Acts.

(d) Planning Implications

6.4 The Minerals and Waste Joint Local Plan will eventually become part of the statutory development plan for the Borough, along with the emerging Borough Local Plan.

6.5 I have considered whether the following implications arise from this report and am satisfied that there is no identified implications will arise from this decision in relation to Staffing Implications, Crime and Disorder Implications, Health and Safety implications, Co-operation with Health Authorities, Equality implications, Human Rights Act or Environmental implications

7. ACTION PLAN

7.1 Arising for the consideration of the issues, the following action plan is proposed:

Objective
Respond to Consultation

Target
April 2014



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Background Papers:

Please give details of all publicly accessible (non private) background papers applicable to the report.

