

<b>Subject:</b>	<b>East Sussex, South Downs, and Brighton &amp; Hove Waste and Minerals Plan: Request for Delegated Authority to Agree and Consult on Draft Modifications</b>		
<b>Date of Meeting:</b>	<b>12th July 2012</b>		
<b>Report of:</b>	<b>Strategic Director of Place</b>		
<b>Contact Officer:</b>	<b>Name:</b>	<b>Mike Holford</b>	<b>Tel: 29-2501</b>
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<b>Ward(s) affected:</b>	<b>All</b>		

**FOR GENERAL RELEASE**

**1. SUMMARY AND POLICY CONTEXT:**

- 1.1 The City Council is producing a Waste and Minerals Plan (WMP) jointly with East Sussex County Council and the South Downs National Park Authority. This report seeks to inform members of progress on the WMP and seek delegation to officers to agree and consult on draft modifications.

**2. RECOMMENDATIONS:**

- 2.1 That the Committee is asked to agree the recommendation to:

a)note the analysis of the representations made on the submitted Waste and Minerals Plan

b)authorise the Strategic Director of Place, in conjunction with East Sussex County Council and the South Downs National Park Authority, to agree any draft "main modifications" to the Waste and Minerals Plan necessary to make it sound and to authorise the publication of such draft modifications for public consultation save that should any draft modification involve a major shift in the policy approach of the Waste and Minerals Plan the draft modification shall be referred by the Strategic Director of Place to the Policy and Resources Committee for approval; and

c)note that all modifications to the Plan will ultimately be presented to the Policy and Resources Committee and Full Council in due course as part of the adoption of the Waste and Minerals Plan

**3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:**

- 3.1 In February 2012, Council agreed a Proposed Submission Draft Waste and Minerals Plan for consultation on its soundness and subsequent submission to the Secretary of State. The period for representations was from 24 February to

24 April. A summary of the representations made is included in Appendix 1. On 1 June 2012, following some minor, non-material changes, the authorities submitted the WMP to Government for examination by a Planning Inspector.

- 3.2 On 15 January 2012 new provisions in the Localism Act 2011 came into force which, together with The Town and Country Planning (Local Planning) (England) Regulations 2012 which came into effect in April 2012, alter the process for examination of the Plan. Previously, local planning authorities were bound to implement the Inspector's Report recommendations on soundness. The process is now that local planning authorities can ask the Inspector to recommend modifications to make the Plan sound and suitable for adoption. The local planning authority can also make non-material changes before adoption. This change to the process will mean that the timeline to adoption is longer.
- 3.3. On 27 March, the Government published the National Planning Policy Framework (NPPF). At the heart of the NPPF is a presumption in favour of sustainable development which is seen as a "golden thread" running through plan-making and decision taking. For plan-making this means the WMP should meet objectively assessed needs with flexibility to adapt to rapid change unless any adverse impacts outweigh benefits, taking into account the NPPF. For public examinations, this means assessing that the Plan is consistent with the NPPF. There are some relevant general policies as well as minerals production requirements within the NPPF.
- 3.4 Experience since March has indicated that this approach is being applied by Inspectors with some rigour, and requiring model wording on the presumption in favour of sustainable development to be included to enable a plan to be considered sound.
- 3.5. In order to avoid delay to the process, it is proposed that delegated authority is given to the Strategic Director of Place to agree any necessary draft modifications emerging from the public examination with our partner authorities and for the modifications to be published for public comment. Any major shift to the policy approach in the WMP required by the Inspector to make it sound would be referred to Policy and Resources Committee for approval e.g. any major change to the position on the development of new landfill sites or requirements over London's waste. Our partner authorities are seeking similar delegations.
- 3.6 It should be noted by Members that following the publication of modifications and assessment of public comments, if the Inspector considers the WMP sound, the whole Plan with major and minor modifications would come back before full Council for adoption. Our partner authorities would also have to consider the modified Plan.
- 3.7 Should the recommendation be agreed it is hoped that the WMP can move quickly through public examination and that a report for adoption of the Plan can be made to full Council in either February or March 2013.

#### **4. COMMUNITY ENGAGEMENT AND CONSULTATION**

- 4.1 None required on this report. The report seeks delegated powers to amongst other things, agree modified policies for consultation.

## 5. FINANCIAL & OTHER IMPLICATIONS:

### Financial Implications:

- 5.1 The Waste and Minerals Plan is being prepared jointly with East Sussex County Council and the South Downs National Park and costs are shared proportionally. Revenue budget of £100,000 has been set aside in 2012-13, to fund the council's share of costs.

*Finance Officer Consulted: Karen Brookshaw*

*Date: 26/06/12*

### Legal Implications:

- 5.2 The Waste and Minerals Plan is a development plan document ("DPD") within the meaning of the Planning and Compulsory Purchase Act 2004 (as amended by the Localism Act 2011). Section 20 of the 2004 Act provides (inter alia) that where a person appointed by the Secretary of State to examine a DPD considers that it does not satisfy the relevant statutory requirements or is not "sound" he or she, if requested by the local planning authority, can recommend modifications that would make it compliant and sound. Such modifications are termed "main modifications". Paragraph 182. of the National Planning Policy Framework advises that a DPD is considered sound if it is positively prepared, justified, effective and consistent with national policy.

Section 23 of the 2004 Act provides that a local planning authority may adopt a DPD either as submitted to the Inspector for examination, or with modifications that do not materially affect the policies set out in the DPD, or as modified in accordance the main modifications, or as modified with the main modifications and the non material modifications.

Although there is no statutory duty to consult on any modifications to a DPD DCLG has advised that modifications to DPDs should be subject to consultation, following the finding in the case of R (on the application of Barrow BC) v Cumbria CC (2011).

*Lawyer Consulted:*

*Name Hilary Woodward*

*Date: 25 June 2012*

### Equalities Implications:

- 5.3 None arising directly from the report

### Sustainability Implications:

- 5.4 The National Planning Policy Framework now requires plans to be prepared with a presumption in favour of sustainable development.

### Crime & Disorder Implications:

- 5.5 None arising directly from this report

### Risk and Opportunity Management Implications:

- 5.6 Additional costs arising from the delay in adopting the WMP could result if the reports recommendations were not proposed. There could potentially be implications for determining relevant planning applications in not having an up-to-date Waste and Minerals Plan.

Public Health Implications:

- 5.7 None arising directly from this report

Corporate / Citywide Implications:

- 5.8 See under paragraph 5.6.

**6. EVALUATION OF ANY ALTERNATIVE OPTION(S):**

- 6.1 An alternative option would be not to seek delegated powers but this would delay the process of plan production and adoption.

**7. REASONS FOR REPORT RECOMMENDATIONS.**

- 7.1 Following Cabinet and Council's previous consideration of the WMP, public representations on the soundness of the Plan have been made and the WMP has been submitted to Government. Changes to legislation mean that a different process will now be undertaken during the public examination and to avoid undue delay, authority is sought for delegation to the Strategic Direct of Place to agree any draft modifications needed to the Plan to make it sound

**SUPPORTING DOCUMENTATION**

**Appendices:**

1. Summary of the representations on the Proposed Submission Waste and Minerals Plan

**Documents in Members' Rooms**

None

**Background Documents**

None