



Independent Examination of the Leicestershire Minerals and Waste Local Plan Up to 2031 Matters, Issues and Questions

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Introduction

Following our initial examination of the Leicestershire Minerals and Waste Local Plan Up to 2031 Submission Draft (MWLP) and the supporting material we set out below the Matters (topics) and Issues (points for consideration) that will form the basis for discussions during the Hearing sessions. Matters and Issues may change as the examination progresses, although participants will be given an opportunity to comment on any new issues that may arise.

In this note questions of the Council that potentially go to matters of soundness or which concern representations have been made. In framing them consideration has been given to not only to the definition of soundness at paragraph 182 of the National Planning Policy Framework (the Framework) but also the principles for Local Plans set out in paragraph 157. The Framework also establishes that only policies that provide a clear indication of how a decision maker should react to a development proposal should be included in the plan. The MWLP should therefore set out clear policies on what will or will not be permitted.

Below are general and detailed comments and questions which should be addressed in hearing statements. Answers should be supported by reasons and section(s) of the supporting documents and evidence base should be referred to as appropriate. A separate document should be submitted in response to each Matter. **The Councils and all other participants should submit hearing statements to the Programme Officer by 1st October 2018.**

A LEGAL COMPLIANCE

Main Matter 1 – Duty to Co-operate and Legal Issues

Duty to Co-operate

1. Has the Council engaged constructively, actively and on an ongoing basis with all relevant organisations on strategic matters of relevance to the plan's preparation, as required by the Duty to Cooperate (under s 20(5)(c) and 33A) been met? On which issues has co-operation taken place? How was co-operation carried out and with what results? Has this been documented? Are there any outstanding issues?
2. How has the duty to co-operate been met with regard to the spatial plans of the constituent Councils?

Planning and Compulsory Purchase Act 2004, Section 19 and the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended)

3. Has the MWLP been prepared in accordance with the Local Development Scheme including content and timescale?
4. Has the MWLP been prepared in compliance with the adopted Statements of Community Involvement (SCI), allowing for effective engagement of all interested parties and meeting the minimum consultation requirements set out in the regulations?
5. Is it clear that the MWLP accords with the advice provided in paragraph 214 of the National Planning Policy Framework (July 2018) in that the policies in the previous National Planning Policy Framework (March 2012) (NPPF) will apply for the purposes of the Examination of the Plan.
6. Has the Council carried out a Sustainability Appraisal (SA) and prepared a report on the findings of the appraisal? Is there clear evidence to indicate why, having considered reasonable alternatives, the strategy in the Plan is the most appropriate response? Does the methodology conform to that in the National Planning Policy Framework (NPPF) and Planning Policy Guidance (PPG)?
7. Is the MWLP consistent with national policy, including the NPPF and PPG? Are there any significant departures from national policy? If so, have they been justified?
8. Does the MWLP comply with the 2004 Act and the 2012 Regulations in terms of publishing and making available the prescribed documents?
9. How does the MWLP secure development that contributes to the mitigation of, and adaptation to, climate change?
10. How have issues of equality been addressed in the MWLP?

Conservation of Habitats and Species Regulations 2017

11. Does the MWLP meet the requirements of the Conservation of Habitats and Species Regulations 2017, including any relevant case law, to consider the likely significant effects of projects or plans on European protected sites,

individually or in-combination? In particular, have Appropriate Assessments been undertaken under the Habitats Directive? If not, has a screening exercise shown that there is no need for such assessments?

B SOUNDNESS

Main Matter 2 – The Spatial Strategy

Issue: Whether the Vision and Strategic Objectives are the most appropriate, are soundly based and provide an appropriate basis for meeting the future demand for minerals and managing waste sustainably.

12. Does the MWLP reflect future patterns of growth in the county and in Leicester City?
13. Does the plan cover everything necessary, as set out in the NPPF, PPG National Planning Policy for Waste and the Waste Framework Directive?
14. Does the plan have appropriate regard to the adopted plans of the District Councils? How have these been taken into account in the MWLP?
15. Does the vision and strategic objectives reflect the most appropriate matters, including the commitment to the three dimensions of sustainable development?
16. Explain how the outcomes of the Sustainability Appraisal (SA) reflect the principles of sustainable development, including climate change and sustainable transport.
17. Should the Vision include the recognition of the need for a steady and adequate supply of minerals to be maintained as indicated in NPPF and should this be reflected in both the Spatial Vision and Strategic Objectives?
18. Should the Spatial Vision and Strategic Objectives refer to the supply of secondary and recycled minerals as a mechanism in achieving a reduction in the reliance of primary minerals?
19. Does the MWLP demonstrate that adequate consideration has been given to cross boundary issues and strategic priorities.
20. Does Objective 2, in providing for sufficient provision of waste facilities in the County with capacity equal to the waste generated with the County of Leicestershire, constrain the ability of the MWLP to address the future waste needs arising from Leicester City and adjacent authorities and conflict with Objective 4?

Main Matter 3 – Whether the Plan makes adequate provision for the steady and adequate supply of minerals with particular regard to Sand and Gravel requirements and landbanks?

Issue: Whether the provision made in the plan for the future supply of sand and gravel would deliver a steady and adequate supply?

21. Is the use of average sales of sand and gravel over last 10 years an appropriate basis for determining future demand?
22. Would it be more appropriate to consider the average sales of sand and gravel over the last 5 years to be more reflective of the recent upturn in construction?

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23. Should paragraph 3.16 provide more explanation of the period that higher production rates would be evaluated and provide some more detailed information/criteria of how a review of Policy M1 would be triggered?
 24. Should the MWLP make adequate provision for sand and gravel beyond the plan period to ensure that a minimum 7 year landbank is capable of being maintained?
 25. Does the emphasis in Policies M1 and M2 in giving priority to proposals for extraction to be worked as extensions to existing site operations adequately address the predicted shortfall of 9.53 million tonnes and does this create a barrier to the consideration of new sites?
 26. Notwithstanding the supporting text, should Policies M1 and M2 specifically refer to new sites?
 27. Does Policy M2 and the supporting text adequately explain why extensions to other sites not identified in M2(ii) (Lockington) would be inappropriate?
 28. Does Policy M3, in limiting proposals for new quarries that are required to replace an existing permitted sand and gravel site that are nearing exhaustion, place a constraint on the consideration of any new sites that may be required to meet the shortfall?
 29. How does Policy M3 reflect the spatial strategy with particular regard to areas of demand?
 30. How has the 'quality' of the mineral resource been taken into account in the identification of the allocations?

Main Matter 4 – Minerals other than sand and gravel

Issue: Whether the MWLP makes adequate provision for other minerals?

31. Does the MWLP adequately explain the landbank provision for Brickclay?
32. Does Policy 10 adequately consider the environmental issues associated with the exploration and production of conventional and unconventional hydrocarbons particularly with regard to the consideration of 'least sensitive locations'?
33. Does MWLP appropriately reflect the potential use of mineral waste and as alternative to primary sources and should Policy M15 be more pro-active in terms of encouraging more positive uses for mineral waste?

Main Matter 4 – Mineral Safeguarding Areas (MSA)

Issue: Whether MSA suitably balances the needs of competing development?

34. What is the timescale for providing Districts with a copy of the Mineral Consultation Area Plans (MCA's) as indicated in paragraph 3.97?

Should the MCA's be included within the MWLP?

Main Matter 6 – Spatial Strategy for Waste

Issue: Whether the special strategy for waste management is the most appropriate and is soundly based?

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35. How does the MWLP support the movement of waste management up the waste hierarchy and reflect the proximity principle?
 36. Does the spatial strategy appropriately reflect the relationship between existing population and population growth and future infrastructure provision in relation to likely future waste generation and the need for new facilities? In particular, does Policy W1, in providing for a sufficient range of waste facilities within the County with capacity equal to the waste generated with the County of Leicestershire, to manage the equivalent of the predicted arising's for the County up to and including 2031, constrain the ability of the MWLP to address the future waste needs arising from Leicester City and adjacent authorities and stifle initiatives to move waste management up the waste hierarchy?
 37. Does the MWLP make adequate provision for strategic facilities with particular regard to the progress with the Newhurst Energy Recovery Facility and the position with the Albion Landfill facility? If there are significant issues with operational delivery should further allocations be made?
 38. Does the MWLP appropriately take into account future development allocations and strategies in District Plans with regard to the future need, provision and location of waste facilities?
 39. Does the MWLP adequately predict the shortfall in landfill capacity for Construction and Demolition waste and are the number and capacity of new facilities required, as identified in Table 8, sufficient to address the shortfall.
 40. Should the MWLP quantify the cross border movements of Construction, Demolition and Excavation wastes with particular regard to sustainable transport and impact on the local highway network?

Main Matter 7 – Waste management allocations

Issue: Whether the allocations of Broad Locations for new strategic waste management facilities are justified by the evidence base?

41. How have the areas of focus for waste management facilities been assessed for allocation in the MWLP?
42. How do the areas of focus for waste management facilities relate to planned growth within the County?
43. Does Policy W3 prevent opportunities coming forward outside of the Broad Locations in circumstances where such facilities may contribute to moving waste management up the waste hierarchy or maybe located on the strategic highway network?
44. Does the MWLP provide sufficient guidance for Districts to consider the implications of existing and future waste management facilities with regard to land use planning allocations and policy formulation within their Local Plans?
45. Does the MWLP identify sufficient areas of focus to enable the waste industry to deliver the facilities that are needed over the plan period relevant to the types of waste streams that need to be managed and the operational requirements of the respective waste management facilities?

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46. Given the potential shortfall in landfill capacity for Construction and Demolition waste should the MWLP provide more focus on the need/allocation on future landfill facilities?

Main Matter 8 – Development Management

Issue: Whether the Development Management policies strike an appropriate balance between seeking to provide sustainable development and protecting people and the environment?

Policy DM4

47. Does the MWLP adequately set out the origin/purpose/strategic planning function of Green Wedges and are these defined in spatial and policy terms in other development plan documents?

Policy DM8

48. Does the Policy adequately reflect the contribution that the setting contributes to the significance of a designated heritage asset?
49. Does paragraph 3 provide sufficient guidance as to how the Council will balance the benefits of a proposal against the scale of harm to a non-designated heritage and is this consistent with the guidance provided in Section 12 of the NPPF?

Policy DM10

50. Would disruption to a path or PROW necessarily require a diversion?

Policy DM12

51. Should the policy require a longer period of aftercare for woodland restoration schemes?
52. Should the policy be supportive of a net gain in biodiversity as oppose to being prescriptive?
53. Is the requirement for traditional hedge laying techniques onerous and how does this relate to modern agricultural practices?

Main Matter 9 – Monitoring and Implementation

Issue: Whether the monitoring and implementation arrangements for the minerals and waste sections of the Plan will be effective?

54. Is the approach to minerals and waste monitoring in the Plan practicable?
55. Does the monitoring process for minerals and waste provide for co-operation and participation and are appropriate participants involved?
56. How do the monitoring and implementation arrangements ensure that the Council engages constructively, actively and on an ongoing basis with all relevant organisations on strategic matters of relevance to the plan's preparation, as required by the Duty to Cooperate
57. Does the monitoring process for minerals and waste provide for flexibility? What contingency measures are in place in the event of non-delivery or lower delivery of new/extended sites?

58. Are suitable arrangements in place for reviews of the minerals and waste sections (either separately or as part of the wider plan) at appropriate times?

Main Matter 9 – Inset Maps

Issue: Whether the inset maps are sufficiently clear in defining the relevance of the boundary lines and the purpose of the 'Boxes'?

59. Should the inset maps be provided with a key and explanation regarding what the boundary lines depict and the purpose the text within the box?

60. Does SA6 adequately take into account subsidence risk?

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INSPECTORS