

Wiltshire Council

Council

26 February 2013

Subject: Adoption of the Wiltshire and Swindon Waste Site Allocations Local Plan

**Cabinet Member: Councillor Fleur de Rhé-Philippe
Economic Development and Strategic Planning**

Executive Summary

Wiltshire Council and Swindon Borough Council have received the Planning Inspector's Report on the examination into the joint Waste Site Allocations Local Plan (**Appendix 1**).

The Inspector's Report concludes that, subject to the inclusion of a limited number of main modifications, the submitted Plan is sound and should be adopted as soon as is reasonably practicable.

For legislative and constitutional reasons, the process of adopting the Plan is taken in two steps - involving the resolution of Cabinet and Council. Cabinet considered and approved the proposals at the meeting on 22 January 2013 and has recommended that Council now formally adopts the Plan. Once adopted the Plan will form part of the Council's planning policy framework.

Proposal

That, following the recommendation made by Cabinet on 22 January 2013, Council:

- (i) Adopts the Wiltshire and Swindon Waste Site Allocations Local Plan, as provided at **Appendix 2**, incorporating the Inspector's modifications.

Reason for Proposal

The Waste Site Allocations Local Plan presents the final element of the current waste planning policy framework for Wiltshire and Swindon.

As outlined in the Inspector's Report, the Plan appropriately reflects national policy and the policy framework set out in the adopted Wiltshire and Swindon Waste Core Strategy (July 2009) and Waste Development Control Policies Development Plan Document (September 2009).

In line with the provisions of the Local Government Act 2000 (as amended), the Plan has been approved by Cabinet and is now before Council for adoption.

Swindon Borough Council resolved to formally adopt the Plan at its meeting on 17 January 2013.

Alistair Cunningham

Director for Economy and Regeneration

Wiltshire Council

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Purpose of Report

1. That following the recommendation made by Cabinet at its meeting on 22 January 2013, Council:
 - (i) Resolves to adopt the Wiltshire and Swindon Waste Site Allocations Local Plan, incorporating the Inspector's main modifications (a copy of the final version of the Plan is provided at **Appendix 2**).

Background

2. The Wiltshire and Swindon Waste Site Allocations Local Plan (the Plan), formerly known as the Wiltshire and Swindon Waste Site Allocations Development Plan Document, is the final document in the current waste planning policy framework for Wiltshire and Swindon. The Plan takes its lead from the policy framework set out in the adopted Wiltshire and Swindon Waste Core Strategy (July 2009) and Waste Development Control Policies Development Plan Document (September 2009) produced jointly by Wiltshire Council and Swindon Borough Council.
3. Since 2005, over 100 potential waste sites have been considered for inclusion in the Plan. These sites have been subject to extensive assessment and site appraisal work undertaken by the Councils which determined whether they should be included in the Plan. The 'long-list' of potential sites has also been considered through stakeholder engagement, public consultation exercises (2006, 2010, 2011 and 2012) and dialogue with operators and developers.
4. The proposed submission draft Plan contained 43 sites considered suitable for waste management uses. Consultation on this draft in June 2011 raised questions as to the deliverability of certain sites and a subsequent landowner consent exercise revealed that eight sites would be undeliverable. Consequently, prior to submission, these sites were removed from the Plan.

5. The Plan, containing 35 sites, was submitted to the Secretary of State for Examination on 14 February 2012, following approval by Cabinet on 17 January 2012 and Council on 7 February 2012. Hearing sessions on the soundness of the Plan took place between 24 and 26 April 2012. These sessions provided an opportunity for people to present their case to the independent Planning Inspector.
6. Following the hearing sessions the Councils published the 'Schedules of Modifications' report for a six week consultation period (7 June – 19 July 2012) to give all interested parties the opportunity to comment on the Councils' proposed main and minor modifications to the Plan before the Inspector completed her report.
7. Further information, provided during the consultation, indicated that one of the 35 sites would not be deliverable. As a result, the Councils proposed a further main modification to remove site S3 'Employment Allocation, Mere' from the Plan. An additional round of focussed consultation took place for four weeks (30 August – 27 September 2012).
8. Following the two rounds of consultations on proposed modifications, the Inspector considered all representations received and presented her Report to the Councils on 25 October 2012.
9. The Inspector concludes that, subject to the main modifications set out in her report, the Plan is sound. This is a major achievement for the Councils as local plans are rigorously scrutinised by the Government to ensure that they are soundly based.
10. The recommendations presented in the Inspector's Report were considered, alongside the proposed final version of the Plan by Cabinet at its meeting on 22 January 2013. Cabinet approved the Plan and endorsed it for adoption by full Council.

Main Considerations for the Council

11. The Inspector's Report, including schedule of main modifications, is provided in **Appendix 1**.
12. The modifications can be summarised as follows:
 - (a) The inclusion of a policy which sets out how the national policy presumption in favour of sustainable development will be applied in a local context.
 - (b) Clarification of the term 'area of search' as it applies to sites where mitigation measures will be required, with consequent additions to the relevant site tables.

- (c) Setting out the reasons why sites within 16 kilometres of a principal settlement have been allocated for local scale waste uses, along with related additions to the relevant site tables.
 - (d) Changes to site tables where necessary to ensure that the requirements they contain are adequately justified.
 - (e) Removal of one site, which is no longer deliverable.
13. The Plan (as set out in **Appendix 2**) presents a framework of 34 strategic and local scale sites offering a range of potential waste uses to flexibly meet the capacity requirements of Wiltshire and Swindon up to 2026 and can now be adopted.
14. The 34 sites are considered to represent the best and most deliverable options for future waste management development. Once adopted, these sites will have 'preferred area' status and should be safeguarded for waste management development. The Councils will manage the detail of any proposals that come forwards on the sites through the planning application process.
15. Once adopted, the Plan will form part of the Councils' wider Local Development Framework and be used in the decision making process to assess planning applications. On 13 December 2012, Swindon Borough Council's Cabinet recommended that its Council formally adopt the Plan. Subsequently, Swindon Borough Council has now formally adopted the Plan on 17 January 2013.

Environmental and Climate Change Considerations

16. The Plan has been prepared in accordance with legislative procedures, national policy¹. In addition, the document is in general conformity with the adopted Wiltshire and Swindon Waste Core Strategy, which itself has been subject to Sustainability Appraisal.
17. In preparing and appraising the document, over 100 site options have been considered and judged against environmental criteria through the rigorous application of Sustainability Appraisal (incorporating the requirements of the Strategic Environmental Assessment Directive) and Habitats Regulations Assessments. As such, the 34 site allocations are considered to represent the most sustainable options for meeting the waste capacity requirements of Wiltshire and Swindon up to 2026.

¹ The bulk of the plan preparation process was undertaken in the light of previous national planning policy, as set out across the former Planning Policy Statements. With the publication of the National Planning Policy Framework, the Plan has been screened for general conformity with new policies and the Inspector has concluded the Plan is sound in this respect.

18. Matters in relation to the potential environmental impact of bringing forward new waste sites have been fully considered. The Plan sets out clear guidelines to be considered when planning applications are being prepared. Such matters include pollution control measures, flood risk assessment and mitigation for landscape impact. Where necessary, appropriate changes/amendments to site profiles have been proposed to reflect information presented by consultees (e.g. the Environment Agency, English Heritage) through previous consultation work.
19. Environmental and climate change implications have, and will continue to be, fully considered and minimised as far as is reasonable practicable at the plan level. Detailed proposals in relation to climate change adaptation and the mitigation of social/environmental impacts will be matters for any subsequent planning application process.

Equalities Impact of the Proposal

20. A detailed Equalities Impact Assessment (EIA) was prepared to support the submission draft plan and was considered by the Inspector through the examination process.
21. The adoption of the Plan does not alter the conclusions of the original EIA.

Risk Assessment

22. The risks associated with the adoption of the Plan stem from the process of adoption and specifically the potential for legal challenge.
23. Once the Plan has been adopted, it will enter a six week 'legal challenge period'. This process occurs with the adoption of any local plan and simply follows legal procedures.
24. Once the six-week legal challenge period has expired, the Plan can be considered as being finally adopted.

Financial Implications

25. The financial implications of adopting and publishing the Plan are to be met from the Spatial Planning Provision. The most significant financial risk associated with the adoption process stems from the potential for legal challenge. Such actions are rare but must be considered and costs will need to be met.

Legal Implications

26. The steps undertaken to date, and those next steps proposed within this report, are considered to be fully compliant with regulatory requirements as set out in Regulations 18 and 19 of the Town and County Planning (Local Planning) (England) Regulations 2012.

27. There are legal implications associated with the adoption of the Plan but in essence these are limited to the potential for judicial challenge in accordance with Section 113 of the Planning and Compulsory Purchase Act 2004. Any such challenge would be limited in terms of scope and could only seek to challenge whether a procedural step in the process of preparing each document had been missed or not complied with fully.
28. At the point the Plan is formally adopted by the two Councils, an 'Adoption Statement' will be published in the local press. If at this stage anyone wishes to lodge a judicial challenge to the Plan, they must do so within six weeks of the adoption date.

Options Considered

29. The adoption of the Plan will help ensure that the Council has an up-to-date waste policy framework in place. Failure to adopt the Plan could result in:
 - (a) A reduction in the amount of control the Council can exert over the location and types of waste management facilities that are presented as planning applications; and
 - (b) The Council failing to meet the planning obligations presented in the Waste Framework Directive (as amended) in relation to the requirement for EU Member States to have a full set of waste plans in place.

Conclusions

30. The Inspector's Report concludes that, subject to the inclusion of the main modifications, the Plan is sound. This is a significant achievement for the Council and an important milestone in the completion and delivery of the waste policy framework for Wiltshire and Swindon.
31. The Inspector's recommended main modifications must be made in order for the Plan to be adopted, published and incorporated into the policy framework of the two Councils.
32. Once formally adopted, copies of the adopted Plan (incorporating the Inspector's recommendations), the Inspector's Report, Adoption Statement and final Sustainability Appraisal report, will be published and made available for inspection.
33. At the point of adoption, the Plan will be the subject of a six week period within which a legal challenge may be submitted.

34. Adoption of the Plan represents the final stage of the plan making process. Cabinet considered the proposals at its meeting on 22 January 2013 and recommended the Plan for adoption by Council. Swindon Borough Council formally adopted the Plan on 17 January 2013.

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The following unpublished documents have been relied on in the preparation of this Report:

None

Appendices:

Appendix 1 – The Inspector’s Report

Appendix 2 – Wiltshire and Swindon Waste Site Allocations Local Plan – *enclosed separately*