

CABINET
15 JULY 2009

**ADOPTION OF THE WILTSHIRE AND SWINDON MINERALS DEVELOPMENT
CONTROL POLICIES DEVELOPMENT PLAN DOCUMENT AND
THE WILTSHIRE AND SWINDON WASTE DEVELOPMENT CONTROL POLICIES
DEVELOPMENT PLAN DOCUMENT**

Executive Summary

The Wiltshire Council and Swindon Borough Council have received the Planning Inspectors' **binding** Reports into the examinations of the following Wiltshire and Swindon Development Plan Documents (DPD):

Wiltshire and Swindon Minerals Development Control Policies DPD; and

Wiltshire and Swindon Waste Development Control Policies DPD.

The Reports conclude that, subject to minor amendment, the submitted DPDs are 'sound' and therefore these documents should be adopted as soon as is reasonably practicable.

Once adopted the DPDs will ensure that planning applications received by the Councils for minerals and waste development result in sites that are operated and managed to high standards with minimum impacts to local communities and the environment.

Proposal

That Cabinet recommends Full Council to adopt:

- (i) The Wiltshire and Swindon Minerals Development Control Policies DPD; and
 - (ii) The Wiltshire and Swindon Waste Development Control Policies DPD
- as amended by the changes identified in the Inspectors' binding Reports.

Reason for Proposal

The Minerals and Waste Development Control Policies DPDs will form part of the Council's Policy Framework. In line with the Local Government Act they must first be approved by Cabinet before they are adopted by Full Council. The Inspectors' Reports are **binding** upon the Councils (Wiltshire and Swindon) and hence, in accordance with the requirements of the Planning and Compulsory Purchase Act 2004, the recommendations it presents must be acted upon. As the documents have been found sound, it follows that they should be adopted by the Council as soon as reasonably practicable, in order to ensure up to date minerals and waste policy is in place for Wiltshire.

ALISTAIR CUNNINGHAM

Service Director, Economy and Enterprise

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Purpose of Report

1. To:
 - (i) Note the content of the Inspectors' binding reports (copy provided at **Appendices 1¹ and 2²** (available on request) into the examination of:
 - (a) The Wiltshire and Swindon Minerals Development Control Policies Development Plan Document (DPD) and;
 - (b) The Wiltshire and Swindon Waste Development Control Policies DPD; and
 - (ii) Seek Cabinet's approval that the Wiltshire and Swindon Minerals and Waste Development Control Policies DPDs, as amended by the changes identified in the Inspectors' Reports, be adopted by Full Council.

Background

2. The Wiltshire and Swindon Minerals and Waste Development Control Policies DPDs build upon the strategic policies of the recently adopted Minerals and Waste Core Strategies. The DPDs will ensure that planning applications received by the Councils for minerals and waste development result in sites that are operated and managed to high standards with minimum impacts to local communities and the environment.
3. On 27 January 2009, hearing sessions were held on the soundness of the Minerals Development Control Policies DPD and on 31 March and 1 April 2009 hearing sessions were held into the soundness of the Waste Development Control Policies DPD. These sessions provided opportunity for people to present their case to the independent Planning Inspectors on certain matters.

¹ http://www.wiltshire.gov.uk/minerals_development_control_policies_dpd_-_inspector_s_report_-_may_2009.pdf
http://www.wiltshire.gov.uk/minerals_development_control_policies_dpd_-_inspector_s_report_appendix_-_schedule_of_proposed_changes_to_submission_draft.pdf

² http://www.wiltshire.gov.uk/waste_development_control_policies_dpd_inspector_s_report_-_may_2009.pdf

4. After the sessions for the Minerals Development Control Policies DPD, the Councils presented a list of 'Proposed Changes' to the submitted DPD which were published for a final six-week period of public consultation. Following the consultation on the 'Proposed Changes', the Inspector considered all representations received and presented his Report to the Council on 6 May 2009.
5. After the sessions for the Waste Development Control Policies DPD the Inspector determined that no further consultation would be required on the 'Proposed Changes' submitted by the Councils during the hearing sessions and presented her Report to the Council on 26 May 2009.
6. Both Reports concluded that, subject to minor amendments, the DPDs are 'sound' and thereby meet the requirements of the Planning and Compulsory Purchase Act 2004, whilst supporting Wiltshire and Swindon's approach of balancing the need for new minerals and waste development with the protection of the environment. This is a major achievement for the Councils as DPDs are rigorously scrutinised by the Government to ensure that they are 'soundly' based.

Main Considerations for the Council

7. Whilst the Inspectors have concluded that the Minerals and Waste Development Control Policies DPDs are essentially 'sound' overall, they have identified a number of changes that need to be made to the documents in order to fully comply with planning regulations and national policy. These changes, which are **binding** on the Councils, are largely minor in substance. As outlined above, the Inspectors' Reports and details of the recommended changes are provided in **Appendices 1 and 2**.
8. A summary of the principal changes to the documents are as follows:

Minerals Development Control Policies

- (a) To remove references to Mineral Consultation Areas to reflect the changes in local government in Wiltshire to a unitary authority.
- (b) To clarify the wording of Policy MDC6 on protection of biodiversity and geological interest and the features to which it applies.
- (c) To clarify the protection afforded to the historic environment by Policy MDC7 regarding sites at different levels of importance, and to define the areas to which the policy applies.

Waste Development Control Policies

- (a) To bring the DPD more closely into line with the Core Strategy by incorporating and/or amending references to:
 - (i) The Waste Hierarchy
 - (ii) Sustainable transport
 - (iii) Waste audit
 - (iv) Hydrogeology and groundwater protection

- (b) To introduce additional design requirements for new buildings associated with waste developments in the countryside.
 - (c) To clarify provisions relating to impacts upon leisure and recreation.
 - (d) To correct the approach to designated nature conservation sites according to their status.
 - (e) To clarify monitoring indicators/targets.
9. Once adopted, the Minerals and Waste Development Control Policies DPDs (as amended) will carry significant weight in the determination of planning applications for minerals and waste development. They will also provide the basis upon which work associated with the identification of new/expanded sites for minerals and waste development over the period up to 2026 can be undertaken in line with the Council's Local Development Scheme.
 10. In addition, once adopted the Minerals and Waste Development Control Policies DPDs will form part of the Council's Local Development Framework.

Environmental Impact of the Proposal

11. The Inspectors' Reports list a range of minor amendments that do not fundamentally alter the content of the policies and proposals set out within the DPDs or the findings of the various independent assessments³ that have been undertaken to support the document.
12. In an overall sense, the adoption of the DPDs present a new and up-to-date development management policy framework for Wiltshire and Swindon and meets national, regional and local policy initiatives for balancing the need for new development with environmental protection.

Equalities Impact of the Proposal

13. A detailed Equalities Impact Assessment (EIA) was prepared to support each of the submission draft DPDs and considered through the examination process by the Planning Inspectorate.
14. The adoption of the DPDs does not alter the conclusions of the original EIA. The policies of the DPDs are development management orientated and not site specific. From the perspective of EIA this is an important consideration, as all the policies of the document will apply equally across the Plan area and not materially impact upon any of the equality strands listed within the EIA.

Risk Assessment

15. The risks associated with the adoption of the DPDs stem from the process of adoption and specifically the potential for legal challenge.

³ Sustainability Appraisal (SA), Strategic Environmental Assessment (SEA), Habitats Regulations Assessment (HRA) and Strategic Flood Risk Assessment (SFRA).

16. At the point when the Councils adopt the DPDs, there will follow a period of six weeks for legal challenge. Adoption of the documents will ensure that the authority has up to date policy in place to be used in the determination of planning applications for minerals and waste developments.

Financial Implications

17. The financial implications of adopting and publishing the DPDs are to be met from planned budget commitments. The most significant financial risk associated with the adoption process stems from the potential for legal challenge.

Legal Implications

18. There are legal implications associated with the adoption of the document 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.
19. At the point the Minerals and Waste Development Control Policies DPDs are formally adopted by the two Councils (Wiltshire and Swindon), an 'Adoption Statement' will be published in the local press advertising the availability of the Inspectors' Reports and the adopted DPDs. If at this stage anyone wishes to lodge a judicial challenge to one or both of the documents, they must do so within six weeks of the date they are adopted by the Councils.

Options Considered

20. The Inspectors' Reports are **binding** upon the Councils and hence the recommendations they contain must be adhered to.

Conclusion

21. The Inspectors' Reports on the examination into the Wiltshire and Swindon Minerals Development Control Policies DPD and the Waste Development Control Policies DPD conclude that the documents, subject to amendment, are 'sound'. This is a significant achievement for the Council and an important step towards the completion and delivery of a new minerals and waste policy framework for Wiltshire and Swindon.
22. The Inspectors' recommendations for amending the two DPDs are, in the main, minor but they must be made in order for the document to be adopted, published and incorporated into the policy framework of the two Councils.
23. Once formally adopted, the DPDs, along with the Inspectors' Reports and final sustainability appraisal report, will be published and made available for inspection.

24. At the point of adoption, the DPDs will be the subject of a six week period within which a legal challenge may be submitted.

ALISTAIR CUNNINGHAM

Service Director, Economy and Enterprise

Tel No. 01225 713203

July 2009

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

The Inspector's Report on the examination into the Wiltshire and Swindon Minerals Development Control Policies Development Plan Document

The Inspector's Report on the Examination into the Wiltshire and Swindon Waste Development Control Policies Development Plan Document

Appendices:

Appendix 1: The Inspector's Report on the examination into the Wiltshire & Swindon Minerals Development Control Policies Development Plan Document; and recommendations for amending the document

http://www.wiltshire.gov.uk/minerals_development_control_policies_dpd_-_inspector_s_report_-_may_2009.pdf
http://www.wiltshire.gov.uk/minerals_development_control_policies_dpd_-_inspector_s_report_appendix_-_schedule_of_proposed_changes_to_submission_draft.pdf

Appendix 2: The Inspector's Report on the examination into the Wiltshire & Swindon Waste Development Control Policies Development Plan Document; and recommendations for amending the document

http://www.wiltshire.gov.uk/waste_development_control_policies_dpd_inspector_s_report_-_may_2009.pdf