

**Aggregate Minerals Site Allocations Development Plan Document (DPD) –Submission to Secretary of State**

**Executive Summary**

Since the adoption of the Minerals Core Strategy and Minerals Development Control Policies Development Plan Documents (DPD) in 2009, considerable progress has been made on the preparation of the Aggregate Minerals Site Allocations DPD (the Sites DPD). Despite the changes in the planning system, it is clear that the Government remains committed to a managed aggregates supply system premised upon long-term forecasting.

The capacity of Wiltshire and Swindon to meet the Government's proposed forecast provision rate of 1.41 million tonnes per annum has been fully assessed through the preparation of the Sites DPD. Evidence underpinning the DPD has demonstrated that a lower, locally derived forecast rate of 1.2 million tonnes per annum should be applied.

Cabinet on 19 June 2012 will consider the Aggregate Minerals Site DPD. The outcome of Cabinet will be made available prior to the Council meeting and published on the website.

Following further work and consultation, the Sites DPD can now be submitted to the Secretary of State for Examination. This report sets out:

- A summary of the plan preparation process to date;
- The key issues that have emerged through the recent consultation undertaken between January and March 2012;
- The arrangements for submitting the Sites DPD; and
- Next steps.

Following approval from Council, the Sites DPD, along with all other supporting documents, will be formally submitted to the Secretary of State (for Communities and Local Government) in order to initiate the Examination process by an independent Planning Inspector.

The Examination will consider matters of soundness. At the end of the process, the Inspector will issue the Councils with a report on the outcome of the Examination process. Should this report recommend that the Sites DPD is sound; arrangements will be made for formal adoption. This is scheduled for early 2013.

## **Proposals**

Cabinet at its meeting on 19 June 2012 will be asked to make the following recommendations to Council:

- (i) Approves the Submission draft Aggregate Minerals Site Allocations DPD and proposed modifications set out at **Appendix 3** and the Equalities Impact Assessment at **Appendix 4**, for the purpose of submission to the Secretary of State.
- (ii) Delegates to the Director for Economy and Regeneration, in consultation with the Cabinet Member for Economic Development and Strategic Planning, authorisation to propose other minor modifications to the Sites DPD for submission to the Secretary of State in the interests of clarity and accuracy, and to make appropriate arrangements for submission of the documents to the Secretary of State and any consequential actions as directed by the Inspector relating to the Examination.

## **Reason for Proposals**

To ensure that progress continues to be made on preparing an up-to-date minerals policy framework for Wiltshire (and Swindon) in line with the timetable set out in the Council's revised Local Development Scheme and statutory requirements. Once adopted, the Sites DPD will form part of the Council's policy framework.

Regulatory and constitutional procedures require that the policy framework of the authority be a shared matter for Cabinet and Council<sup>1</sup>. Cabinet's functions set out in the constitution include proposing to Council new policies which fall within the Policy Framework as defined in paragraph 1 of Part 3 of the Constitution. In order to secure Council approval, therefore, the draft DPD has first been endorsed by Cabinet.

**Alistair Cunningham**  
**Director for Economy and Regeneration**

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<sup>1</sup> Statutory Instrument 2005 No. 929 Local Government, England; The Local Authorities (Functions and Responsibilities) (Amendment) (No.2) (England) Regulations 2005. See also Part 3A of the Council's Constitution

**Aggregate Minerals Site Allocations Development Plan Document (DPD) – Submission to Secretary of State**

**Purpose of Report**

1. The purpose of this report is to request that Council:
  - (i) approves the Submission draft Aggregate Minerals Site Allocations DPD (the Sites DPD) together with proposed minor modifications set out in **Appendix 3** for the purpose of submission to the Secretary of State for Examination and
  - (ii) delegates to the Director for Economy and Regeneration, in consultation with the Cabinet Member for Economic Development and Strategic Planning, authorisation to propose other minor modifications to the Sites DPD for Submission in the interests of clarity and accuracy and to make appropriate arrangements for submission of the documents to the Secretary of State and any consequential actions as directed by the Inspector relating to the Examination.

**Background**

2. Since the adoption of the Minerals Core Strategy and Minerals Development Control Policies DPDs in 2009, considerable progress has been made on the preparation of the Sites DPD. Despite the changes in the planning system, including publication of the National Planning Policy Framework (NPPF), it is clear that the Government remains committed to a managed aggregates supply system premised upon long-term forecasting.
3. Cabinet has met to discuss the progress of the Sites DPD at various stages during the plan preparation process. The dates of these meetings, and the decisions made at each, are listed in the table below.

<b>Cabinet Date</b>	<b>Decision resolved</b>
27 July 2010	Recognised the need to identify sites for sand and gravel extraction in order to address long-term supply issues and the short-term shortfall in permitted reserves (the landbank) and approved that public consultation is undertaken on initial site options.  Resolved that Wiltshire Councillors should be advised of any potential sites identified within their respective division and that town and parish councils should be similarly kept informed.

22 March 2011	<p>The Interim report on the consultation undertaken on the proposed minerals sites (between 5 August 2010 and 31 October 2010) was considered. It was resolved that the initial 62 site options be reduced to 22 sites and subjected to further detailed assessments to inform their suitability for allocation, and targeted consultation be undertaken on one additional site.</p> <p>In addition, a local figure for aggregate provision in Wiltshire and Swindon would be produced on the basis of these further assessments. Subsequent assessments clearly showed that Wiltshire and Swindon cannot make provision for the sub-regional apportionment figure of 1.85 million tonnes per annum as set out in the draft Regional Spatial Strategy for the South West.</p>
14 June 2011	<p>Resolved that:</p> <ul style="list-style-type: none"> <li>(i) A local forecast rate of 1.2 million tonnes per annum (decreased from current 1.85 million tonnes per annum figure) is used as the basis for making provision in the Sites DPD; and</li> <li>(ii) Eight<sup>2</sup> sites would be carried forward into the Sites DPD.</li> </ul> <p>Following this meeting, the Director for Economy and Enterprise wrote to central Government notifying them of the provision that can be met for the period to 2026. This sets out clear reasons as to why a forecast rate of 1.2 million tonnes per annum is appropriate for Wiltshire and Swindon.</p>
7 December 2011	<p>Approved the pre-submission draft Sites DPD for a final stage of consultation relating to the soundness of the document. This took place between 30 January and 12 March 2012<sup>3</sup>.</p>

<sup>2</sup> Note the number of sites carried forward into the DPD was altered to 7 with extensions to Brickworth considered as one site option due to their shared characteristics and shared restoration potential

<sup>3</sup> The consultation was extended by 5 days in the Borough of Swindon as an advert was not placed in the Swindon Evening Advertiser on the day of the consultation commenced, appearing instead on the 26 January 2012 - prior to the start of consultation. An advert was subsequently re-placed in the Swindon Evening Advertiser on the 3 February 2012. Furthermore, due to a database error 513 consultees were informed of the consultation 2 weeks late. The consultation was extended by an additional 2 weeks for those consultees.

## Main Considerations for the Council

4. Cabinet on 19 June 2012 will consider the Aggregate Minerals Site DPD. The outcome of Cabinet will be made available prior to the Council meeting and published on the website.
5. The recent consultation undertaken between January and March 2012 was a formal stage of the process whereby respondents were invited to comment on matters of soundness<sup>4</sup>. The consultation generated 124 comments from 53 organisations, consultees and members of the public. These comments will be considered by a Government appointed Inspector and form the basis of the forthcoming Examination.
6. A breakdown of the key points raised through the formal consultation stage, which will inform matters for consideration and discussion at Examination can be found at **Appendix 2**. A schedule of proposed modifications to the Sites DPD arising from consultation comments is presented at **Appendix 3**. Verbatim comments received, and a detailed report<sup>5</sup> outlining all consultation work, will be submitted as part of the Councils' submission to the Secretary of State. Copies of this report will be made available for viewing in the **Members' Room** and on the website.
7. The Sites DPD has been prepared in light of the resolutions of Cabinet in 2011 and is attached at **Appendix 1**. This is considered to be a sound document that is based on robust and proportionate evidence gathering and consultation. In order to finalise the plan preparation process it should now be submitted to the Secretary of State for Examination. The documents to be submitted alongside the Sites DPD for Examination are set out in paragraph 7 below.
8. The evidence base to be submitted comprises:
  - (i) Initial site appraisal matrices completed by officers to highlight the issues for each potential site.
  - (ii) Mineral Resource Zone site identification sieving report.
  - (iii) Detailed Assessments undertaken by Wiltshire Council on Landscape and Visual Impact; Transport; Archaeology; and the Historic Built Environment.
  - (iv) An Ecological Assessment Report (incorporating Habitat Regulations Assessment requirements, as required by European legislation) undertaken by the Council's Ecologist.
  - (v) Noise and Air Quality assessments and hydrogeological impact assessments undertaken by external consultants.
  - (vi) Consultation output report (detailing the consultation and evidence gathering work undertaken to date) – Regulation 30(1)d and 30(1)e<sup>6</sup> (Regulation 22(1)(c)).
  - (vii) A Sustainability Appraisal Report.
  - (viii) Schedule of proposed modifications to the Sites DPD.

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<sup>4</sup> Government policy, as set out through the National Planning Policy Framework (NPPF) states that to be sound a DPD should be positively prepared, justified, effective and consistent with national policy.

<sup>5</sup> The Regulation 30(1)(d)(e) Statement (Town and Country Planning (Development) (England) Regulations 2004 (as amended)/ Regulation 22(1)(c) Statement (The Town and Country Planning (Local Planning) (England) Regulations 2012).

<sup>6</sup> In accordance with the Town and Country Planning (Local Planning)(England) Regulations 2012, the requirements of Regulation 30 are now set out at Regulation 22.

- (ix) Soundness Self Assessment.
  - (x) Equalities Impact Assessment.
  - (xi) National Planning Policy Framework checklist.
9. Whilst officers consider that no significant new issues have been raised during the consultation, comments and concerns were raised on a number of areas within the plan. Some of the general concerns/issues are discussed below, site based issues are detailed in **Appendix 2**.
10. Concerns were raised from some sections of the minerals industry that Wiltshire and Swindon are not seeking to allocate sufficient sites to fulfil long-standing and agreed aggregate provision obligations through the intention to pursue a locally derived forecast figure of 1.2 million tonnes of sand and gravel per annum. They felt that the proposed provision rate could lead to a downward spiral/reduction in the number of submitted planning applications and does not offer flexibility. However, evidence from the past 10 years of production of sand and gravel at quarries located within the plan area indicates that production has consistently fallen short of the original figure of 1.85 million tonnes per annum and the recently revised figure of 1.41 million tonnes per annum – sitting at slightly less than 1.1 million tonnes per annum. Therefore, officers are confident that a proposed locally derived forecast figure of 1.2 million tonnes per annum as detailed through the Sites DPD is justified, evidence based and flexible to changing market conditions.
11. Landowners of previously considered, but dropped, sites U15, U17 and C16 asked for the Councils to revisit these with the view of reconsidering their inclusion in the Sites DPD. The Sites DPD has been informed by a positive and inclusive approach to site identification, using a detailed methodology, as demonstrated through the consideration of all site options through previous rounds of consultation. The sites presented in the plan offer the most sustainable site options and therefore the Councils are of the view that previously considered, but removed, sites should not be included in the Sites DPD.
12. A general comment made about all sites related to the need for noise and dust assessments to address the cumulative impacts at remote roadside properties where HGV traffic would pass when transporting mineral from the proposed sites. In response to this, suitable text has been developed as a proposed modification to highlight the issue of potential impacts to roadside properties remote from the site along HGV routes associated with operations at sites in the plan.
13. Furthermore, concern was expressed that cumulative effects had not been adequately addressed for all sites. Particular reference was made to aviation safety, environmental impact, transport/HGV movement impacts and potential impacts on Gloucestershire. However, the issue of cumulative effects associated with proposed minerals development is already recognised within the Sites DPD and will therefore be considered through any subsequent planning application. Issues of potential cumulative impacts on Gloucestershire are highlighted as a key consideration through the adopted Wiltshire and Swindon Minerals Core Strategy DPD, which any planning application will also need to comply with.

14. In light of comments and advice received during the last round of consultation some minor modifications to the Minerals Site Allocations DPD are proposed, which should be submitted to the Secretary of State alongside the Sites DPD. In broad terms these modifications concern issues of clarity, consistency, updating the DPD in light of changes to the planning system and the NPPF, minor text changes and additional wording within some site profile tables to reflect concerns raised by consultees on issues including the water environment, traffic and transportation, human health and amenity and archaeology . These proposed modifications are not considered by officers to be substantial and can be accommodated into the DPD in order to strengthen sections where necessary, without undermining the overall soundness of the document. A full list of proposed modifications can be viewed at **Appendix 3**.
15. By endorsing the Sites DPD for submission to the Secretary of State, Council considers that the document is sound and that it should be submitted to the Secretary of State for Independent Examination. Swindon Borough Council Cabinet met to discuss the Sites DPD on 11 June 2012 and endorsed the DPD to be presented to Swindon Borough Council Full Council on 19 July 2012.
16. Once submitted to the Secretary of State, the process of independent Examination by a Government appointed Planning Inspector will commence.

#### The National Planning Policy Framework (NPPF)

17. Officers consider that the Sites DPD and policies included within the Minerals Core Strategy and Minerals Development Control Policies DPD's are in general conformity with the policies of the recently introduced NPPF and prepared consistent with the duty to co-operate as prescribed through the Localism Act 2011 and NPPF.
18. The NPPF (paragraph 145) clearly stipulates that local authorities should base their provision rate on the basis of a rolling average of the past 10 years production/sales (currently 1.1 million tonnes per annum of sand and gravel for Wiltshire and Swindon) and should take the advice of an Aggregate Working Party when preparing local Aggregate Assessments. The Council has been in compliance with this approach throughout the process of site selection, the development of the Sites DPD and the approach taken to determine a locally derived apportionment figure of 1.2 million tonnes per annum.
19. The duty to co-operate requirement only came into force through the Localism Act in November 2011; however, the Council has been working within the 'spirit' of the duty to co-operate throughout the preparation of the Minerals Development Framework and the Sites DPD. The Council has consulted extensively with all relevant bodies (as listed in regulation 4 of the Town and Country Planning (Local Planning) (England) Regulations 2012) throughout the preparation of the Sites DPD<sup>7</sup>.

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<sup>7</sup> See The Regulation 30(1)(d)(e) Statement (Town and Country Planning (Development) (England) Regulations 2004 (as amended), Regulation 22(1)(c) Statement (The Town and Country Planning (Local Planning) (England) Regulations 2012) for details of previous rounds of consultation on the Sites DPD.

## Environmental and Climate Change Considerations

20. The Sites DPD has been prepared in accordance with legislative procedures and national policy<sup>8</sup>. In addition, the document is in general conformity with the adopted Minerals Core Strategy.
21. In preparing and appraising the document, all reasonable site options have been considered and judged against environmental criteria through the rigorous application of Sustainability Appraisals (incorporating the requirements of the Strategic Environmental Assessment Directive) and Habitats Regulations Assessments – to be examined alongside the document. As such, the final schedule of proposed site allocations are considered to represent the most sustainable options for meeting forecast requirements for aggregate minerals.
22. Matters in relation to the potential environmental impact of bringing forward new mineral sites have been fully considered. The document sets out clear guidelines to be considered when applications are being prepared. Such matters include, *inter alia* – 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.
23. 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

24. The Sites DPD has been prepared to ensure that impacts on the various strands of equality have been addressed. As with all DPDs, a full Equalities Impact Assessment (EIA) will be included with the documents and evidence submitted to the Secretary of State to support the Examination process. An EIA has been prepared and is set out at **Appendix 4** for consideration by Council.

## Risk Assessment

25. The key risks associated with the preparation of this DPD are:
  - (i) Risks associated with procedural compliance matters, including the legal duty to co-operate – these have been addressed throughout the plan preparation process. These matters will be considered in more detail by the Inspector through the early stages of the Examination process.
  - (ii) The principal risk associated with the submission and examination stage relates to soundness. In presenting the Sites DPD to the Secretary of State, the Councils are of the opinion that the proposals it *[the document]* contains are sound. This opinion will be tested by the Inspector through

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<sup>8</sup> The bulk of the plan preparation process was undertaken in the light of previous national planning policy, as set out across the former Mineral Planning Statements and Planning Policy Statements. With the publication of the National Planning Policy Framework, the Sites DPD has been screened for general conformity with new policies.

the Examination of all submitted matters (i.e. the primary documents and all consultation materials).

- (iii) The Government may not accept the proposal to reduce the sand and gravel provision rate for Wiltshire and Swindon. Evidence submitted by the minerals industry and landowners during the consultation period has challenged the Councils' approach to site identification and proposals to progress with a local apportionment figure of 1.2 million tonnes per annum. However, in taking an evidence based approach to establishing a reasonable new rate of aggregates provision for Wiltshire and Swindon, the Councils are confident that a realistic and pragmatic approach to determining a suitable rate has been used. In addition, the approach is considered to be fully compliant with the new national policy position (NPPF, paragraph 145).
- (iv) Following Independent Examination, a legal challenge could be made on the process leading to the adoption of the Sites DPD.

### **Financial Implications**

- 26. The cost of preparing the Sites DPD has been planned financially and the Examination costs can be met from a reserve built up for this purpose. There is potential for further financial costs at the end of the Examination process. If the document is found to be sound and subsequently adopted by the Councils, there follows a six week period of legal challenge. Such actions are rare but must be considered and costs will need to be met.

### **Legal Implications**

- 27. The legal issues associated with the Examination process are broadly set out above.
- 28. 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 25 and 27 of the Town and Country Planning (Development) (England) Regulations 2004 (as amended).<sup>9</sup>

### **Options Considered**

- 29. The process of developing the Sites DPD has been one of considering and refining the options available based on full appraisal of the available evidence. The site options considered in the previous consultation in 2010 were fully appraised. Only those site options considered suitable in social, environmental and economic terms have been included in the Sites DPD. Those options that are considered unsuitable have been excluded. The Submission draft of the DPD therefore represents the most suitable options having considered all reasonable alternatives.

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<sup>9</sup> Please note that the implementation of the Localism Act, 2011 and the recently published National Planning Policy Framework (NPPF) has led to the publishing of an amended set of planning regulations – The Town and Country Planning (Local Planning) (England) Regulations 2012. The steps undertaken to date in the development of the Sites DPD and the next steps proposed are considered to be fully compliant with regulatory requirements 18, 19 and 35 as set out in the Town and Country Planning (Local Planning) (England) Regulations 2012.

## Conclusions

30. The submission of the Minerals Site Allocations DPD represents the final preparatory stage of the plan making process. The process of developing the Sites DPD has been one of considering and refining the options available based on full appraisal of the available evidence.
31. In light of comments and advice received during the last round of consultation some minor modifications to the Minerals Site Allocations DPD are proposed, which should be submitted to the Secretary of State alongside the Sites DPD. These proposed modifications are not considered by officers to be substantial and can be accommodated into the DPD in order to strengthen sections where necessary, without undermining the overall soundness of the document.
32. Subject to the resolutions of Cabinet on 19 June and approval by Council, the next steps will result in duly made comments being considered by a Government appointed, independent Planning Inspector. Based upon the evidence submitted by respondents (relating to the soundness of the documents), weighed against the evidence of the Councils, the Inspector will make a decision as to whether the document is sound and hence able to be adopted.

## **Alistair Cunningham** **Director for Economy and Regeneration**

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

None

## **Appendices:**

- Appendix 1 - Wiltshire and Swindon Aggregate Minerals Site Allocations DPD – Submission Draft
- Appendix 2 - Main issues arising from the Minerals Sites DPD consultation
- Appendix 3 - Proposed changes to the Minerals Sites DPD following Consultation
- Appendix 4 - Submission Stage Equalities Impact Assessment