



meeting	ENVIRONMENT AND SUSTAINABILITY SELECT COMMITTEE	
date	19 SEPTEMBER 2005	agenda item no

REPLACEMENT MINERALS LOCAL PLAN – RESPONSE CONSULTATION ON SCHEDULE OF PROPOSED MODIFICATIONS

Purpose of Report

1. To advise Members of the response to the public consultation on the Schedule of Proposed Modifications to the Replacement Minerals Local Plan and options regarding the remaining stages leading to the adoption of the Plan.

Background

2. The Replacement Minerals Local Plan was last reported to this Committee at the meeting of 4 April 2005 when Members were informed about the Inspector's Report into objections to the Plan considered at a Public Inquiry held last year.
3. Since then the County Council has prepared a Statement of Response to the Inspector's Report and Schedule of Proposed Modifications. These were approved at the meeting of the County Council on 23 June and published to allow a statutory 6-week period of public consultation which ended on 19 August.
4. A total of 72 modifications were proposed. Most were in direct response to recommendations made by the Inspector. These ranged from minor factual corrections to the allocation of a new area of sand and gravel extraction at Misson Newington in the north of the County. Some modifications also comprised new information received since the close of the Public Inquiry. These were mostly updates taking into account new Government guidance and legislation.

Response to the public consultation exercise

5. Following the 6 week consultation period, a total of 29 representations comprising 19 objections and 10 statements of support were received from 14 organisations and individuals. 6 invalid representations were also received. Objections were made against 11 modifications (see attached list).

Summary of objections received

6. Objections were made against modifications to Chapter 2 (Sustainable Development), Chapter 3 (Environmental Protection), Chapter (6 Sand and Gravel), Chapter 10 (Clay) and Chapter 12 (Coal). Most objections sought detailed

changes to the wording of policies or supporting text or would like to see the modification deleted.

7. The most significant site specific modification concerned the proposed new allocation of a sand and gravel extraction at Misson Newington. This modification attracted 4 objections, 2 of which were opposed in principle, the other 2 being objections to the planning requirements set out in support of the proposed allocation policy. These include an objection from the new Robin Hood Airport at Finningley, which raised concerns over the proposed wetland reclamation scheme and risks of bird strike.

Consideration of representations to the proposed modifications

8. The County Council must now consider all valid representations received and decide if any further changes to the Plan are appropriate before the Plan can be adopted. Where necessary the County Council will liaise with objectors and any other relevant consultees to see if the objection can be resolved. The reclamation issues and potential bird strike risks cited at the new Misson Newington allocation is one area that the County Council is currently investigating further. At this stage no decision has been reached on any of the objections.
9. The intention is to report back to the meeting of the County Council on 20 October. This report will seek approval of the proposed response to objections to the Modifications. If no further changes are considered, or changes are limited to minor detailed points, then the Plan can immediately proceed towards the final adoption stages described below in Para 10. If, however, new modifications are proposed which materially affect the Plan, then these must be subject to a 6 week period of public consultation before the Plan can proceed any further towards adoption. Exceptionally if new objections raise major new issues that cannot be resolved then a Public Inquiry into those objections can be held.

Adopting the Plan

10. Once the modifications stages are completed the Plan can proceed towards adoption. This involves two stages. First 'an intention to adopt after 28 days' notice is published, during which time the Secretary of State can intervene. Once this stage has passed without intervention the County Council can then adopt the Plan and publish a notice that it has been adopted.

Legal challenges and complaints

11. There is a right to legally challenge the Plan within 6 weeks of the adoption notice being published. Such challenges must be based on the Plan being legally flawed in some way. If successful the challenge could see all or part of the Plan quashed. The usual rights of members of the public to complain to the Local Government Ombudsman also apply. If such complaints are successful the remedy may include compensation but it cannot alter the Plan.

Possible legal challenge from the Bulcote Conservation Trust.

12. The Bulcote Conservation Trust has indicated that it is likely to pursue a legal challenge if the County Council adopts the Plan without deleting Policy M6.6 – the

proposed allocation for a new sand and gravel quarry at Gunthorpe. This allocation was subject to strong objections at the Public Inquiry but the Inspector recommended that it remain in the Plan without any modification. The County Council has accepted the Inspector's recommendation. This decision took into account the potential impact of the listing of additional buildings within the Bulcote Conservation Area since the Public Inquiry closed. These buildings include parts of Bulcote Farm and adjacent cottages which lie to the south of the railway line, and near to the allocation.

13. The Bulcote Conservation Trust has alleged that Members were misinformed about objections and other facts relating to Policy M6.6 at the meeting of the County Council on 23 June. These principally relate to the alleged impact that mineral extraction within this allocation will have on the Bulcote Conservation Area. The Trust's concerns were made known to the Council Leader, Councillor David Kirkham, immediately prior to the June 23 meeting. Councillor Kirkham agreed to meet with the Trust and other local action groups with officers to hear their concerns in more detail. That meeting was duly held on 8 August. The principal allegations and concerns raised at that meeting covered the following issues:-
- a) Impact on the setting of Bulcote Conservation Area.
 - b) Impact of dewatering on ground stability on Bulcote Conservation Area and Burton Joyce.
 - c) Increased flood risks to Gunthorpe.
 - d) Harm to recreational and general amenity currently enjoyed by many local and other residents.

The Trust says it has obtained advice from leading counsel but has not yet provided a copy of this advice to enable the County Council to give further consideration to the likely strength of any legal challenge.

14. Councillor Kirkham will be responding to the Trust. The County Council is carefully considering these allegations and is seeking appropriate advice on how to proceed. At this stage the County Council does not believe that any procedural or other legal errors have occurred in the preparation of the Plan.

RECOMMENDATIONS

15. It is **RECOMMENDED** that the response to the Schedule of Proposed Modifications and the proposed approach for taking the Plan through the final stages leading to adoption be noted.

PETER WEBSTER
Director of Environment

Schedule of Proposed Modifications – Summary of Representations

31 valid representations have been made against 19 separate proposed modifications. 4 invalid representations have been submitted.

21 objections have been made along with 10 supporting representations.

Representations have been received from 5 members of the public, 1 action group, 2 Government bodies, 2 parish councils, 2 from industry/businesses and 2 from environmental bodies.

Valid representations can be split as follows:

Modification Number	Subject	Number of Objections	Number of Supporting Representations
6	Paragraph 2.5 – Sustainable Development	3	
9	Policy M3.3 – Visual Intrusion	1	
11	Panel 3.1- How Noise is Measured	1	
16	Policy M3.9 – Flood Defences	1	1
17	Policy M3.10 – Associated Industrial Development		1
18	Paragraph 3.58 – Green Belts	1	
20	Policy M3.17 – Biodiversity	1	
21	Paragraph 3.74 and Policy M3.19 – SSSIs	2	
23	Policy M3.23 – Landscape Character	1	
31	Paragraph 4.38 – Nature Conservation After-use		1
39	Policy M6.4 – Attenborough Plant	2	3
47	Paragraphs 6.114 – 6.114(b) – Newington – Future Assessment	4	
48	Policy M6.10 (a) – Newington Allocation	2	
56	Paragraph 11.27a – Dorket Head	1	
57	Paragraph 11.27b – Dorket Head		1
58	Policy M11.2 – Dorket Head		1
59	Paragraph 12.6 – Coal – Future Requirements		1
60	Policy M12.1 – Coal Development	1	
70	Inset Map 15d – Coal Constraint Areas		1