

**REPORT OF THE CHAIRMAN OF THE COMMUNITIES AND PLACE
COMMITTEE**

**NOTTINGHAMSHIRE MINERALS LOCAL PLAN – RECEIPT OF INSPECTOR’S
REPORT AND ADOPTION**

Purpose of the Report

1. To recommend that Council adopts the Nottinghamshire Minerals Local Plan following receipt of the Inspector’s Report on the Local Plan. The Inspector’s Report concludes that the Plan provides an appropriate basis for the planning of minerals development in Nottinghamshire, provided that a number of main modifications are made to it.

Information

Community Involvement in preparing the Minerals Local Plan

2. The Minerals Local Plan is a statutory document that all Minerals Planning Authorities must prepare. It identifies sites and sets out policies against which all minerals development proposals are assessed and determined by the County Council. The overall aim of the Plan is to ensure that sufficient minerals are provided to meet expected demand in the most sustainable way and to safeguard proven mineral resources from being unnecessarily sterilised by other development.
3. The current Minerals Local Plan was adopted in December 2005 and was prepared under previous Government legislation. This document is out of date and work started in 2017 on a new plan to replace it. The new plan will look ahead to 2036.
4. The preparation of the Plan began with a public consultation between 20th November 2017 and the 14th January 2018 on the issues and options that were likely to occur over the new plan period. The feedback from this consultation fed into the development of the Draft Plan version of the Minerals Local Plan, which was published for consultation between the 27th July and 28th September 2018.
5. Over the two consultation stages, responses were received from a wide range of organisations and individuals. This included statutory bodies, district and parish councils, neighbouring county councils, the minerals industry, interest groups and members of the public. A total of 570 responses were made from 76 individuals and organisations at the initial stage and 1744 responses from 106 individuals and organisations were received on the subsequent Draft Plan stage.

6. Council resolved to approve the publication and submission of the Minerals Local Plan at its meeting on 11th July 2019. The Plan was published to enable a further period of representations between the 30th August 2019 and 11th October 2019. The representations needed to focus on the legal compliance and 'Soundness' of the plan i.e. whether the plan was positively prepared, justified, effective and consistent with national policy. A total of 303 representations were received from 108 individuals and organisations.

Submission and Independent Examination

7. Following the consultation on the Publication Version of the Minerals Local Plan, the Plan was submitted, together with the representations received and the comprehensive evidence base underpinning the Plan, for examination by an Independent Planning Inspector appointed by the Planning Inspectorate on behalf of the Secretary of State. Inspector Nick Palmer was appointed by the Secretary of State to examine the Plan.
8. The Examination hearing sessions were originally scheduled to take place on the 27th April 2020. However as a result of the Covid-19 pandemic, the public hearing sessions were postponed until 26th October 2020 and successfully undertaken over a four day period, entirely via MS Teams and broadcast live on the County Council's YouTube channel. The County Council was one of the first Minerals Planning Authorities to undertake Examination in Public hearing sessions using this approach.
9. Pursuant to section 20(7C) of the Planning and Compulsory Purchase Act 2004, the Council requested that the Inspector recommend Main Modifications necessary to make the Plan sound and/or legally compliant and capable of adoption. During the hearing sessions a number of Main Modifications were suggested by the Council, by other participants and by the Inspector as necessary to make the Plan sound.
10. At the conclusion of the hearing sessions, the Inspector invited the Council to prepare precise wording for the Main Modifications and organise a consultation on them. At this time the Council also compiled a list of Additional Modifications. The Additional Modifications do not materially alter the policies of the plan and are generally minor clarifications, consequential amendments associated with the Main Modifications, and corrections of factual errors in the supporting text of the plan. A number of changes to the Policies Map were also identified.
11. A formal stage of public consultation was undertaken on the proposed Main Modifications between 27th November 2020 and 8th January 2021. The representations received were collated by the County Council and passed directly to the Inspector to aid the preparation of his final Report.
12. Following consideration of the full responses to this consultation, the Inspector's report was formally received on 11 March 2021. It was duly published on the Minerals Local Plan Examination web page and interested parties who so requested were notified of its publication. The Inspector has concluded that the duty to cooperate has been met and that, with the recommended Main Modifications set out in the Appendix of his Report, the Nottinghamshire Minerals Local Plan satisfies the requirements referred to in Section 20(5)(a) of the 2004 Act and is sound. A copy of the Inspectors Report and Appendix is attached to this report as Appendix A i and Aii.

13. The Main Modifications can be summarised as follows:

- a modification to the text under 'Strategic Policies' to ensure consistency with national policy with regard to the presumption in favour of sustainable development;
- clarification of the distinction between mineral resources and mineral reserves;
- clarification that extensions to existing minerals sites will be supported rather than prioritised;
- amendments to promote the achievement of net gains in biodiversity;
- additional text to ensure the policy on climate change is consistent with national policy and effective and that cumulative effects are considered;
- clarification of policy on sustainable transport;
- additional text on air quality impacts;
- strengthening and clarification of policy on mineral safeguarding, consultation areas and associated minerals infrastructure;
- a requirement for mitigation to be provided in accordance with the 'agent of change' principle;
- removal from policy of the tonnages of remaining reserves at permitted quarries;
- simplification of policy on oil and gas to accord with national policy;
- clarification and strengthening of policy requirements in respect of priority species and habitats, and irreplaceable habitats;
- clarification and strengthening of policy requirements for the historic environment;
- clarification of restoration requirements in the Site Allocation Development Briefs (the Briefs);
- removal of references in the Briefs to potential hydrological links to Natura 2000 sites;
- additional detailed requirements with respect to site MP2p Mill Hill near Barton in Fabis; and
- a number of other modifications, including detailed changes to the Briefs to ensure that the plan is positively prepared, justified, effective and consistent with national policy.

Section 23 of the Planning and Compulsory Purchase Act 2004 states that if a Planning Inspector finds a Local Plan sound subject to 'Main Modifications', a local planning authority may adopt that Local Plan with the 'Main Modifications' and any 'Additional Modifications'. 'Main Modifications' are modifications which the Inspector concludes are necessary for the plan to be sound. The Council is not permitted to adopt the Local Plan without making these Main Modifications. The alternative is for the Council not to adopt the Local Plan.

14. As set out above, 'Additional Modifications' are modifications which do not materially affect the policies of the plan (as modified by Main Modifications). As such 'Additional Modifications' are limited to minor clarifications, consequential amendments associated with the 'Main Modifications' and corrections of factual errors in the supporting text of the plan.

15. The final version of the Minerals Local Plan incorporating all Main and Additional Modifications is attached as Appendix B to this report. This is the document recommended for adoption by Council.

Next Steps

16. As soon as reasonably practical following Council decision to adopt of the Plan, Regulation 26 of the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) and the Planning and Compulsory Purchase Act 2004 (as amended) require the Council to make available:
 - (i) The Nottinghamshire Minerals Local Plan;
 - (ii) An Adoption Statement;
 - (iii) The Sustainability Report; and
 - (iv) Details of where the Local Plan is available for inspection and the places and times at which the document can be inspected.
17. The Council is also required to send the Adoption Statement to anyone who requested to be kept notified of the Plan adoption, and the Secretary of State for Housing, Communities and Local Government.
18. In accordance with Regulation 26 of the Town and Country Planning (Local Planning) (England) Regulations 2012 and Regulation 16 of the Environmental Assessment of Plans and Programmes Regulations 2004, as soon as practicable following adoption of the Plan, the Sustainability Appraisal and Habitats Regulations Assessment Post Adoption Statement will be made available alongside the Plan.
19. On 16 July 2020 the Town and Country Planning (Local Planning) (England) (Coronavirus) (Amendment) Regulations 2020 changed the requirements relating to making copies of the development plan documents available for inspection at council buildings as set out in Regulation 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012. Councils can now comply with Regulation 35 by making development plan documents available on their website. This change applies from 16 July 2020 until 31 December 2021. Similar arrangements are in place for inspection requirements, set out in the Environmental Assessment of Plans and Programmes Regulations 2004.
20. On adoption, the Plan's policies will supersede all policies in the existing Minerals Local Plan (2005).
21. Following adoption of the Local Plan, a person aggrieved by the Local Plan, may under Section 113 of the Planning and Compulsory Purchase Act 2004, make an application to the High Court to challenge it either on the grounds that it is not within the appropriate power or a procedural requirement has not been complied with. Such an application must be made within six weeks of adoption.

Recommendation

22. This report recommends that the Council as local planning authority adopts the Minerals Local Plan as presented in Appendix A , delegates approval for officers to make any further necessary additional modifications to correct typographical or grammatical errors and undertake graphic design of the Plan, and notes that a number of statements need to be published on the Councils website in support of the adoption. These statements comprise
 - a) an Adoption Statement prepared in accordance with Regulation 26 of the Town and Country Planning (Local Planning) (England) Regulations 2012

- b) A Sustainability Appraisal (SA) and Habitats Regulations Assessment (HRA) Post Adoption Statement (PAS), prepared in accordance with Regulation 16 of the Environmental Assessment of Plans and Programmes Regulations 2004.

Other Options Considered

23. A recommendation that the Council does not adopt the Plan is an option but is not considered appropriate. Adopting and keeping up to date a Minerals Local Plan is a statutory requirement of the County Council. Without a new Local Plan, the extant Local Plan would remain, but it is out of date and therefore applications would be determined against the out of date plan in the context of national planning policy etc. resulting in a lack of certainty for local communities and the minerals industry. The Main Modifications proposed to the Minerals Plan are essentially those which Council officers themselves proposed during the examination phase and do not significantly alter the Plan which the Council resolved to approve on 11 July 2019.
24. Not adopting the Local Plan would increase the risk of poorly planned development taking place and an increased risk of planning appeals for developments not in accordance with the existing Local Plan.

Reason/s for Recommendation/s

25. To ensure the Council has an up to date Minerals Local Plan which will make sure that future development for minerals in Nottinghamshire is plan-led and delivered in a sustainable way.

Statutory and Policy Implications

26. Local plans must be positively prepared, justified, effective and consistent with national policy in accordance with section 20 of the Planning and Compulsory Purchase Act 2004 (as amended) and the National Planning Policy Framework (NPPF). The NPPF gives guidance to local authorities in drawing up their local plans. The Inspector has determined that the Nottinghamshire Minerals Local Plan conforms to the NPPF. The preparation of the Plan has been informed by appropriate legal advice at all stages.
27. Sustainability Appraisal is an integral part of the plan-making process and this has been undertaken throughout the preparation of the Local Plan. To inform and support the Local Plan a series of Sustainability Appraisal Reports have been prepared to demonstrate how principles of sustainability have informed the document and the policies within it. The Local Plan has also been subject to a Habitat Regulations Assessment. This assesses the likely impacts on European protected sites and concludes that there are no significant effects arising from the Plan.
28. In terms of Human Rights, Protocol 1 Article 1 states every natural or legal person is entitled to the peaceful enjoyment of his possessions, including their property. The Plan allocates land for development which will affect landowners' rights to develop their land. It is noted, however, that rights afforded under this Article are not absolute but qualified. Therefore, any interference with landowner's rights must be balanced against the wider public interest in having an up to date development plan. It is lawful for a local planning authority to take action if that action is clearly necessary and proportionate. In this instance, such measures are

necessary and proportionate in the public interest to ensure that a local plan is in place to guide mineral development across the county to 2036.

29. The Local Plan was prepared in accordance with the Councils adopted Statement of Community Involvement and the 2012 Local Plan Regulations and was the subject of three stages of community involvement and consultation as set out in paragraphs 4-6 above.
30. The Council acknowledges that, in exercising its functions, it has a legal duty under the Equality Act 2010 to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations. This duty applies to all people defined as having protected characteristics under that legislation. The Council has carefully considered the likely impacts of the Plan on persons with a protected characteristic at each stage of the process. An Equality Impact Assessment and a Health Impact Assessment have been undertaken to inform the Plan as it progressed. The assessment has not identified any issues.
31. The Local Plan has been informed by a large number of supporting documents which help justify the strategy, policies and sites within the Plan. All documents are available on the Council's website at <https://www.nottinghamshire.gov.uk/planning-and-environment/minerals-local-plan/new-minerals-local-plan>

Financial Implications

32. The costs of preparing and examining the Minerals Local Plan has been met through a reserve which has been established to cover these costs.

RECOMMENDATIONS

- 1) That the Nottinghamshire Minerals Local Plan and the Policies Map contained within it be adopted. (Appendix B to this report)
- 2) That delegated authority be given to the Corporate Director, Place, in consultation with the chair of Communities and Place Committee to make any final minor changes to correct typographical and any other errors and to carry out appropriate graphic design of the document.
- 3) That the following statements be published on the Councils website :
 - a) An Adoption Statement prepared in accordance with Regulation 26 of the Town and Country Planning (Local Planning) (England) Regulations 2012;
 - b) A Sustainability Appraisal (SA) and Habitats Regulations Assessment (HRA) Post Adoption Statement (PAS), prepared in accordance with Regulation 16 of the Environmental Assessment of Plans and Programmes Regulations 2004.

to accord with Regulation 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012.

Councillor John Cottee
Chairman of the Communities and Place Committee.

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Constitutional Comments (RHC 10/03/2021)

33. Council is the appropriate body to consider the contents of this report by virtue of its terms of reference and in accordance with Regulation 4(1) and (3) of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000.

Financial Comments (RWK 10/03/2021)

34. The costs of preparing and examining the Minerals Local Plan has been met through a reserve which has been established to cover these costs. The balance of the reserve at 1st April 2020 was £127,000 which will be sufficient to cover costs incurred in 2020-21.

Background Papers and Published Documents

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

Available at

<https://www.nottinghamshire.gov.uk/planning-and-environment/minerals-local-plan/new-minerals-local-plan>

Electoral Division(s) and Member(s) Affected: All