

**WEST BERKSHIRE MINERALS AND WASTE LOCAL PLAN (MWLP)
EXAMINATION
PRELIMINARY NOTE TO WEST BERKSHIRE COUNCIL (WBC)
FROM THE APPOINTED INSPECTOR**

Introduction

1. In this preliminary note I address some procedural matters and make some specific comments and requests to WBC as Mineral and Waste Planning Authorities and indicate my early impression of how the Examination might proceed.
2. I set out questions or comments seeking a specific action, response or broader comment from WBC in ***bold italic text***. However, I have no specific detailed questions regarding the MWLP, its policies or allocations that need responses from WBC at this stage.
3. I follow my usual practice in ***requesting that the WBC team provides an immediate acknowledgement of this Note, together with a date by which they will respond in full, with any questions or comments of their own, which are always welcome.***

Documentation

4. I have ***requested via the PO hard copies*** of:
 - a. CD0001- the submission MWLP itself
 - b. CD0002 – Policies Map
 - c. CD004I- SoC Annex 5 – Submission Summary Report
 - d. ME004 – Soft Sand Topic Paper

Otherwise, for the time being, I rely on electronic documents via the WBC Examination web page.

Modifications to the MWLP and Policies Map

5. In the event that the MWLP were found to be unsound as submitted, I could recommend MMs to make it sound. However, for me to do this, it is necessary for WBC to make a formal request for me to do so, under Section 20(7C) of the Planning and Compulsory Purchase Act 2004.
6. WBC has refrained from formally proposing any modifications to the MWP following the Regulation 19 consultation in January to February 2021. However, if any changes are conceded during the Examination which amount to Main Modifications (MMs) required for soundness (as distinct from other minor changes, which are not for examination) a travelling draft Schedule of Suggested MMs is necessary, setting down all such soundness changes in Plan order, to be updated through the Examination and ultimately to form the basis of a Schedule of Proposed MMs for public consultation.
7. In its written responses (CD005I - SoC Annex 5) WBC states that it is clearly prepared to propose additional or altered wording to address several of the representations. Elsewhere, that statement is qualified in terms of if required for soundness. In the former, unqualified cases, it is my provisional view that such changes could be necessary to address the soundness of the MWLP in terms of the key considerations of effectiveness and/or justification. In those

cases, I advise that WBC give consideration to the detailed wording of those changes now and set them down in the travelling draft Schedule of MMs I propose above. However, where reference to potential changes are only potentially agreed if required, then for the time being, these should remain a matter for considerations during the Examination.

8. It will be necessary for officers representing WBC to be authorised to discuss potential MMs in open Hearing sessions.
9. WBC will be asked to agree a final Schedule of MMs and to publish them, with any further supporting evidence, for consultation equivalent to the Regulation 19 consultation. I will then take account of the MM consultation responses before my Report is completed. This is in line with established practice.
10. I would add for clarity that, although WBC provides a Policies Map, this does not strictly form part of the development plan for examination and I do not have the power to recommend modifications to it. So, in the event that MMs might require amendment to the Policies Map, these should be published alongside the MMs but it is for WBC to maintain its Policies Map to provide geographic illustration of development plan policies.

Q1 WBC is requested to consider making a request for MMs under Section 20(7C) at this stage and to keep a travelling draft Schedule of MMs during the Examination.

Q2 WBC is requested to confirm that officers will be authorised to discuss MMs in any open session.

Programme, Procedure and Participation

11. On submission, WBC anticipated that Examination Hearings should preferably be held in November taking about two weeks but for practical reason Hearings are likely to take place in December, subject to more detailed preparation and programming to follow. My initial impression is that Hearings are likely take around two weeks as WBC suggests. I have some flexibility but consider the middle two weeks of December preferable. The PO will liaise with WBC regarding venue details.
12. **WBC will of course need to give a minimum six weeks public notice of the start of the Hearings.**
13. Broadly, my aim would be to issue Guidance with Matters, Issues and Questions (MIQs), with a draft Programme by early October.
14. The final opportunity for Representors to decide whether a personal appearance is necessary will be in response to an invitation from the PO attaching my issued Guidance and MIQs in due course. That said, it will be emphasised that a written submission, perhaps by way of a further Position Statement on the identified issues, carries no less weight than an oral representation.
15. It is assumed that Hearings will proceed on a conventional face-to-face basis but with back-up facilities for participants to contribute virtually if necessary due to Covid isolation or for any other justifiable reasons.

Q3 WBC is requested to indicate whether these broad arrangements are acceptable.

Issues

16. I have not reached the stage of preparation that I can define issues. That is for MIQs later. However, I can say that on my brief early and partial review of the documentation that I consider that the main issues are likely to reflect those anticipated in the submission letter with the addition of some points of detail in Policies 5-7, 15 and 27, mineral reserve and mineral and waste processing safeguarding, including buffer distances covered by Policies 9-10.
17. I shall initially identify all issues for consideration, irrespective whether the Representor wishes to appear in person or rely on written representations.

Alternative or Omission Sites

18. Any Alternative or Omission Sites put forward by Representors will not be considered directly. Where representations suggesting an alternative or additional site are in effect challenge the selection, suitability, sufficiency or deliverability of the MWLP allocations, such representations will be redirected to those issues of soundness.
19. In the event that the MWLP were found likely to be unsound in these respects, the Authorities would be given the opportunity to bring forward other sites for consultation and further consideration, albeit based on interim findings by myself, but I would not recommend alternative sites directly.

National Planning Policy Framework 2021 (NPPF21)

20. Changes were made to the NPPF earlier in 2021, largely related to Climate Change and Design and applicable immediately. It would be appropriate for WBC to confirm expressly that any implications of NPPF21 for the soundness or legal compliance of the MWLP have been taken into account in relation to the MWLP at examination. Any resulting changes to maintain soundness in terms of consistency with national policy might amount to MMs for consideration (see *above*). (I note that, understandably, cross-references to the NPPF in the Soft Sand Topic Paper, for example, are to the 2019 version of the NPPF.)

Q4 WBC is requested to indicate whether any implications of NPPF21 for the MWLP have been considered and how this is or will be documented.

Late Responses

21. Strictly only duly made Regulation 19 responses are automatically placed before the Inspector and I note some later representations are included in the evidence for examination. That is a matter for discretion on the part of WBC. However, I suggest that, whereas the late representations noted were clearly received pre-submission, **any late representations received after the submission of the Plan should only be placed before the Examination where there are exceptional reasons**, such as a material change in planning circumstances or questions of natural justice.

Previous Examinations

22. Finally, I consider it appropriate to refer to the parallels noted in the MWLP with the West Sussex and South Downs National Park (SDNP) Joint Minerals Plan, where the soft sand provision was deferred from the examination of the Plan as a whole to a Single Issue Soft Sand Review (SSR). The SSR was examined and found sound by myself, including soft sand allocations within the SDNP, subject to the same major development exceptions test as in the AONB in Berkshire. All recommendations on the soundness and legal compliance of the present West Berkshire MWLP will of course be made strictly upon fresh consideration of the individual merits of this particular Plan.

Brian Sims

Inspector

1 September 2021