Agenda Item 1

REPORT TO CABINET MEMBER FOR DECISION

Open/~~Exempt~~		Would any decisions proposed : (a) Be entirely within cabinet's powers to decide YES/~~NO~~ (b) Need to be recommendations to Council ~~YES~~/NO (c) Be partly for recommendations to Council and partly within Cabinets powers – ~~YES~~/NO
Any especially affected Wards No	Mandatory/ ~~Discretionary /~~ ~~Operational~~	
Lead Member: Cllr Brian Long E-mail: cllr.brian.long@west-norfolk.gov.uk		Other Cabinet Members consulted: None Other Members consulted: None
Lead Officer: Alan Gomm E-mail: alan.gomm@west-norfolk.gov.uk Direct Dial: 01553 616237		Other Officers consulted: None

Financial Implications ~~YES~~/NO	Policy/Personnel Implications ~~YES~~/NO	Statutory Implications YES/~~NO~~	Equal Impact Assessment ~~YES~~/NO If YES: Pre-screening/ Full Assessment	Risk Management Implications YES/~~NO~~

Date advertised: 7th June 2013	Date decision to be taken: 14th June 2013
Deadline for Call-In: 21st June 2013	

Norfolk Mineral Site Specific Allocations Development Plan Document (DPD) and Norfolk Waste Site Specific Allocations DPD – Main Modifications and Additional Modifications – Invitation to make representations

Summary

The County Council have advertised a series of proposed modifications following discussion of the issues at the recent public Examination into their plans. It is suggested that representations are made about the content of modifications, particularly in relation to:

- Consistency of approach with the adopted Minerals and Waste Core Strategy
- Concern that undue weight might be given to the fact of a 'shortage' of silica sand above established policies protecting the environment and amenity.

Recommendation

That the suggested amendment to the proposed Main Modification 3) given in Appendix 1 of the report is sent to Norfolk County Council

Reason for Decision

To ensure that the risks from poorly located minerals development on the environment and amenity of the Borough are minimised.

1. Background

Members will recall that the Borough Council made representations about both of the above plans and as a result took part in the Examination into the soundness of them in March and April this year. The cases put forward followed the outlines given to Cabinet in June 2012. The Inspector heard the discussion put forward by all parties and will give his considered view in his report which is expected in August. However during the discussion on specific issues it became apparent that the positions assumed by the County Council in preparing the plans had (in some situations) altered from the Submission versions of the plans. A number of minor modifications were proposed by the County Council during the Examination, but given certain circumstances (outlined below) there was also a need for modifications of a rather more substantial nature. These 'Main modifications' have now been

published to allow representations on the soundness and legal compliance of the documents to be made. There are a number of additional modifications to the Minerals and Waste Site Specific Allocations DPDs that are not considered to be Main Modifications (i.e. when taken together they do not materially affect the policies set out in the plan). These additional modifications are also being published for information and so that representations may also be submitted regarding the soundness and legal compliance of the additional modifications. It is important that any representations relate to the Main and Additional Modifications referred to above.

A 6 week period to do this runs from 15 May to 26 June.

2. Content of the modifications

Attached at Appendix 1 is a list of the Main modifications and suggested responses to them by the Borough Council.

3. Policy Implications

There are no policy implications from the Borough Council viewpoint.

4. Financial Implications

There are no financial implications from the Borough Council viewpoint.

5. Staffing Implications

There are no staffing implications from the Borough Council viewpoint.

6. Statutory Considerations

There are no explicit implications from the Borough Council viewpoint, but the Minerals and Waste Site Specific Allocations plans will become a statutory document as part of the Development Plan for the County and therefore it is important to ensure it will function appropriately.

7. Equality Impact Assessments (EIA's)

There are no implications from the Borough Council viewpoint.

8. Risk Management

There is a risk that poorly located development could occur if the appropriate policies are not put in place.

9. Background Papers

Background papers can be found on the Norfolk County Council website at:

http://www.norfolk.gov.uk/Environment/Planning/Mineral_and_waste_planning/Minerals_and_waste_development_framework/Site_specific_allocations_examination/index.htm

Signed: ……

Cabinet Member for …….. Date ……..

Norfolk Mineral Site Specific Allocations Development Plan Document (DPD) and Norfolk Waste Site Specific Allocations DPD – Main Modifications and Additional Modifications – Schedule of representations

County Council reference	Proposed Main modification	Borough Council officer comment
1)	The removal of site MIN 39, for the extraction of 1.5 million tonnes of silica sand (land at Wicken East, East Winch Road, Ashwicken) from the Minerals Site Specific Allocations DPD, as a result of the site being withdrawn from the Site Specific Allocations process by the landowner on 25 March 2013.	• This is a matter of fact. The site has been withdrawn and the County Council cannot rely on the potential mineral resource counted previously. **Suggested no specific representation**
2)	A change to the boundary of site MIN 40, for the extraction of 3 million tonnes of silica sand (land to the east of Grandcourt Farm, East Winch) to reflect the parts of the site that are of commercial interest to extract in the Plan Period. The modification will provide greater certainty to the residents of East Winch.	• This is a matter of fact. The site has been reassessed by the mineral operator and they have found that only a lesser area of the site is of commercial interest. • The amount of potential mineral resource remains the same. • As stated this could give more certainty about areas for extraction in the vicinity of East Winch **Suggested no specific representation.**
3)	No replacement sites for silica sand extraction are proposed to be allocated, because none of the alternative sites or areas of search proposed are considered to be appropriate to allocate, due to their proximity to Roydon Common SSSI (part of Roydon Common and Dersingham Bog SAC). An early single issue review will therefore be carried out in respect of silica sand provision, and this review has been introduced into the Plan through rewording of paragraph 2.7. (As given below) *Paragraph 2.7 - Add new text at the end of the paragraph to explain that the full silica sand apportionment figure cannot be met through allocations, and how this will addressed:* *2.7 No new silica sand planning permissions were granted in 2010, or 2011or 2012 and therefore the landbank of reserves has reduced accordingly (the latest confirmed landbank figure is 4.73 4.9 million tonnes as at a 31 December 20112012). Therefore, the quantity of additional silica sand resource needed over the plan period is 6.5 5.25 million tonnes. However, due to the Habitats Regulations Assessment findings, it has been possible to allocate only two one silica sand*	• The loss of potential silica sand sites through the above circumstances and the previously proposed withdrawl of a site at MIN 41 – Roydon Common has left the County Council in a difficult position. • They are not able to comply with the NPPF requirement for a 10 year supply of sites, they only have 6.5 years supply. • They propose an early review dealing only with silica sand to identify a suitable amount of additional mineral resource, i.e. an early review, but limited only to silica sand issues. (As noted in the revised text opposite). • A general statement is included in the revised text noting that: *If planning applications are submitted for the extraction of silica sand which would address the shortfall they will be considered favourably.* • Policy guidance is given in the Minerals and Waste Core Strategy as to how proposals for new mineral sites and extraction will be assessed.

	sites (MIN 39 and MIN 40), totalling 3.0 4.5 million tonnes. All other silica sand sites put forward are concluded to have either likely significant effects or, an uncertain impact on Roydon Common SSSI (part of Roydon Common and Dersingham Bog SAC) and in line with the precautionary principle, they cannot be allocated. This leaves a shortfall of 2.6 2million tonnes in the quantity of silica sand allocated. However, this shortfall in allocated resources would only occur towards the end of the Plan period (about 2023/4 2022/3). *To address this shortfall a single issue review of silica sand will be completed by 2016. The aim of the review will be to consider land for site specific allocations, preferred areas and/or areas of search, which would be suitable to address this shortfall. This would be undertaken in advance of the full review of the Minerals Site Specific Allocations DPD, which will be undertaken five years after adoption to reflect market conditions and ensure an adequate landbank exists in the county; in accordance with paragraph 8.8 of the adopted Minerals and Waste Core Strategy.* *If planning applications are submitted for the extraction of silica sand which would address the shortfall they will be considered favourably.* *The determination of such applications would take into account the shortfall situation, the importance of silica sand as an industrial mineral and the policies of the NPPF. The presumption in favour of sustainable development is of particular importance, whilst recognising that this presumption does not apply where development requiring appropriate assessment under the Birds or Habitats Directives is being considered, planned or determined.*	Policy CS1outlines the broad amounts but this would seem to be superceeded by the Site Allocations work. • Policy CS2 notes that: Preference will be given to extensions to existing sites over new sites. Given the national significance of Norfolk's silica sand resources, appropriate weighting will be given in decisions on which sites are to be allocated and permitted, and sites which would be able to access the existing processing plant and railhead at Leziate via conveyor or off-public highways routes will be preferred. • Policy CS14 notes constraints about environmental factors including residential amenity. • DM8 covers design issues. • There is therefore existing policy guidance on how newly proposed sites should be treated in the light of the lack of a 10 years supply. However it is important to note that whilst the County Council is seeking to give favourable treatment to potential new sites this should not be at all costs. • In the terms of NPPF paragraph 14, permission needs to be considered against existing policy as noted above. • The statement as proposed by the County Council in the main modification could be considered too far reaching since it seems to imply that the overriding factor is the shortfall. Other considerations such as environmental impact and local amenity concerns are equally important and should be acknowledged in the modification. • The County Council is proposing elsewhere in its modifications a policy (SD1) containing a presumption in favour of sustainable development. This mirrors the NPPF paragraph 14. It states that planning applications should approved if they are in accordance with the Local Plan (in this case it consists of the Core Strategy and the policies quoted above and the yet to be adopted Sites plan).It would be more appropriate if the final paragraph opposite were to better reflect this situation, rather than implying that the shortfall is a blanket reason for approval.

		• If this is not done the implication is that the policies providing a degree of protection to environmental aspects are secondary to any shortfall. Consideration should more properly start with the Local Plan and relevant policies and then the shortfall is then a 'material consideration' weighing in the balance. • As the modification is written undue weight is given to the shortfall before the development plan policies are referenced. • If the proposal is not amended there is concern that local factors will be of secondary importance and the interests of residents of the Borough could be prejudiced. **Suggested amendment to Main modification 3). Last two paragraphs to read:** *If planning applications are submitted for the extraction of silica sand which would address the shortfall they will be considered against the relevant policies of the Local Plan. (See policy SD1). The fact of a shortage of silica sand supply will be a 'material consideration'.* *The determination of such applications will take into account local amenity and environmental considerations in line with policies in the Core Strategy (including CS1, 2, 14 and DM8).* *The presumption in favour of sustainable development is important, whilst recognising that this presumption does not apply where development requiring appropriate assessment under the Birds or Habitats Directives is being considered, planned or determined.*