

Report title: Review of the Essex Minerals Local Plan (2014)		AGENDA ITEM 4(PSEG/17/19)
Report to: Place Services and Economic Growth Policy and Scrutiny Committee		
Report author: Richard Greaves, Chief Planning Officer (County and Major Development).		
Date: 17/10/19		For: Discussion
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County Divisions affected: All Essex		

1. Purpose of Report

- 1.1 To update the Committee on progress with emerging work assessing the effectiveness of the [Essex Minerals Local Plan 2014](#) (the Plan) following the decision of the Cabinet Member to commence the work (see Appendix A). Draft work is taking place on the scope of a proposed Review of the Plan that also considers the policies of the Plan and whether any changes are likely to be needed. Under the Duty to Cooperate¹, engagement on the scope of the proposed Review is continuing to taking place.
- 1.2 It is anticipated that a decision will be sought by the Council (Cabinet), in November 2019, to proceed to a formal Review of the Minerals Local Plan. This will also include an update of the Minerals and Waste Development Scheme, in accordance with statutory procedures. Work continues examining the effectiveness of the policies of the Plan and, at this stage, it is considered that changes to the Plan are needed.

2. Background

- 2.1 The County Council has a statutory requirement and responsibility to plan for future minerals supply and to determine minerals planning applications. Minerals underpin our entire way of life and support our plan-led growth agenda, in being able to create great places for people. Minerals provide the construction materials we need to build the new homes, our places of work, our transport infrastructure and essential services such as health, education and recreational facilities. Minerals and aggregates are essential to energy generation, agriculture, manufacturing and many other businesses. In short, we could not maintain our current way of life without them. We also have additional very important development and infrastructure projects to deliver in the next decade, not least the emerging Garden Communities, Lower Thames Crossing and a proposed new nuclear power station at Bradwell.
- 2.2 However, minerals are a finite natural resource and can only be worked - extracted from the ground - where they are found. It is vital we only extract

¹ Localism Act 2011 (Part 6, Chapter 1, Section 110)

what is needed and make best use of them to secure their long-term availability and conservation.

- 2.3 The Essex Minerals Local Plan was adopted in July 2014 and provides planning policies for minerals development in Essex until 2029. It sets a policy framework within which the best possible use of mineral resources, mainly sand and gravel in Essex, is achieved. It also allocates sites for future mineral extraction and associated development. The Plan contains policies promoting recycling and secondary processing, the safeguarding of resources and facilities, and high quality site restoration, all in the pursuit of sustainable development.
- 2.4 Having been adopted 5 years ago, the effectiveness of the policies of the Plan are required to be formally reviewed. A Review of Local Plan is a legal requirement. Regulations state that in respect of a Local Plan, the Review (defined as a decision whether or not to revise the Plan) must be completed every five years, starting from the date of adoption of the Local Plan.

3. Summary of issues

- 3.1 Draft scoping work is being carried out and has reached a stage where it is possible to conclude that the Plan would benefit from formal changes. At this early stage, prior to any formal consultation², the proposed scope of the Review does not indicate there is a need to allocate any additional sites in the Plan for future mineral extraction.

Legislative Context

- 3.2 Paragraph 33 of the National Planning Policy Framework (2019) states (inter-alia) that

“Policies in local plans and spatial development strategies should be Reviewed to assess whether they need updating at least once every five years and should then be updated as necessary. Reviews should be completed no later than five years from the adoption date of a plan and should take into account changing circumstances affecting the area, or any relevant changes in national policy.”

- 3.3 National Planning Practice Guidance (PPG) sets out what is required from such a Review:

“Reviewing a plan means undertaking an assessment to determine whether the policies need updating, which should include consideration of any changes to local circumstances and national policy. A local planning authority should consider in particular any necessary changes to policies which address their strategic priorities.” (Reference ID: 61-042-20180913).

² The Town and Country Planning (Local Planning) (England) Regulations 2012
<http://www.legislation.gov.uk/ukxi/2012/767/contents/made>

- 3.4 Following the assessment, ECC (as Minerals Planning Authority) must conclude either that:
- The policies of the Plan do not need updating and publish its reasons for this decision, or;
 - that one or more policies need updating and update its Development Scheme to set out the timetable for the proposed revisions to the Plan.
- 3.5 The assessment of the Plan has now reached a stage where options can be drawn prior to carrying out statutory consultation. Notwithstanding any future consultation feedback, it is considered that, in the five years since the Plan's adoption, there is a requirement to Review and amend a number of policies and associated supporting text of the Plan.

4. Update of current issues

- 4.1 Work on assessing the policies of the Plan has been continuing considering the scope of the Review, with officer-level input from a number of bodies including district/borough/city partners. At this stage it is not considered that 'new' sites are required. The work is continuing to be refined and the Plan is thereafter proposed to be Reviewed in accordance with the following timetable.

DRAFT Timetable including key milestones (taken from revised draft development scheme).

	<u>Key Stages</u>	<u>Minerals Local Plan Review</u>
1.	Initial scoping (incl. engagement)	September 2019 – May 2020
2.	Cabinet approval to commence Review	November 2019
3.	Preparation of draft Reg 18 Plan (inc. SA scoping etc)	December 2019 – April 2020
4.	Public and Stakeholder Consultation (Reg 18 – Preferred Approach))	May – June 2020
5.	Processing and analysis of representations	June – July 2020
6.	Consultation Feedback to Political Leadership Team/Scrutiny Committee	July 2020
7.	Necessary Changes (Inc. further DTC)	August – October 2020
8.	Public and Stakeholder Consultation (Reg 19)	October – November 2020
9.	Cabinet approval for Publication and Submission of Plan	January 2021
10.	Submission to Planning Inspectorate (Regulation 22)	February 2021
11.	Preparation of evidence for Examination	February - May 2021
12.	Examination in Public	June 2021
13.	Inspector's Report	August 2021
14.	Formal adoption	Full Council October 2021

- 4.2 Whilst it is intended to seek approval (in November 2019), to formally commence the Review the County Council, as Mineral Planning Authority, is required to carry out continued ongoing and active engagement with its partners and prescribed bodies. As such, continuous and active engagement will take place in tandem with the above timetable. It may be that the scope of the Review, or indeed the draft findings of Review, change through such engagement. Feedback from consultation will be presented to the Scrutiny Committee in due course.

5. Next Steps

- 5.2 Should the Council sanction a formal Review, the Plan will be subject to the consultation procedures dictated in planning legislation³ and the Council's [Statement of Community Involvement](#).
- 5.3 A further iteration of the Plan would then be published for consultation and comments taken account of as appropriate. This consultation would be for 6 weeks.
- 5.4 Responses to this consultation would then be considered and a revised Plan prepared to be submitted for the Secretary of State in due course who may request that the Plan is tested through an 'Examination in Public' and potentially be further modified prior it being able to be adopted.
- 5.5 Active engagement will continue in accordance with the Duty to Cooperate⁴, including continued dialogue with our District/City/Borough Council partners.

³ Planning and Compulsory Purchase Act 2004 & The Town and Country Planning (Local Planning) (England) Regulations 2012.

⁴ Localism Act 2011 (Part 6, Chapter 1, Section 110)

Forward Plan reference number: FP/140/05/18

Report title: Review of the Essex Minerals Local Plan 2014	
Report to: Councillor Gagan Mohindra - Cabinet Member for Economic Development	
Report author: Mark Carroll, Executive Director, Economy, Localities & Public Health	
Date: 29 May 2018	For: Decision
Enquiries to: Richard Greaves, Planning Manager richard.greaves@essex.gov.uk 03330 136817	
County Divisions affected: All Essex	

1. Purpose of Report

- 1.1 The purpose of this report is to seek the Cabinet Member's approval to commence an assessment of the effectiveness Essex Minerals Local Plan 2014 (the Plan). The assessment will consider the effectiveness of the policies of the Plan and whether any changes are needed.

2. Recommendations

- 2.1 That an assessment of the effectiveness of the policies of the Essex Minerals Local Plan is commenced on the basis set out in paragraph 6.1 of the report with a view to it being completed in Spring 2019.

3. Summary of issue

- 3.1 The current [Essex Minerals Local Plan](#) was adopted on 8 July 2014.
- 3.2 The Plan provides planning policies for minerals development in Essex until 2029. In particular, it gives certainty as to the location of future minerals development. The Plan includes mechanisms aimed at reducing the demand for primary mineral use, recycling more aggregate and safeguarding mineral resources, reserves and important facilities.
- 3.3 The Essex Minerals Local Plan includes the following:
- The Minerals Core Strategy, setting out the long-term direction for minerals development and the plan to deliver this strategy;
 - Development Management Policies for minerals planning;
 - Strategic Site Allocations and safeguarding for mineral extraction, transshipment facilities and other related activities; and
 - The Policies Map.
- 3.4 The law changed⁵ on 6 April 2018, requiring a Local Planning Authority to complete a Review of a local plan within 5 years of the date of adoption of the

⁵ [The Town and Country Planning \(Local Planning\) \(England\) \(Amendment\) Regulations 2017](#)

Plan. The Essex Minerals Local Plan was formally adopted in July 2014. To comply with legislation, an assessment (Review) of the Plan must be completed by July 2019.

- 3.5 Guidance⁶ and advice has been received confirming that policies should be Reviewed to assess whether they need revising at least once every 5 years. Whilst the production of the Council's [Annual Monitoring Report](#) goes some way in examining whether the objectives of minerals (and waste) policies are being achieved, to date a comprehensive assessment of the performance of the Minerals Local Plan has not been carried out.
- 3.6 In order for the Minerals Local Plan Review to commence, it is important to establish the basis for the Review. Guidance indicates that Reviewing a plan means undertaking an assessment to determine whether the policies need revising, which should include consideration of any changes to local circumstances and national policy.
- 3.7 On completion of the Review, we will need to decide either that:
- The policies of the Minerals Local Plan do not need revising, and that ECC subsequently publishes its reasons for this decision or:
 - That one or more policies of the Plan need revising and that the [Minerals and Waste Development Scheme](#) is updated setting out the proposed timetable for the revision(s) to the Plan.
- 3.8 If necessary, ECC will then need to follow the relevant Regulations and update the Plan.
- 3.9 The Minerals Local Plan currently supports a number of the Council's strategic priorities, including helping secure sustainable development and protecting the environment, as well as supplying the essential materials to facilitate growing communities, employment opportunities and new homes in Essex.
- 3.10 In carrying out the Review, it may be necessary for discrete and selective consultation, however, should the conclusion of the Review recommend that a full or partial revision to the Plan is required, then comprehensive consultation and engagement will be required under the terms of the relevant Regulations⁷ and the Council's [Statement of Community Involvement](#).

4. Options

- 4.1 The preferred option is to carry out the Review, commencing late summer 2018, to allow sufficient time to complete the exercise before the July 2019 deadline.
- 4.2 An option could be to delay the Review; however, this may not allow enough time to ensure completion before July 2019. Clearly if a Review was not

⁶ [Draft Plan Review guidance - NPPG](#)

⁷ Regulation 18 of the Town and Country Planning (Local Planning) (England) Regulations 2012

carried out and completed before July 2019, then the Council would not be in conformity with the relevant legislation and intervention measures could be taken by central government to remove the Plan taking responsibility from the County Council. Reputational damage to the authority would also be sustained.

5. Next steps

- 5.1 As stated, there are a number of reasons why the Council is required to assess the existing Minerals Local Plan. The main reasons are to ensure that the minerals planning policy framework in the county remains up to date, reflects the most recent policy and guidance, and takes account of new information and changing circumstances. This is so that appropriate guidance can be given to the minerals industry and local communities – particularly with regard to where minerals development should take place in Essex to meet future demand.
- 5.2 Any proposed amendment to the plan, following the Review, must follow the prescribed stages of plan production as set out in relevant planning Acts and the appropriate regulations; the Town and Country Planning (Local Planning) (England) Regulations 2012.
- 5.3 It is anticipated that the assessment will be commenced once the requested decision herewith is taken, in accordance with the indicative timetable:

1.	Assessment Commenced	October 2018
2.	Recommendation(s)	May 2019

6. Issues for consideration

- 6.1 At this stage, pending the outcome of the assessment, it is not certain whether the policies of the Plan will need to be wholly or partially amended or amendment of the Plan is not considered necessary. This said, the assessment of the Plan will need to consider the strategic approach for minerals planning in Essex and whether this is still fit for purpose. Furthermore, the performance of the policies of the Plan will also need to be examined. The main issues which need to be assessed are likely to include:

1.	Plan period	In accordance with paragraph 157 of the NPPF which states, <i>“Local Plans should be drawn up over an appropriate time scale, preferably a 15-year time horizon, take account of longer-term requirements, and be kept up to date”</i> . The Review will need to consider whether the period of the plan remains adequate.
2.	Adequacy of mineral supply	Using the results of the Local Aggregate Assessment and other information to consider whether the Plan continues to provide for a steady and adequate supply of aggregate and whether additional provision of aggregates may be needed to support projected growth and infrastructure requirements in Essex and beyond, including supporting London’s requirements and consider whether a split (sharp sand/building sand) landbank may be required and the contribution wharf capacity makes towards the county’s needs.

3.	Strategy	Exploring whether the spatial vision and the Plans strategic aims and objectives remains current and applicable for future years.
4.	Minerals Safeguarding	Whether minerals safeguarding policy is working as anticipated to ensure valuable mineral resources are not being needlessly sterilised by non-mineral development and that transshipment sites, such as wharves and railheads, are being protected to ensure supply.
5.	Restoration	Whether the Plan's restoration policy is performing well and especially whether the ambition to create 200ha of net-gain in biodiversity habitat creation is being achieved.
6.	Policies used to determine applications	A Review of the adopted policies is required taking into account the findings of the Annual Monitoring reports.

7. Financial implications

- 7.1 The resource costs for the Review will be predominately staff resource costs which are anticipated to be met from within the existing budget and through the existing Service Level Agreement the Planning Service has with the Council's Place Services team.
- 7.2 Depending on the conclusion of the Review, which may lead to either a partial or full revision of the Plan, resource may be needed from existing budget or a business case put forward for additional funding. Such projected costs are unknown at this stage.

8 Legal implications

- 8.1 The Planning and Compulsory Purchase Act 2004 and the Town and Country Planning (Local Planning) (England) Regulations 2012 permit the Council to take this approach. The Town and Country Planning (Local Planning) (England) (Amendment) Regulations 2017 require the Review is completed with 5 years of the Plan's adoption. The recommendation to commence a Review is lawful.
- 8.2 As set out elsewhere in the report there is a significant risk involved if the Council does not carry out the Review of the Plan by July 2019.

9. Equality and Diversity implications

- 9.1 The Public Sector Equality Duty applies to the Council when it makes decisions. The duty requires us to have regard to the need to:
- (a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act. In summary, the Act makes discrimination etc. on the grounds of a protected characteristic unlawful
 - (b) Advance equality of opportunity between people who share a protected characteristic and those who do not.

- (c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

9.2 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, gender, and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a). An equality impact assessment is attached at Appendix 1.

9.3 The equality impact assessment indicates that the proposals in this report will not have a disproportionately adverse impact on any people with a particular characteristic.

10. List of appendices

10.1 Appendix 1 – Equality Impact Assessment.

11. List of Background papers

- Essex Minerals Local Plan (2014)
- The Planning and Compulsory Purchase Act 2004
- Town and Country Planning (Local Planning) (England) Regulations 2012
- Town and Country Planning (Local Planning) (England) (Amendment) Regulations 2017

I approve the above recommendations set out above for the reasons set out in the report.	Date
Councillor Gagan Mohindra - Cabinet Member for Economic Development	11 June 2018

In consultation with:

Role	Date
Mark Carroll, Executive Director, Economy, Localities & Public Health	31 May 2018
Executive Director for Corporate and Customer Services (S151 Officer)	29 May 2018
Margaret Lee	
Director, Legal and Assurance (Monitoring Officer)	29 May 2018
Paul Turner	