

Essex Minerals Local Plan

Report by Councillor John Jowers, Cabinet Member for Libraries, Communities & Planning

Enquires to Richard Greaves – Minerals and Waste Planning Manager – email: richard.greaves@essex.gov.uk, telephone 03330 136817 or Hamish Barrell –Principal Planner hamish.barrell@essex.gov.uk, telephone 03330136819

1. Purpose of report

- 1.1. To present to the Council the Inspector's report on the Examination into the Essex Replacement Minerals Local Plan (RMLP) and to seek approval for the adoption of the Plan (featuring as Appendix A).
- 1.2. Amongst its other roles, the Council is the planning authority for planning issues relating to the extraction of minerals. It is required to have a local plan which sets out its policies in relation to this area.
- 1.3. In December 2012 the Council approved the RMLP for the purpose of submitting it to the Secretary of State for an Examination in Public (a public meeting extending over many weeks) where an Inspector appointed by Central Government undertook detailed consideration of the plan and the objections. This took place from 5 to 14 November 2013. The Inspector then produced a report (attached as Appendix B and C) allowing the Council to finally adopt the RMLP, as the Inspector concludes that the plan is 'sound' provided modifications are made.
- 1.4. In February 2014 the Inspector recommended that the Council consult on modifications to the plan, on the basis that he would otherwise find the plan to be 'unsound'. If the plan is considered to be unsound then it cannot be adopted.
- 1.5. On 25 February 2014 Cabinet considered the matter of the main modification consultation recommended by the Inspector. It resolved that provided his report concludes that the Plan is sound subject to incorporating the main modifications that it recommends to Full Council that the RMLP be adopted. It also approved a number of additional modifications for inclusion in the MLP. These additional modifications only improve the document and it was not necessary to request to the Inspector for him to recommend them.
- 1.6. There were 56 respondees to the main modification consultation. These responses were summarised by ECC before being sent to the Inspector for his consideration. The responses are discussed in more detail in section 3.17 below.

- 1.7. On 23 June 2014 the Council received the Inspector's report (Appendix B). The Inspector has concluded that the plan with the main modifications considered in February 2014 and two further textual amendments of a minor nature he had proposed is sound.
- 1.8. The Council is therefore asked to adopt the plan as modified and amended.

2. Recommendations

- 2.1. That in accordance with section 20(3) of the Planning and Compulsory Purchase Act 2004 the Council formally adopt the Essex Minerals Local Plan (2014-2029) in the form set out at Appendix A together with the proposals map in the form available for inspection at the meeting.
- 2.2. That the Director for Operations: Environment and Economy be authorised to make formatting changes and correct any typographical errors in order to publish the local plan.
- 2.3. That the Director for Operations: Environment and Economy be authorised to approve the adoption statement and Strategic Environmental Assessment adoption statement.

3. Background and proposal

- 3.1. The County Council is responsible for mineral planning and has a statutory requirement to keep its Mineral Development Plan documents up to date. The last Plan was adopted in 1996. Since then there have been considerable revisions to national planning policy, the revocation of regional policy and changes to the local circumstances around the supply of minerals.
- 3.2. The RMLP is intended to replace the Mineral Local Plan 1996. It is the culmination of more than eight years work by the Council. It sets out the policy framework for minerals planning across Essex in terms of the 'core strategy', development control policies and allocates particular sites for development.
- 3.3. The aim of the Plan is to:
 - Ensure that minerals waste is reduced and aggregates recycling opportunities are maximised;
 - Ensure that there would be, taking into account existing minerals extraction sites, a sufficient land-bank for all minerals necessary to be extracted in Essex. For sand and gravel, that would amount to planning for the delivery of an additional 40.67million tonnes within the Plan period to 2029 (based on the 4.31mtpa requirement);
 - Provide policies and a supply of sites to meet NPPF and the economic requirements to ensure growth in Essex, but which have the least harming effects on the Essex environment and social infrastructure.
- 3.4. The main minerals which are available in Essex are sand and gravel. The total Plan provision of sand and gravel yields 40.82 which fully meets the 40.67MT

needed for the plan period (ie until 2029). Importantly for local communities the Plan also sets out where mineral development can occur as preferred and reserve sites. In all other locations that may come forward during the Plan period it sets out the Council's position that an overriding justification and/ or overriding benefit for the proposed extraction would be needed.

- 3.5. There have been a total of seven consultations undertaken within four main stages of the RMLP preparation prior to the additional main modification consultation. These include the Issues and Options (2005/06), Further Issues and Options (2009) and Preferred Approach (2010) as well as more focused site allocation consultations in-between.
- 3.6. In December 2012 Full Council approved the pre-submission draft of the RMLP for engagement and subsequent formal submission to the Secretary of State in readiness for the Examination in Public. The formal engagement required by the 2012 Regulations was held for a six-week period from 17 January to 28 February 2013.
- 3.7. In July 2013 the RMLP was formally submitted to the Secretary of State alongside those representations that had been received and an accompanying evidence base. In November 2013 the appointed Inspector conducted hearings into the RMLP.
- 3.8. At the time of the Pre-Submission draft the Council was only setting out preferred sites. Following the hearings, the Inspector came to a provisional conclusion that whilst the RMLP was legally compliant and the overall strategy was sound, the sand and gravel provision was, on balance, excessive. The Inspector's recommendation was therefore that ECC re-define certain designated Preferred Sites, yielding approximately 9MT, as Reserve Sites which can come forward if the county land-bank falls below seven years. This was the most important aspect of what became the main modifications. The view of Officers is that it is likely that the opportunity for Reserve Sites to come forward would only be later in the plan period, if at all. The approach provides a contingency to ensure that oversupply of minerals in Essex does not occur during the plan period.
- 3.9. While not originally contained in the RMLP, the use of reserve sites does not alter the overall Plan provision, but rather controls the release of sites for extraction to reflect the Inspector's view of need and to protect Essex from over-supply.
- 3.10. The Inspector considered that the preferred and reserve sites have been through a robust site selection process and are considered to be socially and environmentally acceptable. Where choices needed to be made to select sites which are deemed 'acceptable' to provide sufficient sand and gravel the decision has been based on the plan's overarching strategy. The most important influence has been to provide the best possible geographic dispersal across the county having regard to urban growth centres, which generate the greatest demand for minerals, and ability to access the main highway network.

- 3.11. When it came to re-defining some of the preferred sites as reserve sites in the RMLP the main issue became locational factors as the Inspector had accepted that the site selection methodology that ECC had undertaken was sound. It was clear that, due to reasons of geology, there was a higher proportion of sites in the north-east of the county. As such, to adhere to the principle of providing for the best possible geographic dispersal across the county, sites were redefined as reserve sites based on whether there were relatively higher concentrations and the proximity to growth areas.
- 3.12. The proposed sites that are to be included within the MLP 2014 are therefore as follows:
- Bradwell Quarry, Rivenhall – A3, A4 & A5 are Preferred Sites and A6 & A7 are the Reserve Sites
 - Broadfield Farm, Rayne – A9 is Preferred
 - Colchester Quarry, Fiveways – A13 is Preferred
 - Sunnymead, Alresford – A20 is Preferred
 - Little Bullocks Farm, Little Canfield – A22 and A23 are Preferred
 - Maldon Road, Birch – A31 is Preferred
 - Blackley Quarry, Gt Leighs – A38 and A39 are Preferred
 - Shellow Cross, Roxwell / Willingale – A40 is Preferred
 - Land at Colemans Farm – A46 is Preferred
 - Slough Farm, Martells – B1 – is Preferred
- 3.13. The reason for selecting A6 and A7 as reserve sites is that sites A3-A7 at Bradwell Quarry (Rivenhall) amount in total to the largest single grouping. They accounted for almost 40% of primary extraction from new site allocations. The proportion of sites at Bradwell would be almost 50% of the RPLP allocation if A3-A7 had continued to all be retained as Preferred Sites in the RMLP while other sites were re-defined as reserves. The other Preferred Sites (ie A9 Rayne, A22 and A23 Little Bullocks Farm, A38 / A39 Blackley Quarry, A40 Shellow Cross and A46 Colemans Farm) are considered to be better located to reduce travel distances in supplying aggregate to the south or west of the county.
- 3.14. In respect of those sites located in the north east of the county (A3-A7 Bradwell Quarry, A13 Colchester Quarry, A31 Birch and B1 Slough Farm), Bradwell Quarry is also located furthest from Colchester (a key centre for growth in the county). Therefore, of all the sites originally preferred in the RMLP, sites A6 and A7 at Bradwell Quarry are the most appropriate to be considered reserve sites, especially as they could come forward later in the plan period. ECC will work with the site promoter to ensure that these can be worked progressively in the most efficient means possible.
- 3.15. As previously stated, in accordance with section 20 (7C) of the Planning and Compulsory Purchase Act 2004, Cabinet recommended (25 February 2014) to Full Council that the Inspector's report be adopted in line with what was set out in the main modifications. Following the end of that six-week consultation on the main modifications the representations received were reported back to the Inspector.

- 3.16. There were three aspects to the main modification consultation (enclosed as Appendix C). The first, as described above, was the redefining of certain preferred sites as reserve sites. The second is a new monitoring requirement the Inspector wishes is for ECC to assess the contribution of marine dredged aggregates to plan provision based on landings within Greater Essex, particularly within the Thurrock administrative areas (see MM1). It is noted that provisions within the MLP 1996 will continue to apply to the safeguarding of wharf and transshipment facilities in Thurrock. The third aspect is another monitoring indicator to ensure further consideration for the need for a separate building sand land-bank (MM14).
- 3.17. There were a total of 56 individual respondents to the main modification consultation from community groups, industry, statutory consultees and the public. These responses have been published. A copy is available online (see section 11 of this report for a link). Competing views were expressed by respondents as to whether the overall plan provision figure was excessive; particularly between the mineral industry and groups representing local communities. Of those respondents who concurred with the Inspector's view about the need for Reserve Sites there was a wide divergence as to which sites should be redefined.
- 3.18. The Inspector has considered comments submitted to the main modification consultation and the Inspector's final report concludes that the original RMLP provision of sand and gravel is to be regarded, on balance, as excessive. As such, he considers the submitted RMLP as unsound in this respect (in paragraph 45 of his report appended as Appendix B). However, at the same time, the Inspector found it appropriate, and consistent with national policy, that the RMLP remains positively prepared to cater for economic recovery and a boost in home building, should these considerations lead in practice to an increase in aggregate sales within the plan period (para 46). The report then sets out a schedule of recommended modifications to the plan (Appendix C) and that the procedure for adoption should be followed.
- 3.19. The recommended changes are generally those which were proposed by the Inspector following the hearing sessions and which were then considered by the Cabinet who agreed that the Council should consult upon them. There are two exceptions to this. These are MM1 and MM14, which have been proposed by the Inspector in his final report. The Inspector has made it clear that in his view MM1 and MM14 do not significantly alter the content of the main modifications as published for consultation, nor undermine the participatory processes and sustainability appraisal that has been undertaken. Both exceptions relate to additional clarifications; the first is explanatory text around marine sourced aggregate (MM1) and the second making it clear that the reserve sites coming forward based on the seven year land-bank calculated on the basis of the appointment figure (MM14) which are now proposed as two minor textual changes.
- 3.20. It is advantageous for ECC to have the RMLP in place as soon as possible. This would avoid the risk of new planning applications for extraction being considered without an up to date Minerals Plan – one of the consequences being a lack of

certainty where extraction will take place in the county in the future. However, ECC can only adopt a Plan that has been considered by the Inspector to be sound. In order to adopt the Plan, the Council is required to make the main modifications being recommended by the Inspector.

4. The Adoption process

- 4.1. In order for the Replacement Mineral Local Plan to be adopted as Council policy, a set procedure must be followed in accordance with both ECC's own Statement of Community Involvement and the Town and Country Planning (Local Planning) (England) Regulations 2012.
- 4.2. The 2012 Regulations prescribe the publicity required for both the Inspector's report and subsequent to that the adoption of the Plan. The Inspector's report was received on the 23 June and the notification procedure has been carried out. The report has been published on the Council's website. ECC has notified all respondents to the Pre-Submission Draft engagement, all respondents to the main modifications consultation, those who participated in the Examination in Public, those who wished to be kept informed and statutory consultees. The report itself was also made available to view at County Hall and all Essex district / borough / city council offices and at all Essex libraries.
- 4.3. Once the Plan has been adopted by Full Council the outcome will be publicised, also in line with the 2012 Regulations, whereby inspection copies of the Plan must be made available at Essex district, borough and city council offices and Essex libraries and on the Council's website. A Statement of Adoption must be sent to those who requested it and also to the Secretary of State.
- 4.4. After adoption the RMLP will be hereafter referred to as the Essex Minerals Local Plan (2014). It will cover the period 2014-2029. The document format will be refreshed in line with current corporate standards for publication and the policies map reproduced at an appropriate scale for ease of use. The Plan will replace the saved policies of the Essex Minerals Local Plan (1996) as listed on Appendix D to this report except where they apply outside the administrative area of Essex; ie to Greater Essex which includes Thurrock.
- 4.5. A review of the MLP is expected to be commenced within five years of adoption.

5. Sustainability appraisal (SA)

- 5.1. All policies and proposals within the RMLP have been subject to Sustainability Appraisal, incorporating a Strategic Environmental Assessment, as required by law. The 2012 Regulations require the County Council to make the final SA Report available alongside the Adopted Minerals Core Strategy and Development Management Policies document.
- 5.2. The RMLP includes the Minerals Core Strategy. The Environmental Assessment of Plans and Programmes Regulations 2004 (SEA Regulations) also require a number of steps to be taken upon adoption of a local plan). The post-adoption procedure for the SEA states that, as soon as reasonably practicable after the

adoption of a plan for which an SA/SEA has been carried out, the planning authority must make a copy of the plan publicly available alongside a copy of the SA report and an 'SEA adoption statement', and inform the public and consultation bodies about the availability of these documents. The consultation bodies are English Heritage, Natural England and the Environment Agency. Such documentation is not something which required the Inspector's involvement and he raised no concerns that need to be addressed.

- 5.3. The SEA adoption statement will therefore be drafted in line with the requirements and published alongside the Plan following its adoption.

6. Next steps

- 6.1. The RMLP has followed the prescribed plan making process and is now at the stage whereby the Council can adopt it as Policy. As stated, ECC can only adopt a Plan that has been considered by the Inspector to be sound.
- 6.2. The outcome of the County Council meeting will be publicised in line with the requirements set out in the 2012 Regulations (including to the Secretary of State) and the Council's adopted Statement of Community Involvement.
- 6.3. Copies of the Adoption Statement, the Minerals Local and the Inspector's Report will be made available on the ECC website, at all Essex libraries, at all Essex district, borough and city council offices and will be made available for public inspection at County Hall, free of charge.

7. Policy context

- 7.1. The National Planning Policy Framework requires preparation of an approved Minerals Local Plan as set out at paragraphs 143 and 153.
- 7.2. The RMLP puts in place arrangements for promoting the quality and quantity of recycled aggregates and the reduction in the quantity of minerals used.
- 7.3. The RMLP also sets out safeguarding provisions for mineral resources of national and local importance and transshipment, aggregate recycling and coated stone plants.
- 7.4. There is a need to maintain a land-bank of permitted reserves of at least seven years. The current land-bank, based on figures as at 31 December 2012, is eight years. In total the RMLP identifies 16 sites comprising 15 sand and gravel and one silica sand site.
- 7.5. In the absence of an up to date planning framework there will be no overall direction or control to ensure planning applications come forward in the right location with least environmental harm, potentially to the detriment of the Essex

environment. The absence of a robust plan and the resulting 'planning by appeal' scenario could result in the:

- Inability to control mineral development in Essex
- Loss of reputation to the Council
- Potential blight as public await identification of preferred sites
- Increased administrative costs to ECC as the lack of certainty can be expected to result in an increased number of appeals and public local inquires over the plan period.

7.6. The MLP also supports ECC priorities set out in the Vision for Essex 2013 -17. This builds on and replaces the previous EssexWorks Commitment 2012-17. It sets out ECC's vision and priorities for the next four years and this will inform the development of a revised corporate strategy designed to:

- Increase educational achievement and enhance skills
- Develop and maintain the infrastructure that enables our residents to travel and our businesses to grow
- Support employment and entrepreneurship across our economy
- Improve public health and wellbeing across Essex
- Safeguard vulnerable people of all ages
- Keep our communities safe and build community resilience
- Respect Essex's environment.

7.7. The vision for Essex is based on the following principles,

- We will spend taxpayers' money wisely
- Our focus will be on what works best, not who does it
- We will put residents at the heart of the decisions we make
- We will empower communities to help themselves
- We will reduce dependency
- We will work in partnership
- We will continue to be open and transparent.

7.8. The RMLP is consistent with those principles because it will assist the Council in meeting its goals by:

- Developing and maintaining the infrastructure that enables our residents to travel and our businesses to grow through the steady and adequate supply of aggregate materials;
- Support employment and entrepreneurship across our economy, including direct employment within the mineral sector but notably as an input into the wider construction products industry (such as concrete, asphalt and mortar) and construction industry;
- Improve public health and wellbeing across Essex through provision of greater certainty to communities where mineral development will occur and controls on the potential impacts through development management

policies and in after-use by promoting positive benefits to local communities;

- Respecting Essex's environment through controlling the potential impacts at mineral sites by application of development management policies and in after-use by promoting positive benefits to the environment (including biodiversity).

The Greater Essex Integrated County Strategy (2010) and the Essex Economic Growth Strategy (2012)

- 7.9. ECC has published the Greater Essex Integrated County Strategy (ICS) (2010) and the Essex Economic Growth Strategy (EGS) (2012), which together set out overarching economic objectives for the county. The overarching strategy of the RMLP is consistent with the vision of sustainable growth and in particular supplying aggregate for construction projects around the county where it is needed.

Essex Transport Strategy - the Local Transport Plan for Essex, June 2011

- 7.10 The Essex Transport Strategy states that good transport is a vital factor in building strong and sustainable local communities and a successful economy. The strategy sets the vision for transport, the outcomes we aim to achieve over a 15 year period, our policies for transport and the broad approach to implementing the policies. The RMLP supports this strategy in respect of its overarching strategy of dispersal of sites and ensuring sites can gain access to the main road network. In providing for the supply of aggregate it will also directly benefit any highway projects and ongoing maintenance where it's needed.

8. Financial Implications

- 8.1. The Replacement Minerals Local Plan is a statutory requirement and there is currently adequate budgetary provision for taking through to adoption and publication of the new MLP. The MLP provides the framework for ECC to determine planning applications from private developers for mineral works and as such, there are no additional financial implications.

9. Legal Implications

- 9.1. The Plan has been prepared to comply with legal requirements of the Planning and Compulsory Purchase Act 2004, the Planning Act 2008, the Town and Country Planning (Local Planning)(England) Regulations 2012 and the Localism Act 2011. The Plan has also been prepared to be in general conformity with the National Planning Policy Framework 2012. The inspector's recommendation is

that, if ECC adopts the main modifications (with his amendments MM1 and MM14) it will be sound.

- 9.2. Adoption of the Plan is subject to a statutory process. The procedural steps are set out in the report.
- 9.3 Following adoption there is a six-week period where a member of the public may make an application to the High Court if they consider that the Council has failed to consider the statutory process. Council has sought to manage this risk by taking legal advice throughout the process.

10. Equality and Diversity implications

- 10.1. In making this decision ECC must have regard to the public sector equality duty (PSED) under s.149 of the Equalities Act 2010, i.e., have due regard to the need to: A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act. 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.
- 10.2. The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 10.3. The PSED is a relevant factor in making this decision but it is noted that all policies and proposals within the RMLP were subject to an Equality Impact Assessment, as required by law - SD-06 Equality Impact Assessment on RMLP (Sept 2012). The EqIA found no disproportionate adverse impact on any equality groups.
- 10.4. Given the only change to the RMLP since the EqIA was undertaken relates to the main modifications, and these were mainly related to the redefining of the status of certain mineral sites, it is not considered that adoption of the Plan will have a disproportionately adverse impact on a protected characteristic. Having reviewed both the RMLP with main modification and other minor amendments it does not lead to any changes to the original conclusions.
- 10.5. It is recommended that members read the Equality Impact Assessment which can be found on the ECC website at:
<http://www.essex.gov.uk/Environment%20Planning/Planning/Minerals-Waste-Planning-Team/Planning-Policy/minerals-local-plan/minerals-development-document/Documents/SD%20-%2006%20EqIA%20on%20RMLP%20Pre-Submission%20Draft%20-%20Sept%202012.pdf>

11. Appendices and Background papers

Appendix A

Minerals Local Plan 2014 (the version incorporates main and minor modifications and the Inspector's subsequent amendments). The plan includes the proposals map, but it has not been possible to produce this with the papers. A copy of the proposals map will be available at the meeting.

Appendix B

Report on the Examination of the ECC RMLP January 2013 (referred to above as the Inspector's Report).

Appendix C

Appendix to the Report on the Examination of the ECC RMLP January 2013 (setting out the schedule of main modifications).

Appendix D

Superseded policies from the Mineral Local Plan 1996.

Background papers

There are a number of documents which have been produced as part of the Plan. Many of these are large documents but which are still relevant for members to consider. These are all published online on the main MLP examination webpage:

www.essex.gov.uk/MLPexamination

The Inspector's report and its appendix can be viewed at County Hall, Chelmsford, CM1 1QH - Mondays to Fridays between 9am to 5pm via appointment and on the County Council website. The report will also be available to view at all Essex district / borough / city council offices and at all Essex libraries (please contact each directly for individual opening hours).

The Equality Impact Assessment, Habitats Risk Assessment and Strategic Flood Risk Assessment, are supporting documents (reference SD-6, SD-8 and SD-9).

The Responses to the Consultation on Proposed Main Modifications document is a Council Examination Document (reference CED – 23).

APPENDIX D: Superseded Policies from the Minerals Local Plan 1996

The following table sets out the policies in the Replacement Minerals Local Plan (Development Plan Document) which are intended to supersede the existing saved Minerals Local Plan 1996 policies.

Essex Minerals Local Plan 1996 Policy Reference	Equivalent policy or policies in the Replacement Minerals Local Plan
Policy MLP1 - Mineral Reserves	Replaced by Policy S6 - Provision for sand and gravel extraction
Policy MLP2 - Mineral Need	Replaced by Policy P1 - Preferred Sites for Sand and Gravel Extraction
Policy MLP3 - Transportation	Replaced by Policy S11 Access and Transportation
Policy MLP4 - Non-Preferred Sites	Replaced by Policy S6 - Provision for sand and gravel extraction
Policy MLP5 - Aggregate Recycling	Replaced by Policy S5 Creating a network of aggregate recycling facilities
Policy MLP6 - Rail Depots: Site Considerations	Replaced by Policy S9 - Safeguarding mineral transshipment sites and secondary processing facilities
Policy MLP7 - Marine Wharves, Dredged Materials	Replaced by Policy S9 - Safeguarding mineral transshipment sites and secondary processing facilities
Policy MLP8 – Working and Restoration	Replaced by Policy S12- Mineral Site Restoration and After-Use
Policy MLP9 - Primary Processing Plant and Buildings	Replaced by Policy DM3 Primary Processing Plant
Policy MLP11 – Secondary Processing Plant and Buildings	Replaced by Policy DM4 Secondary Processing Plant
Policy MLP12 – Programming, Site Working	Policy not saved but reference is progressive working is set out in Policy S12- Mineral Site Restoration and After-Use