

# **Report to Bracknell Forest Council, Reading Borough Council, The Royal Borough of Windsor and Maidenhead and Wokingham Borough Council (the Central and Eastern Berkshire Authorities)**

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Inspectors appointed by the Secretary of State

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Planning and Compulsory Purchase Act 2004 (as amended)

Section 20

## **Report on the Examination of the Central and Eastern Berkshire Joint Minerals and Waste Plan**

The Plan was submitted for examination on 25 February 2021

The examination hearing was held between 28 September and 12 October 2021

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## **Abbreviations used in this report**

AONB	Area of Outstanding Natural Beauty
ha	Hectare
LAA	Local Aggregate Assessment
LWS	Local Wildlife Site
MM	Main Modification
Mt	Million tonnes
NPPF	National Planning Policy Framework
PPG	Planning Practice Guidance
SFRA	Strategic Flood Risk Assessment
SoCG	Statement of Common Ground

## Non-Technical Summary

This report concludes that the Central and Eastern Berkshire Joint Minerals and Waste Plan (the Plan) provides an appropriate basis for the planning of minerals and waste development in Bracknell Forest Council, Reading Borough Council, The Royal Borough of Windsor and Maidenhead and Wokingham Borough Council (the Authorities), provided that a number of main modifications [MMs] are made to it. The Authorities have specifically requested that we recommend any MMs necessary to enable the Plan to be adopted.

Following the hearing, the Authorities prepared schedules of the proposed modifications and, where necessary, carried out sustainability appraisal and habitats regulations assessment of them. The MMs were subject to public consultation over a six-week period. We have recommended their inclusion in the Plan after considering the sustainability appraisal and habitats regulations assessment and all the representations made in response to consultation on them.

The Main Modifications can be summarised as follows:

- Policy amendments are made, and references updated to accord with the 2021 National Planning Policy Framework (NPPF).
- The Spatial Strategy is amended to include addressing the causes of climate change and mitigating and adapting to its effects.
- Development Management policies for development in the Green Belt and development affecting heritage assets are amended.
- Policies are amended to ensure that flood risk and water resources are adequately considered.
- A Development Management policy on the past performance of operators has been amended to one of consideration of site history.
- Clarification regarding aggregate material that is not available within the Plan area and its anticipated rates of provision.
- Clarification as to rates of delivery of sand and gravel from allocated sites and future reliance on new sites coming forward within the Area of Search. The criteria used for defining the Area of Search are set out.
- A Minerals Safeguarding Area is defined and safeguarding of waste facilities is covered separately. Amendments are made to mineral safeguarding policy and its monitoring.
- Clarification regarding consultation on developments that could affect mineral resources.
- Policy on chalk and clay extraction is modified to require consideration of recycled and secondary materials as alternatives.
- Amendment to policy on sustainable waste management to ensure that development follows the waste hierarchy.
- Clarification of policy on the safeguarding of waste facilities to ensure that this relates to lawful or permitted development.
- Equal priority is given to waste management facilities on allocated sites and within Preferred Waste Areas.
- Development considerations for the allocated sites to ensure adequate consideration of Green Belt policy, flood risk, ecology and other matters.

- The Preferred Waste Areas listed in Appendix C of the Plan are amended, and an additional site has been added to the list of safeguarded sites in Appendix E.
- A number of other modifications to ensure that the plan is positively prepared, justified, effective and consistent with national policy.

## Introduction

1. This report contains our assessment of the Central and Eastern Berkshire Minerals & Waste Plan (the Plan) in terms of Section 20(5) of the Planning and Compulsory Purchase Act 2004 (as amended). It considers first whether the Plan's preparation has complied with the duty to co-operate. It then considers whether the Plan is compliant with the legal requirements and whether it is sound. The National Planning Policy Framework 2021 (paragraph 35) (NPPF) makes it clear that in order to be sound, a Local Plan should be positively prepared, justified, effective and consistent with national policy.
2. The starting point for the examination is the assumption that the Authorities have submitted what they consider to be a sound plan. The Central and Eastern Berkshire Joint Minerals and Waste Plan, submitted in February 2021 is the basis for our examination. It is the same document as was published for consultation in September 2020.

## Main Modifications

3. In accordance with section 20(7C) of the 2004 Act the Authorities requested that we should recommend any main modifications [MMs] necessary to rectify matters that make the Plan unsound or not legally compliant and thus incapable of being adopted. Our report explains why the recommended MMs are necessary. The MMs are referenced in bold in the report in the form **MM1**, **MM2** etc, and are set out in full in the Appendix.
4. Following the examination hearing, the Authorities prepared a schedule of proposed MMs and, where necessary, carried out sustainability appraisal and habitats regulations assessment of them. The MM schedule was subject to public consultation for six weeks from 28 February 2022 to 11 April 2022. We have taken account of the consultation responses in coming to our conclusions in this report and in this light we have made some amendments to the detailed wording of the main modifications and added consequential modifications where these are necessary for consistency or clarity. None of the amendments significantly alters the content of the modifications as published for consultation or undermines the participatory processes and sustainability appraisal and habitats regulations assessment that have been undertaken. Where necessary we have highlighted these amendments in the report.

## Policies Map

5. The Authorities must maintain an adopted policies map which illustrates geographically the application of the policies in the adopted development plan. When submitting a local plan for examination, the Authorities are required to provide a submission policies map showing the changes to the adopted policies map that would result from the proposals in the submitted local plan. In this

case, the submission policies map comprises the set of plans identified as the Central and Eastern Berkshire Joint Minerals and Waste Plan Submission Policies Map (June 2020) as set out in document reference SD02, together with inset maps for proposed allocations at Appendix A of the Plan.

6. The policies map is not defined in statute as a development plan document and so we do not have the power to recommend main modifications to it. However, a number of the published MMs to the Plan's policies require corresponding changes to be made to the policies map.
7. These further changes to the policies map were published for consultation alongside the MMs (the Central and Eastern Berkshire Joint Minerals and Waste Plan Modified Policies Map (December 2021) (MD09).
8. When the Plan is adopted, in order to comply with the legislation and give effect to the Plan's policies, the Authorities will need to update the adopted policies map to include all the changes proposed in the Submission Policies Map and the further changes published alongside the MMs.

## **Context of the Plan**

9. The Central and Eastern Berkshire Joint Minerals and Waste Plan (the Plan) covers the administrative areas of Bracknell Forest Council, Reading Borough Council, The Royal Borough of Windsor and Maidenhead and Wokingham Borough Council. It replaces the saved policies of the Replacement Minerals Local Plan for Berkshire (2001) and the Waste Local Plan for Berkshire (1998) in so far as they apply to the Plan area.
10. The northern and eastern parts of the Plan area, principally within The Royal Borough of Windsor and Maidenhead, but also including parts of Bracknell Forest and Wokingham are within the Metropolitan Green Belt. There is no designated Area of Outstanding Natural Beauty (AONB) within the Plan area, but the North Wessex Downs AONB and the Chilterns AONB adjoin or are close to the north and west of the Plan area.

## **Public Sector Equality Duty**

11. We have had due regard to the aims expressed in S149(1) of the Equality Act 2010. This has included our consideration of several matters during the examination including protection of health, safety and amenity and ensuring sustainable accessibility for all persons including those with relevant protected characteristics.

## Assessment of Duty to Co-operate

12. Section 20(5)(c) of the 2004 Act requires that we consider whether the Authorities complied with any duty imposed on it by section 33A in respect of the Plan's preparation.
13. Minerals and waste developments are strategic matters for the purposes of the statutory duty. The Authorities identified a number of issues including the supply of minerals, dependence on minerals and waste treatment infrastructure outside the plan area and major infrastructure projects affecting minerals and waste operations. The inter-connective relationship with Slough Borough was also identified as an issue. The Authorities have engaged with neighbouring minerals and waste planning authorities and those across the south-east of England on strategic minerals and waste planning issues, including the supply of sharp sand and gravel and soft sand, the movement of waste to an energy from waste facility in Slough and the deposit of inert waste on land. The engagement has taken place through the South East England Aggregate Working Party and the South East Waste Planning Advisory Group as well as directly with other authorities.
14. This has led to preparation of Statements of Common Ground (SoCG) and position statements which cover the above identified issues. The SoCG cover soft sand supply, sharp sand and gravel supply, and strategic waste management policies. There are also SoCG with West Berkshire Council regarding strategic mineral issues and with Slough Borough Council regarding movement of waste to an energy from waste facility in that authority's area. The SoCG have been signed by all relevant authorities with the exception of Central Bedfordshire Council which is not party to the SoCG on soft sand. It is clear, however that there has been discussion with that Council and there is no evidence of disagreement. It is also clear that there was constructive, active and ongoing engagement between the authorities prior to submission of the Plan. This took the form of meetings and correspondence between the authorities involved, in order to plan positively and to maximise the effectiveness of the Plan preparation.
15. The Duty to Co-operate Statement indicates that there has been engagement with the bodies prescribed in section 4 of the Town and Country Planning (Local Planning) (England) Regulations 2012. The Environment Agency, Highways England, Historic England and Natural England have been actively engaged in the consultation processes on the Plan and comments made by those bodies have been resolved. In particular, detailed comments made by the Environment Agency were subject to discussion in the hearing and the outstanding issues were resolved. For these reasons there has been constructive, active and ongoing engagement with prescribed bodies.



16. We are satisfied that where necessary the Authorities have engaged constructively, actively and on an on-going basis in the preparation of the Plan and that the duty to co-operate has therefore been met.

## **Assessment of Other Aspects of Legal Compliance**

17. The Plan has been prepared in accordance with the Local Development Schemes of the four constituent authorities.
18. Consultation on the Plan and the MMs was carried out in compliance with the adopted Statements of Community Involvement of the four constituent authorities.
19. The Authorities carried out a sustainability appraisal of the Plan, prepared a report of the findings of the appraisal, and published the report along with the plan and other submission documents under regulation 19. The appraisal was updated to assess the main modifications.
20. The Habitats Regulations (Appropriate Assessment) Report (August 2020) sets out that a full assessment has been undertaken, that the Plan may have some negative impact which requires mitigation, and that this mitigation has been secured through the Plan.
21. The Development Plan, taken as a whole, includes policies to address the strategic priorities for the development and use of land in the Central and Eastern Berkshire Joint Minerals and Waste Plan area.
22. The Development Plan, taken as a whole, includes policies designed to secure that the development and use of land in the Plan area contribute to the mitigation of, and adaptation to, climate change. Policy DM2 of the Plan requires mitigation and adaption measures, and Policy DM10 provides for no increase in flood risk and for flood protection and resilience measures. Policy DM12 requires consideration of sustainable means of transport and Policy DM13 requires design to reduce greenhouse gas emissions. Policy M5 supports the supply of recycled and secondary aggregates as an alternative to primary material. Policy W1 encourages waste to be managed at the highest achievable level in the waste hierarchy.
23. The Plan complies with all other relevant legal requirements, including in the 2004 Act (as amended) and the 2012 Regulations.

## Main Issues

24. Taking account of all the representations, the written evidence and the discussions that took place at the examination hearing, we have identified 7 main issues upon which the soundness of this Plan depends. This report deals with these main issues. It does not respond to every point or issue raised by representors. Nor does it refer to every policy, policy criterion or allocation in the Plan.

### **Issue 1 – Whether the Vision, Strategic Plan Objectives and Spatial Strategy are appropriate, positively prepared and are soundly based and provide an appropriate basis for meeting the future demand for minerals and managing waste sustainably.**

25. In making provision for minerals and waste developments, the Plan is based on consideration of future patterns of growth in major planned development, assessed by Minerals and Waste Background studies. The provision for sand and gravel is based on the average of 10 years' sales data in accordance with the NPPF.
26. There are currently no active soft sand sites in the Plan area. The Local Aggregate Assessment (LAA) notes that these resources are generally of poor quality, and this has been confirmed by operators. Past soft sand sales are included in the 10 years' sales average, but the Minerals Background Study indicates that the only soft sand production in the Plan area over that period was incidental production at one quarry. Although there is no data for soft sand production over the 10 year period, it is likely that soft sand formed only a small proportion of this.
27. The Minerals Background Study assessed estimated demand for soft sand over the Plan period using different growth scenarios and based its finding on the average level of demand from the four growth scenarios considered. The Soft Sand Study identified a number of sources outside the Plan area which can enable a steady and adequate supply of this mineral.
28. The number of minerals and waste sites available is limited and this restricts the ability to locate sites close to growth areas. However, the Plan incorporates flexibility in that Policy M4 provides for Areas of Search for sand and gravel and Policy W4 provides for waste development to take place in Preferred Waste Areas and other appropriate locations. These are locations which accord with the Plan's development management policies and **MM42, MM46, MM51, MM54, MM62, MM64 and MM66** are necessary to clarify this to ensure that the Plan is effective. Connectivity to areas of major new development is provided for by Policy W4 and Policy DM12.

29. The location of allocated sites has been informed by the Strategic Flood Risk Assessment (SFRA). This document was amended during the course of the examination to address concerns that had been expressed by the Environment Agency. The Agency has confirmed that it has no objections to the Assessment as amended. The revised SFRA raised some implications for the Preferred Waste Areas which are dealt with under issue 5 in this report.
30. In paragraph 1.9 of the Plan the revisions to the NPPF published in 2018 and 2019 are referred to. This text requires amendment to refer to the 2021 NPPF and **MM1** is necessary to make this change to ensure consistency with national policy. **MM2** is also necessary in this regard to amend footnote 24. Further similar amendments are necessary for consistency with national policy throughout the Plan and **MM29, MM36, MM37, MM44, MM47, MM48, MM49, MM50, MM53, MM55, MM57, MM61** and **MM82** make these changes.
31. Paragraph 3.16 of the Plan sets out the principles which form the basis for the spatial strategy. It is a strategic objective of the Plan to help mitigate the causes of, and adapt to, climate change. However, the principles underlining the spatial strategy do not specifically refer to consideration of the causes of climate change and mitigation to address its effects. These considerations should form part of the spatial strategy in order for it to be effective and **MM3** is necessary to include them.

## Conclusion

32. Subject to the MMs identified above the Plan's Vision, Strategic Plan Objectives and Spatial Strategy are appropriate, positively prepared, and are soundly based and provide an appropriate basis for meeting the future demand for minerals and managing waste sustainably.

## Issue 2 – Whether the Plan makes adequate provision for the steady and adequate supply of aggregate minerals.

33. The 10 year sales average for sand and gravel, as identified in the LAA is 0.628 Mt per annum. Economic forecasts and consideration of construction projects have been used to model growth rates. These rates support the use of the 10 year sales average in arriving at the requirement. The 10 year sales average includes sales of soft sand but the proportion of this material is indicated in the Minerals Background Study to be small. Although there is currently no economically viable soft sand quarry, the use of the 10 year sales average figure to determine the requirement for sharp sand and gravel is robust. Policy M3 identifies an annual requirement of 0.628 Mt and a total requirement of 5.447 Mt of sharp sand and gravel and these figures are justified on the basis of the evidence submitted.

34. The Authorities engaged with site operators, agents and landowners and reviewed former allocations in order to identify sites for allocation. The Minerals: Proposal Study sets out the site selection exercise. This shows that the sites that were discounted were subject to objections from statutory consultees or were not sufficiently supported in terms of evidence to demonstrate deliverability and viability. The evidence supporting this exercise demonstrates that it has not been possible to allocate sites to meet the identified requirement.
35. Sites at Bray Quarry and Riding Court Road, Datchet were not included in the submission Plan because of outstanding objections and documents before us indicate that those objections may have been overcome, at least in part. Notwithstanding this, our examination is restricted to the Plan as submitted and not these omission sites.
36. Because the Plan does not allocate sufficient sites to meet the identified requirement, an Area of Search is identified within which proposals for new quarries will be supported. This approach is in accordance with national policy. The methodology used in identifying the Area of Search has been justified. In addition, the Authorities maintain close working relationships with other mineral planning authorities to ensure continuation of the supply of aggregates from outside the Plan area.

### **Policy M1 – Sustainable minerals development strategy**

37. Policy M1 sets out the strategy for sustainable minerals development. It contains five criteria, all of which apply. In order to ensure this, it is necessary to insert the word 'and' after the penultimate criterion. **MM27** makes this change and is necessary to ensure the policy is effective.
38. Criterion (a) of Policy M1 provides for working with relevant minerals planning authorities to maintain the supply of aggregate not available within the Plan area. This means minerals that are not geologically present in the Plan area and minerals that need to be imported to the Plan area due to constraints on supply. Clarification of this is necessary to ensure the policy is effective. **MM28** is necessary to provide this clarification. We have made minor amendments to **MM28** to correct grammatical and typographical errors.

### **Policy M3 – Sand and gravel supply**

39. Paragraph 6.57 relates to Policy M3 and explains that any change in local circumstances, such as increased demand arising from infrastructure projects, may change the level of need for sand and gravel within the Plan area and that this will be regularly monitored and reviewed. The Minerals Background Study predicts the depletion rate of sand and gravel in the Plan area, and from this the anticipated rates of future provision from outside the area can be derived. In

order to provide a full explanation in the Plan and to ensure its effectiveness it is necessary to state those anticipated rates in the supporting text to Policy M3.

**MM38** adds this information. Paragraph 6.57 also refers to the 'provision rate' which may change over the Plan period. To ensure clarity, we have amended this to refer to the required supply of sand and gravel.

40. **MM39** is also necessary to provide further explanation of the local circumstances that could influence the importation of aggregates, which could include infrastructure projects. This change is necessary to ensure the effectiveness of Policy M3.
41. In order to ensure that importation of aggregates is effectively monitored, a new monitoring indicator is required in paragraph 6.66. It is also necessary to review policy on the basis of an increasing trend in sales over 3 years, rather than 5 years, to ensure internal consistency. **MM40** is necessary to ensure effectiveness in these respects.

#### **Policy M4 – Locations for sand and gravel extraction**

42. Policy M4 allocates two extensions to existing quarries. However, those extensions together with the extraction of remaining permitted reserves are not sufficient to meet the identified requirement. There will be a shortfall over the Plan period of 2.5 Mt and, without additional sites, the ability to meet the annual requirement will cease from 2023. Policy M4 makes provision for new sites to come forward within the identified Area of Search and to maintain the requisite landbank of at least 7 years' worth of supply.
43. **MM43** adds supporting text to explain that the Area of Search excludes designated habitats, ancient woodland and heritage assets as well as built up areas and areas of remaining resource of less than 3 hectares. It takes into account the potential for the Area of Search to change over the Plan period as a result of any review of the policy arising from monitoring but states that the criteria for designation will remain constant. This additional text is necessary to fully explain how the Area of Search has been defined and to ensure consistency with national policy. A minor change is made to **MM43** to correct a grammatical error.
44. The Planning Practice Guidance (PPG) states that, in order of priority, specific sites should be designated, followed by preferred areas and lastly areas of search. This priority reflects greater levels of uncertainty as to the availability of mineral resources within areas of search, and less certainty that planning permission will be granted. There is insufficient evidence in terms of the economic availability of mineral resources in any particular area to justify designating preferred areas and so the Area of Search has been identified. This provides wider coverage of the available sand and gravel resources and provides flexibility.

45. It is necessary for the supporting text to provide full explanation of the reasoning behind the policy including the role of the Area of Search in meeting the requirement. **MM41** adds text to provide further explanation of the policy approach including the times at which the allocations are expected to come forward, the extent of the shortfall and implications for supply and the expectations for the Area of Search. These changes are necessary to ensure the policy is positively prepared and effective. A minor change is made to **MM41** to correct a typographical error.
46. **MM42** amends Policy M4 to make clear that proposals for the allocated quarry extensions must address the development considerations in Appendix A and that the 'appropriate locations' referred to in part (3) of the policy are those which comply with all relevant policies in the Plan. It also states the amount of mineral to be provided by each of the allocated sites. These changes are necessary for effectiveness.

### Site Allocations

47. The sites which have been allocated have been demonstrated through the site selection exercise and sustainability appraisal to be acceptable and soundly-based. However, the detailed development considerations require amendment.

#### MA1 Horton Brook and Poyle Quarry Extension, Horton

48. The development considerations in Appendix A state that site MA1 is expected to deliver 250,000 tonnes but this figure has been amended to 150,000 tonnes in order to retain a tree belt planted 15 years ago. It is necessary to amend this figure accordingly, to ensure that it is justified and effective. **MM70** makes this change.
49. The Strategic Flood Risk Assessment (SFRA) was revised during the course of the examination to include assessment of climate change and to address concerns expressed by the Environment Agency. Additional text is necessary in the development considerations for site MA1 to reflect the findings of the SFRA and to consider water resources. **MM71** adds the necessary text which is required to ensure effectiveness.

#### MA2 Poyle Quarry Extensions, Horton

50. It is necessary for the development considerations to state the requirements arising from the SFRA in order to ensure effectiveness. **MM73** provides additional text in this regard.

### **Policy M5 – supply of recycled and secondary aggregates**

51. The supporting text to Policy M5 refers to national policy in the NPPF. This has been updated and **MM45** is necessary to ensure the reference to national policy is correct. Policy M5 supports the production of recycled and secondary aggregates in appropriate locations. It is necessary to clarify the meaning of 'appropriate locations' to ensure that the policy is effective. **MM46** inserts text to state that such locations are those which comply with all relevant policies in the Plan.

### **Conclusion**

52. Subject to the MMs identified above, the Plan makes adequate provision for the steady and adequate supply of aggregate minerals.

### **Issue 3 – Whether the Plan makes adequate provision for other minerals.**

53. There is no need to allocate any site for chalk production due to lack of demand. Similarly, there is very limited demand for clay and no brick or tile works in the Plan area and thus no need to allocate any site for clay extraction.

### **Policy M6 – Chalk and clay**

54. Policy M6 supports the extraction of chalk and clay to meet a local requirement in appropriate locations. It is necessary to clarify the meaning of 'appropriate locations' to ensure that the policy is effective. In order to ensure that the policy is justified and effective it is also necessary to clarify that its requirement that there is no suitable, sustainable alternative source of material includes substitute or recycled secondary material. **MM51** inserts text to clarify these points. **MM52** adds to the supporting text regarding the availability of substitute or recycled secondary material.

### **Conclusion**

55. Subject to the MMs identified, the Plan makes adequate provision for other minerals.

## **Issue 4 – Whether the Plan adequately balances the needs of competing development and whether the policy supporting aggregate wharves and rail depots is sound.**

### **Policy M2 – Safeguarding sand and gravel resources**

56. Paragraph 6.31 and Policy M2 of the submitted Plan refers to Minerals and Waste Safeguarding Areas. Because the safeguarding of mineral resources will need to relate to the areas of known resources and waste safeguarding will relate to individual sites, the combination of these into a single area is not justified. Mineral infrastructure is safeguarded under Policy M8 and waste facilities are safeguarded under Policy W2, and sites are listed in Appendix E. It is therefore necessary to amend the designation to Minerals Safeguarding Areas in Policy M2 and its supporting text for effectiveness. **MM30, MM31, MM32, MM33** and **MM34** make the required amendments.
57. Consultation areas around minerals and waste sites have also been established by the Authorities. These are used by the Authorities to establish the need for consultation both within the Plan area and with neighbouring authorities in respect of proposals within defined buffer distances of minerals and waste sites. Because this is an internal tool, inclusion of the consultation distances in the Plan is not necessary and this could potentially be misleading. Therefore, to ensure effectiveness **MM34** deletes references to the consultation distances.
58. In order to be effective, Policy M2 should require the preparation of a Mineral Resources Assessment for non-minerals development within Minerals Safeguarding Areas. To be consistent with national policy it should make clear that prior extraction is maximised where this is practical and environmentally feasible. It is also necessary to clarify for effectiveness that temporary development may take place without sterilising the mineral. **MM32** is required to make these changes.
59. The supporting text explains the approach that will be taken to safeguarding mineral resources. A threshold of 3 hectares is used for such assessment which is based on the Minerals and Waste Safeguarding study. This is justified on the basis of economic viability by way of comparison with guidance in Hampshire and Essex. The Authorities did also test this threshold in relation to site areas of planning permissions to further justify and assess the impact of the policy in practice. The Minerals and Waste Safeguarding study was updated in February 2022 [HS74a], and it is necessary to include reference to the updated document for effectiveness. **MM33** makes this change.
60. The monitoring indicator in paragraph 6.48 would not be effective in that it is restricted to sites above 3 hectares in size and would not cover piecemeal



sterilisation by smaller developments. There is no provision for monitoring of the amount of sand and gravel extracted through prior extraction. For these reasons monitoring of Policy M2 would be ineffective. Amendments are therefore required to the monitoring indicator to cover all developments, whatever their size, and an additional monitoring indicator is necessary in respect of prior extraction of sand and gravel. **MM35** makes these changes.

### **Policy M7 - Aggregate wharves and rail depots**

61. It is necessary to ensure the policy requires proposals to address the development considerations in respect of the allocated site, which are set out in Appendix A, and to explain the meaning of the term 'appropriate locations' in the policy. **MM54** adds text to include these requirements and explanation. This is necessary to ensure the policy is effective.

#### **Site Allocation TA1 (Monkey Island Wharf, Bray)**

62. The site at Monkey Island Wharf would be accessed via a waterway from the River Thames which is known as The Cut. This is designated as the Greenway Corridor Local Wildlife Site (LWS). Use of this waterway by minerals barges would require cutting back of vegetation and would be likely to require dredging. While works to make this accessible would impact biodiversity, compensatory measures elsewhere within the LWS could be provided. The development considerations should require an ecological assessment and consideration of ecological improvements in order to ensure effectiveness and consistency with national policy in terms of using opportunities to improve biodiversity. **MM72** adds these development considerations in Appendix A.
63. Allied to this there would be implications for the morphology of The Cut and the River Thames in order to provide for navigation of mineral barges. It is necessary to require assessment of changes to the channel profile and to require restoration, and compensation for loss, of habitat along the river. **MM72** adds requirements in these regards, which are necessary to ensure effectiveness and consistency with national policy. These changes address concerns that were expressed by the Environment Agency.
64. It is also necessary to add detailed ecological considerations to reflect alterations to the waterway and flood risk considerations to reflect the updated SFRA. **MM72** adds further development considerations, and this change is necessary to ensure the policy is effective. Deletions are made to text that is not necessary, in part because Section 60 Accommodations Licensing is a separate means of control.

### **Policy M8 - Safeguarding minerals infrastructure**

65. For the reasons given above in respect of Policy M2, it is necessary to delete reference to 'waste' in the Minerals and Waste Safeguarding Area and to the consultation area as this is not justified or effective. **MM56** is necessary to make this change.

### **Conclusion**

66. Subject to the MMs set out above, the Plan adequately balances the needs of competing development and the policy supporting aggregate wharves and rail depots is sound.

## **Issue 5 – Whether the strategy for waste management is appropriate, soundly based and meets needs for waste facilities.**

### **Policy W1 - Sustainable waste development strategy**

67. The National Planning Policy for Waste requires waste planning authorities to drive waste management up the waste hierarchy. The first principle of the strategy as set out in the policy is to 'encourage' waste to be managed at the highest achievable level within the waste hierarchy. This is a less rigorous requirement and for this reason is not consistent with national policy. It is necessary that proposals demonstrate how waste will be managed at the highest achievable level, and **MM58** makes this change to the policy.

### **Policy W2 - Safeguarding of waste management facilities**

68. Policy W2 safeguards existing and proposed waste management facilities. The policy as worded would safeguard unauthorised developments, however. It is necessary for the policy to make clear that the safeguarding requirement applies only to developments that are permitted or lawful, and when such developments are subject to time-limited permissions, the time limits have not expired. This ensures that other policies in the Plan can be given proper consideration. **MM59** makes these changes which are necessary to ensure effectiveness.
69. The supporting text refers to the Minerals and Waste Safeguarding Area. This requires amendment to delete reference to the Minerals and Waste Safeguarding Area and to ensure consistency with Policy M2. It is also necessary to make clear that a list of safeguarded sites is in Appendix E of the Plan and that this will be updated to reflect new permissions and closed facilities. **MM60** is necessary for effectiveness.
70. The Star Works at Knowl Hill manages clinical waste and this facility is not included in the list of safeguarded sites in Appendix E of the Plan. Interested

parties have objected to the safeguarding of Star Works on the basis that the clinical waste facility is not lawful or permitted. The objectors state that this use has been in existence since 2004 but that it does not fall within the authorised B2 use. The Authorities indicated that the representations that have been made as to lawfulness have been fully considered and they are of the view that the use is lawful. On this basis the Authorities say that it should be included in the list of safeguarded sites in Appendix E.

71. The lawfulness or otherwise of the clinical waste facility can only be determined under an application for a Certificate of Lawfulness. We have taken into account the representations made by the local residents but find no reason to disagree with the Authorities' view on this matter.
72. Policy W2 as modified by **MM59** only safeguards lawful or permitted waste management facilities and if the facility at Star Works was subsequently found to be unlawful it would not be protected by the policy. Neither would inclusion in the list of safeguarded sites prevent any subsequent enforcement action should this be deemed necessary.
73. The list at Appendix E would also be subject to review. For these reasons we find that inclusion of the clinical waste facility at Star Works to be appropriate and justified. **MM81** adds this site to the list of safeguarded sites.

### **Policy W3 - Waste capacity requirements**

74. Policy W3 sets out the required waste management capacities, which are based on the future need for the Plan area as set out in the Waste Background Report. The policy identifies a greater amount of non-hazardous recycling capacity than recovery capacity, in accordance with the waste hierarchy. Notwithstanding that waste may cross administrative boundaries for treatment as determined by the market, the policy makes provision for the need identified for the Plan area so that this could be self-sufficient.
75. Clarification is required of the term 'appropriate locations' which are those that comply with all relevant policies in the Plan. **MM62** adds this explanation and is necessary to ensure effectiveness.

### **Policy W4 - Locations and sites for waste management**

76. The supporting text states that smaller scale facilities will normally be compatible with most general industrial estates. Paragraph 7.93 states that such sites would be those within the B2 and B8 use classes and that sites in B1 use would have limited suitability for waste management uses. This reference should be updated to refer to Class E(g)(iii) of the amended Use Classes Order. **MM63** makes this change which is necessary for effectiveness.

77. Policy W4 allocates three sites for waste management, all of which are within the Green Belt. Any built form on these sites would be likely to be inappropriate development unless one of the exceptions as set out in the NPPF applies. Harm arising from inappropriate development would need to be balanced against other considerations which could include benefits from sustainable treatment of waste and potentially production of energy. The sites are identified for specific waste types including inert waste and green waste which are likely to have specific locational requirements.
78. The policy provides flexibility by identifying Preferred Waste Areas which include industrial estates. These are outside the Green Belt. Consideration was given as to whether the facilities to be located on the allocated sites could be located within the Preferred Areas, however this was not possible. Given that the allocated sites are identified for specific types of waste processing, there is no need to prioritise waste development within Preferred Waste Areas before allocated sites. This priority could discourage development of the facilities identified for the allocated sites. Because this approach is not justified it is necessary to ensure that the policy gives equal priority to allocated sites and Preferred Waste Areas. **MM64** makes this change.
79. It is also necessary to ensure that the development considerations for allocated sites in Appendix A form part of the policy and **MM64** includes this requirement which is necessary for effectiveness. The last part of the policy refers to 'appropriate locations' and it is necessary to explain this term to ensure effectiveness. **MM64** provides this explanation.
80. The policy requires that Preferred Waste Areas, together with site allocations, are considered in the first instance before other appropriate locations. In order to ensure clarity and effectiveness it is necessary for the supporting text to explain the reasoning for the allocations within the Green Belt and the priority order of the policy. **MM65** makes these changes.

## Site Allocations

### WA1 Berkyn Manor, Horton

81. It is necessary for the development considerations in Appendix A to refer to national policy on Green Belt, to ensure consistency with national policy. It is also necessary to include reference to matters arising from the SFRA to ensure effectiveness.
82. The Colne and Crane Valleys Green Infrastructure Strategy (2019) should also be taken into account and this should be included in the development considerations. **MM67** makes these changes which are necessary for effectiveness and consistency with national policy.

#### WA2 Horton Brook Quarry, Horton

83. The area of the site is incorrectly stated as '55 ha'. **MM68** makes the necessary correction to 5.5 ha to ensure effectiveness.
84. It is necessary for the development considerations to include consideration of national policy on Green Belt, to consider the Colne and Crane Valleys Green Infrastructure Strategy and to include considerations arising from the SFRA. **MM69** makes the necessary changes which are required for effectiveness and consistency with national policy.

#### WA3 Stubbings Compound, Pinkneys Green, Maidenhead

85. Consideration must be given in Appendix A to national policy on Green Belt and to the findings of the SFRA in respect of WA3. **MM74** adds these development considerations which are necessary to ensure effectiveness and consistency with national policy.

#### Preferred Waste Areas

86. The revised SFRA, which includes an allowance for climate change, indicates that two of the Preferred Waste Areas at Newlands Farm, Crowthorne and Brookside Business Park, Swallowfield will be at unacceptable risk of flooding. For this reason, their inclusion as Preferred Waste Areas is not justified. **MM75**, **MM79** and **MM80** are necessary for this reason to remove those sites from the list in Appendix C of the Plan. In addition, **MM76**, **MM77** and **MM78** identify that site specific flood risk assessments would be required for three of the Preferred Waste Areas (Richfield Avenue/Tessa Road Area; Paddock Road Industrial Estate; and Wigmore Lane) to demonstrate that the proposals would be safe for the lifespan of the development. These changes are necessary for effectiveness.

#### Policy W5 - Reworking landfills

87. It is necessary for the policy to explain the meaning of the term 'appropriate locations' which comply with all relevant policies in the Plan. **MM66** provides this explanation and is necessary for effectiveness.

#### Conclusion

88. The Plan adequately provides for the identified waste needs and is positively prepared in this respect. Subject to the above MMs, the strategy for waste management is appropriate, soundly based and meets needs for waste facilities.

## **Issue 6 – Whether the Development Management policies are justified, effective and consistent with national policy.**

89. Throughout the Plan reference was made to the NPPF 2019 which needs to be updated to the NPPF 2021. With regard to the development management policies section a number of updates are required. As such the supporting text of Policies DM2 (Climate Change – Mitigation and Adaptation) and DM3 (Protection of Habitats and Species) has been amended through **MM4**, **MM5** and **MM6** to refer to the NPPF 2021. The supporting text of Policies DM12 (Sustainable Transport Movements) and DM13 (High Quality Design of Minerals and Waste Development) has been amended through **MM23** and **MM24** to refer to the NPPF 2021.
90. Policy DM4 (Protection of Designated Landscape) does not effectively set out criteria for how development which affects the setting of an Area of Outstanding Natural Beauty should be assessed. In this respect it is not fully consistent with national policy. Re-wording of the policy and its supporting text addresses this through **MM7** (including an updated reference to the NPPF 2021) and **MM8**.
91. Policy DM5 (Protection of the Countryside) is not effective in setting out whether or not proposals would be acceptable in the countryside and the criteria for their assessment. An alteration to the policy, together with its introductory text, addresses this in **MM9** and **MM10**.
92. Policy DM6 (Green Belt) is inconsistent with national policy because it does not allow for consideration of effects on openness and the purposes of including land in the Green Belt as part of the assessment of whether development would be inappropriate. Neither does it differentiate between minerals and waste development in these respects. It is also not effective in terms of providing policy for waste development that may be inappropriate development. Consequently, the restructuring of the policy to differentiate between mineral extraction and waste management proposals and additional policy wording to deal with the above matters are necessary. These matters are addressed by **MM13**. A change to the supporting text in paragraph 5.55 is also dealt with in **MM14**. This provides explanation of circumstances in which waste proposals may be acceptable in the Green Belt and matters that will be considered and is necessary for effectiveness. Updates to the supporting text relating to the NPPF 2021 are dealt with in **MM11**, **MM12** and **MM14**.
93. Policy DM7 (Conserving the historic environment) is inconsistent with national policy in relation to the difference between designated and non-designated heritage assets. The policy should be re-worded to be consistent with national policy. **MM16** sets this out. An update to the supporting text to reflect the changes in NPPF 2021 is made in **MM15**.

94. Policy DM8 (Restoration of Minerals and Waste Developments) is ineffective in relation to what restoration information would be required for proposals, together with the omission of flood risk management being a matter for inclusion within restoration proposals. Re-wording of the policy is necessary to deal with these matters. **MM17** sets these out.
95. Policy DM10 (Flood Risk) is not fully consistent with national policy as supplemented by the Planning Practice Guidance, or effective because the sequential approach is not clearly stated, and neither is the approach to reducing flood risk overall. The requirements of site drainage systems are not stated. The supporting text should refer to restoration of mineral workings for effectiveness and further explanation of the exception test requirements for waste development is necessary for consistency with national policy. A series of changes to the policy and the supporting text secure the necessary consistency and effectiveness in **MM18**, **MM19**, **MM20** and **MM21**.
96. Policy DM11 (Water Resources) is not fully effective in relation to its approach to the protection of groundwater. **MM22** addresses this issue by requiring assessment of impact on nearby private and licensed abstractions and by requiring hydrogeological as well as hydrological risk assessments and stating the requirements of those assessments.
97. Policy DM15 (Past operator performance) is fundamentally unsound in that it deals with the past performance of site operators rather than land use planning matters. As such it is not positively prepared, or consistent with national policy which states that it must be assumed that separate pollution control regimes will operate effectively. In order for Policy DM15 to be effective, positively prepared and consistent with national policy, **MM25** significantly re-focusses the policy onto land use matters and re-names it DM15 (Site History). A consequential change is also made to the accompanying monitoring framework in paragraph 5.150 through **MM26**.

## Conclusion

98. Subject to the above MMs the development management policies are justified, effective and consistent with national policy.

## Issue 7 – Whether the monitoring arrangements will be effective.

99. Whilst the monitoring and review provisions are generally sound there were a small number of amendments that were consequentially required in relation to modifications made to Policy DM15; Policy M2 and Policy M3. The reasoning for these amendments were set out in relation to these policies earlier in this report.

## **Conclusion**

100. Subject to the above mentioned modifications the monitoring arrangements are effective.

## **Overall Conclusion and Recommendation**

101. The Central and Eastern Berkshire Joint Minerals and Waste Plan has a number of deficiencies in respect of soundness for the reasons set out above, which mean that we recommend non-adoption of it as submitted, in accordance with Section 20(7A) of the 2004 Act. These deficiencies have been explored in the main issues set out above.

102. The Authorities have requested that we recommend MMs to make the Plan sound and capable of adoption. We conclude that the duty to cooperate has been met and that with the recommended main modifications set out in the Appendix the Central and Eastern Berkshire Joint Minerals and Waste Plan satisfies the requirements referred to in Section 20(5)(a) of the 2004 Act and is sound.

*Rachael A Bust and Nick Palmer*

Inspectors

This report is accompanied by an Appendix containing the Main Modifications.