

# Report

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Report to:	<b>Planning Committee</b>
Date of Meeting:	<b>21 June, 2011</b>
Report by:	<b>Executive Director (Enterprise Resources)</b>

Subject:	South Lanarkshire Proposed Minerals Local Development Plan
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## 1 Purpose of Report

1.1 The purpose of the report is to:-

- Inform Committee of the outcome of the consultation undertaken on the Proposed South Lanarkshire Minerals Local Development Plan (MLDP)
- Seek Committee approval to submit the Plan and the associated Schedule 4 Summary of Unresolved Issues to the Directorate for Planning and Environmental Appeals (DPEA) for future examination.

## 2 Recommendations

2.1 Planning Committee is asked to approve the following recommendations:

- (1) That Committee approve the submission of the South Lanarkshire Minerals Local Development Plan and associated Schedule 4 Summary of Unresolved Issues to the Directorate for Planning and Environmental Appeals for examination.
- (2) That the Head of Planning and Building Standards Services be authorised to take part in the examination of the proposed South Lanarkshire Minerals Local Development Plan and modify the Schedule 4 Summary of Unresolved Issues to take account of minor drafting and technical matters prior to their submission.
- (3) Note that a further report will be presented to the Committee to advise of the outcome of the examination of the proposed MLDP and any proposed modifications to the plan.

## 3 Background

- 3.1 Minerals development is currently the subject of the South Lanarkshire Minerals Local Plan (MLP) which was adopted on 12<sup>th</sup> September 2002. This plan has formed the basis of the Council's decisions relating to new mineral operations and has reflected the Council's desire that minerals developments should be properly planned, operated and restored. The MLP policies were designed to assist in achieving sustainable minerals development, prevent the sterilisation of mineral resources and protect the environment and communities from the effects of mineral extraction.
- 3.2 Eight years on from the MLP's adoption it was considered necessary to review the plan in light of new national planning policy and legislation and the Council's experience in dealing with minerals development using the MLP as a basis for decision making.
- 3.3 This intervening period has also seen the introduction of the Planning etc. (Scotland) Act 2006 and a new development planning system for Scotland. The Local Plan

process has been replaced by the Local Development Plan (LDP) and there are a number of differences to the process of preparation consultation and adoption. The initial stage in the preparation of the plan was the publication of a Main Issues Report (MIR)

#### **4 The Main Issues Report**

- 4.1 The MIR and its associated documents (including a Strategic Environmental Report, Health Impact Assessment Report, Monitoring Report and Consultation and Engagement Report) was published in March 2010 and sought the views of the local community on the issues associated with Minerals Development.
- 4.2 The periods for public consultation ran between March and May 2010. A total of 315 comments were received from 37 consultees to the MIR and a number of minor comments to the SEA.
- 4.3 A summary of the comments made to the MIR and the Council's response to them were reported to the Committee in December 2010. These comments and the responses helped to inform the preparation of the proposed plan itself and its spatial and policy framework.

#### **5 Proposed Minerals Local Development Plan**

- 5.1 The proposed MLDP, following its approval by Committee in December 2010, was subsequently published and made available for public comment during January and February 2011.
- 5.2 The proposed MLDP contains the vision for minerals development in South Lanarkshire i.e.:-  
*“to facilitate a steady and sustainable supply of minerals to meet market demands whilst protecting and enhancing the natural and built environment”.*
- 5.3 In order to achieve this, the proposed plan sets out a spatial framework and associated policies. The spatial framework recognises that minerals can only be worked where they are found and that the whole of South Lanarkshire should be considered as an “Area of Search” with specific areas given varying degrees of protection from development. The areas of protection are clearly set out in policy within the plan and shown on the proposals maps.
- 5.4 In response to the consultation exercise a total of 308 representations were received from 29 individuals, consultees and companies. The representations themselves included both objections and expressions of support for various aspects of the plan. Some of the areas on which the representations focussed are set out below.
- 5.5 A number of comments were received in relation to the definition and designation of buffer zones for settlements under policy MIN 2 (Environmental Designations Hierarchy). This was split between the communities who wanted buffer zones to be designated for larger areas and operators who felt that a buffer zone, particularly for aggregates was inappropriate. I am satisfied that the buffer zone policy worked effectively in the last minerals plan and that the approach taken in this plan reflects the Council's experience and is an appropriate mechanism when seeking to protect communities from the possible affects of mineral extraction.
- 5.6 The use of legal agreements to control and manage development under policy MIN 13 (Legal Agreements) was also the subject of a number of objections. In particular operators felt that these were not necessary and that any issues can be dealt with through planning conditions. I am of the view that legal agreements can be a useful tool for managing those aspects of mineral developments that cannot be properly

covered by conditions and that the option to make use of this approach is both reasonable and practical and therefore should be retained.

- 5.7 Whilst the concept of taking account of the cumulative impact of developments was not questioned, operators raised issues particularly relating to the kinds of development to be taken into account under the terms of policy MIN 3 (Cumulative Impact). A number of the respondents were of the view that the Council should not be considering other types of 'rural' development alongside mineral development when considering cumulative impact. In particular they considered it was unfair to suggest that minerals operations should be assessed alongside renewable developments. In view of the potential impact of these kinds of development and the potential for them to be in close proximity I consider that this remains an appropriate approach.
- 5.8 A number of representations have been received in respect to the approach taken to 'Areas of Search' identified in policy MIN 1 (Spatial Framework). In the adopted minerals plan the whole of South Lanarkshire was taken as an 'Area of Search' with sensitive environmental designations identified as areas of restriction. This approach has been carried forward to this plan. I consider that designating specific areas of search is not the most effective, or indeed practical approach. Rather by identifying environmental restriction zones operators can then search the Council area for appropriate extraction sites and then scrutinise and test their proposal against the criteria set out in the Plan.
- 5.9 The approach taken to community benefits in policy MIN 8 (Community Benefit) attracted both objections and support. However, I consider that this policy has worked well in the adopted mineral plan and the proposed policy on contributions to community benefit funds remains a reasonable approach when dealing with contributions that might be expected from minerals operations.
- 5.10 Having considered the above items and the range of comments submitted I am satisfied that the proposed plan should remain as the Council's final position. In any event it should be noted that under the new development plan system there is only a very limited scope, at this stage, to change the proposed plan, since doing so can result in producing another proposed plan and undertaking a further period of consultation. In view of the representations received it is considered this is not justified. Consequently, the comments and representations received can now be sent together with the Plan and the Council's detailed responses, as set out in the appropriate Schedule 4's, for consideration by the Reporter.

## **6 Next Steps and Timescales**

- 6.1 The Proposed Plan and the representations received will be lodged with the DPEA. A Reporter(s) will then be allocated the task of examining the plan. This is a different approach from the past where the Council choose the Reporter. The examination will be administered by the DPEA and the Reporter will decide how he wants to assess each representation. DPEA will inform the planning service if hearings into particular topics will be required and whether further submissions are required for clarification of a particular issue. Neither the Council nor those making representation are entitled to an inquiry or hearing session to consider their comments. It is currently anticipated that the examination will as far as possible be through written submissions and that a decision will be given on the plan within approximately 6 months of submitting for examination.
- 6.2 Once the examination is complete the Reporter will produce a report outlining the findings and modifications. These are binding unless it can be shown that under the

Town and Country Planning (Grounds for declining to follow recommendations) (Scotland) Regulations 2009 the modification would:

- a) have the effect of making the Local Development Plan inconsistent with the National Planning Framework, or with any Strategic Development Plan or national park plan for the same area;
- b) be incompatible with Part IVA of the Conservation (Natural Habitats etc) Regulations 1994; or
- c) be based on conclusions that could not reasonably have been reached based on the evidence considered at the examination.

6.3 In addition Section 19(11) of the Act also allows authorities to environmentally assess the plan following modification in response to recommendations, and to not make modifications that are not acceptable having regard to that assessment.

## **7 Employee Implications**

7.1 There are no implications for staff resources within this Service.

## **8 Financial Implications**

8.1 All publications and staffing costs arising from the recommendations of this report are accounted for within established budgets.

## **9 Other Implications**

9.1 The Proposed MLDP has been assessed in terms of the Environmental Assessment (Scotland) Act 2005 for Strategic Environmental Assessment of Council plans, programmes, policies and strategies. An Environmental Report has been prepared and is available as a background document.

## **10 Equality impact assessment and consultation arrangements**

10.1 An equality impact assessment was carried out with respect to the MIR and did not require any modification. The assessment is that the proposals do not have any adverse impact on any part of the community covered by equalities legislation, or on community relations.

10.2 The Proposed MLDP and its supporting documents are available on the Council's web site and at Council planning offices, libraries and Q&As. Copies and are also be available for purchase. A notice will be placed in all local newspapers to inform the public that the proposed plan and representations are being submitted to the DPEA for examination.

**Colin McDowall**  
**Executive Director (Enterprise Resources)**

**07 June 2011**

### **Link(s) to Council Values/Improvement Themes/Objectives**

- Improve the quality of the physical environment
- Support the local economy by providing the right conditions for growth, improving skills and employability
- Improve health and increase physical activity

### **Previous References**

- Report to Planning Committee 23<sup>rd</sup> March 2010
- Report to Planning Committee 14<sup>th</sup> December 2010

### **List of Background Papers**

- Proposed Plan Consultation Summary and Responses (Schedule 4's)

### **Contact for Further Information**

If you would like to inspect the background papers or want further information, please contact:-

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