

CABINET ITEM COVERING SHEET PROFORMA

AGENDA ITEM

REPORT TO CABINET

4 DECEMBER 2008

**REPORT OF CORPORATE
MANAGEMENT TEAM**

CABINET DECISION/ KEY DECISION

Regeneration and Transport - Lead Cabinet Member – Councillor Cook.

SUMMARY OF COMMENTS RECEIVED REGARDING THE MINERALS AND WASTE DPDs PREFERRED OPTIONS.

Summary

In 2006, the Tees Valley Joint Strategy Unit (JSU) appointed consultants, Entec UK Ltd, to prepare two Joint Minerals and Waste Development Plan Documents on behalf of Stockton on Tees Borough Council and the other four Boroughs in the Tees Valley. The two DPDs are the Core Strategy and a Policies and Sites document. The Core Strategy sets out a long-term strategic vision and overarching policies for minerals and waste developments. The policies and sites document will identify specific minerals and waste sites in the area.

The documents were published for consultation at the Issues and Options stage of production in May 2007. This version of the DPDs, the Preferred Options, identifies which of those options consulted on in May 2007 is the preferred choice. The consultation on the preferred options lasted for 6 weeks commencing on the 21st February 2008 and closing on the 2nd April 2008.

The purpose of this report is to summarise the main areas of concern raised by respondents to the consultation. Due to the size of the schedule of comments issues raised are not reproduced here in full. Attached, as an appendix, is a summary schedule of the actual comments received which, either relate to issues concerning Stockton on Tees, or are of a more general nature but were made by residents, businesses or organisations based within the Borough. Should members wish to view the full schedule of comments for the Minerals and Waste DPDs, they can be requested by contacting officers in the Spatial Planning team. They are also available on the Spatial Planning Website and in the Members' Library.

2. Recommendations

Members are recommended to:

1. Note the contents of this report.
2. Endorse the proposed responses to the representations received on the Minerals and Waste DPDs.

3. Reasons for the Recommendations/Decision(s)

Members are asked to note the contents of the report so that they are aware of the comments that have been made regarding these documents. Member endorsement,

regarding the response to these comments, has been sought, in order for the study group to prepare the next version of these documents in an effective manner.

4. Members' Interests

Members (including co-opted Members with voting rights) should consider whether they have a personal interest in the item as defined in the Council's code of conduct (**paragraph 8**) and, if so, declare the existence and nature of that interest in accordance with paragraph 9 of the code.

Where a Member regards him/herself as having a personal interest in the item, he/she must then consider whether that interest is one which a member of the public, with knowledge of the relevant facts, would reasonably regard as so significant that it is likely to prejudice the Member's judgement of the public interest (**paragraphs 10 and 11 of the code of conduct**).

A Member with a prejudicial interest in any matter must withdraw from the room where the meeting considering the business is being held -

- in a case where the Member is attending a meeting (including a meeting of a select committee) but only for the purpose of making representations, answering questions or giving evidence, provided the public are also allowed to attend the meeting for the same purpose whether under statutory right or otherwise, immediately after making representations, answering questions or giving evidence as the case may be;
- in any other case, whenever it becomes apparent that the business is being considered at the meeting;

and must not exercise executive functions in relation to the matter and not seek improperly to influence the decision about the matter (**paragraph 12 of the Code**).

Further to the above, it should be noted that any Member attending a meeting of Cabinet, Select Committee etc; whether or not they are a Member of the Cabinet or Select Committee concerned, must declare any personal interest which they have in the business being considered at the meeting (unless the interest arises solely from the Member's membership of, or position of control or management on any other body to which the Member was appointed or nominated by the Council, or on any other body exercising functions of a public nature, when the interest only needs to be declared if and when the Member speaks on the matter), and if their interest is prejudicial, they must also leave the meeting room, subject to and in accordance with the provisions referred to above.

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SUMMARY

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RECOMMENDATIONS

Members are recommended to:

1. Note the contents of this report.
2. Endorse the proposed responses to the representations received.

DETAIL

1. Responses were received from 36 interested parties regarding these documents. A list of organisations / individuals responding to issues within Stockton-on-Tees Borough is included as Appendix A. The summary of comments provided below draws together issues raised during the consultation. Not all of the issues are applicable to both documents.
2. The main issues raised in the consultation can be summarised as follows:
 - Issues with the tests of soundness that each DPD must be in accordance with;

- The proximity of minerals and waste developments to sites of nature conservation importance and the effect of proposals on habitats in these areas;
- The owner of the former anhydrite mines has identified the site as a potential location for the disposal of hazardous waste. It should be noted that the Council is not supporting the use of the mines for any purpose within the documents;
- Scott Bros / Impetus Waste Management's response sought inclusion of two sites within the documents. One of these sites at New Road, Billingham has planning consent, the other site, known as "Billingham Bottoms", does not have planning consent and is located within an area of green wedge.
- Scott Bros are of the opinion that the strategy is complacent and that there is a lack of ambition and support to encourage and request the need for new state of the art waste management facilities and clusters. This is an opinion contrary to Stockton Viewpoint, who considers that minimising the risk to the environment should take precedence over managing waste as close to its source as possible. They are also concerned regarding importing waste from other areas for processing and the resulting image of the area.
- All other comments received can be categorised as references to typing errors, fact checks, adding additional information to the text and improving the terminology used in the document.

Next Steps.

3. The comments received will be used, where appropriate, to revise the documents to produce a "first publication" version of the documents. This will, when finalised, be referred to Cabinet for approval for consultation purposes. It is expected that this document will be published in May 2009, when a 6-week consultation will commence.

FINANCIAL IMPLICATIONS

4. This project will be funded through existing budgets.

LEGAL IMPLICATIONS

5. The Planning and Compulsory Act 2004 states that every Minerals and Waste planning authority must prepare Minerals and Waste Development Plan Documents. These documents should be prepared with the involvement of local communities and interested stakeholders.

RISK ASSESSMENT

6. This report is categorised as low to medium risk. Existing management systems and daily routine activities are sufficient to control and reduce risk."

SUSTAINABLE COMMUNITY STRATEGY IMPLICATIONS

7. The Minerals and Waste Core Strategy sets out the strategic objective of the document. These objectives are in accordance with the community strategy themes as follows:

Economic Regeneration and Transport

8. Three objectives, of the core strategy relate to Economic Regeneration and Transport. The document aims to make provision for an adequate and steady supply of minerals and to safeguard these from sterilisation, this will provide sufficient local materials to help with construction projects within the borough. The objectives also promote the use of sustainable transport.

Environment and Housing

9. Given the nature of Minerals and Waste developments environmental considerations are significant considerations in the document, especially given the close proximity of several sites to areas of nature conservation importance and the need to meet biodiversity targets. Objectives relevant to this SCS theme include, the need to reduce the impacts of development on the causes of climate change and the effects of climate change on development; to drive minerals supply up the minerals hierarchy; to drive management of all waste up the waste hierarchy, and minimise waste production, to protect and enhance the environment, amenity and human health and to provide sufficient waste management facilities in a timely and sustainable manner, in order for all waste to be managed as near as possible to its source.

EQUALITIES IMPACT ASSESSMENT

10. This report is not subject to an Equality Impact Assessment because it deals with comments received from the general public and the intended response to these comments. Therefore this report does not seek approval for a new Council policy or function.

CONSULTATION INCLUDING WARD/COUNCILLORS – N/A

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Background Papers

- Tees Valley Joint Minerals and Waste Core Strategy.
- Tees Valley Joint Minerals and Waste Site allocations and proposals map.

Ward(s) and Ward Councillors: N/A

Property

Appendix A – Respondents to the consultation.

Ruth Askey	CBI (No Comments)
Vincent Ryan	Cunnane Town Planning (No Comments)
Peter Rowe	Tees Archaeology
Sarah Burgess	CABE (No Comments)
Andrea McMillan	North Yorks Moors National Park
Bill MacKendrick	Local Resident, Stockton
James Whitley	Lafarge (c/o WA Fairhurst)
Ian Tate	Local Resident, Saltburn-by-the-Sea
Beth Andrews (Addis)	Tees Valley RIGS Group
Alan Hunter	English Heritage
Alan Tunncliffe	Stockton Viewpoint
Eric Smallwood	Local resident, Acklam
Mr & Mrs Hart	Local resident, Dunsdale
Clive Teare	Local resident, Dunsdale
Shaun Denny	SITA
Dave McGuire	Sport England (No Comments)
Paula Hall	Ingleby Barwick Town Council
Rose Freeman	Theatres Trust (No Comments)
Mark Jackson	Local resident, Dunsdale
Gareth Rees	Thorpe Thewles Residents Association
Steve Barker	Scott Bros (c/o BHP Develop)
Rick Long	Durham County Council
Lucy Mo	North East Assembly
Jennifer Winyard	Durham Tees Valley Airport (c/o Turley Associates)
Gerry Carpenter	GONE
Laura Mayo	Yorkshire Forward
Tracy Jones	Natural England
Martin Elliot	Yorkshire and Humber Assembly
Wendy Hetherington	ONE North East
Arran Cameron	NPL Estates
Andrew Bromley	QPA
Martin Kerby	RSPB
Mike Stone	Northumbrian Water Ltd (c/o England and Lyle)
Ian Radley	Highways Agency
Bev Lambert	Environment Agency
Ted Parker	Teesmouth Bird Club

Appendix B – Summary of comments relating to the Minerals and Waste Core Strategy.

Respondent	Type of Response	Comment	Suggested Action
Thorpe Thewles Res. Assoc.	Objection	More consultation and dialogue with local residents from owners of proposed developments. On long term plans and environmental impact on local and surrounding environment.	It is agreed that more consultation between industry and local communities would be beneficial but this is not something that can be covered.
Impetus and Scott Bros	Objection	Strategy is complacent, lacks ambition and support to encourage and request the need for new state of the art facilities. The need to develop and grow businesses concerned with the management of waste is only loosely recognised with a reliance placed upon existing facilities. This is inadequate to deal with the demands which will be placed upon them by all waste streams.	Tees Valley will concentrate on providing facilities to allow the sustainable management of the waste which is identified for the area over the plan period. Import facilities will be assessed on wider need at a regional / national level, the resulting impact and other specific issues that would be raised.

Respondent	Type of Response	Document Reference.	Comment	Suggested Action
RSPB, Natural England, Teesmouth Bird club.	Objection	Various points in the document.	Concerns exist regarding a number of points throughout the document that a Habitats Regulation Assessment (HRA) has not been undertaken to support the preferred options documents. This should be undertaken and used to support the submission versions of the document. This has led to significant concerns from these organisations regarding the impact of development on SSSI in the Seal Sands area, the SPA at Teesmouth, species that populate these areas and other significant issues.	A HRA has now been undertaken regarding the preferred options. This will inform the submission draft of the documents, which will also be subjected to a HRA. Comments regarding SSSIs and the SPA are noted throughout the schedule of comments and amendments and actions are identified regarding individual points.

Respondent	Type of Response	Document Reference	Comment	Suggested Action
Stockton Viewpoint	Objection	Section 3.2	Managing waste as close to its source as possible seems to conflict with section 2.3.9. While I understand this area needs expertise I do not think it follows that expansion or increased use of these facilities should be encouraged even if a possible economic argument can be justified. Minimising risk to environment should take precedence. Extra vehicle movements should also be considered. Concerned the management of waste does not become too involved with importing waste from other areas. Wherever possible it should be kept local to minimise damage caused to our area.	Tees Valley will concentrate on providing facilities to allow the sustainable management of the waste, which is identified for the area over the plan period. Import facilities will be assessed on wider need at a regional / national level, the resulting impact and other specific issues that would be raised. Policies in the Policies and Sites DPD will be reviewed to ensure they provide sufficient assessment capability to consider any proposals of a regional, national or international basis.

Respondent	Type of Response	Document Reference.	Comment	Suggested Action
Ingleby Barwick Town Council	Objection	MWC2	Consultation should be activated to ensure that we obtain a better take up of alternative materials for aggregates use. This will cut down waste and preserve precious minerals.	A better take up of alternative materials for aggregates use would be beneficial. DPDs encourage this by allocating sufficient sites, in suitable locations, to produce these materials. The use of fiscal means will also help to obtain a better take up of alternative materials.
Impetus and Scott Bros	Objection	MWC2	MWC2 promotes development of facilities for aggregate resources on existing sites. Availability of minerals sites in the Tees Valley is limited and not within easy access. Raising concerns as to whether they have the capability or capacity to process aggregates? Consideration should be given to promoting processing facilities rather than relying upon tired or in some cases 'at capacity' facilities. These new facilities must be capable of producing reclaimed aggregates as part of their waste stream.	The policy identified three types of site where alternative materials can be processed. It is proposed to amend the policy to include sites where C&D waste is to be used, in addition to existing minerals and waste sites and sites where C&D waste is produced. It is considered that this will provide sufficient sites and is a sustainable and justifiable approach.
Impetus and Scott Bros	Objection	Para 5.2.13, 5.2.14	The information set out in Paras 5.2.13 and 14 is factually wrong. Permission also exists for the importation of aggregates at Hartlepool through the Teesside Environmental Resource and Reclamation Centre (TERRC) with large mounds of sand visible at the site entrance as evidence of this occurring.	Aggregate material is imported into this site and also at Billingham Reach. Middlesbrough Port was identified for future aggregates landings. These sites will therefore be referenced in this section and potentially safeguarded.
Durham County Council	Objection	Section 5.6	Safeguarding areas proposed have a limited scope. Consideration should be given to identifying additional mineral safeguarding areas, which prevent development encroaching on minerals sites. Although no proposals have come forward to work additional sites, the extent of reserves at Stockton quarry and the extent of past working illustrates the potential of resources in the Tees Valley to be worked. This information suggests that potential resources remain to be worked and should be safeguarded.	The identified safeguarding areas are to be extended to also show those areas where minerals resources are located, outside of the current extraction areas, and any constraints to the extraction of minerals from these locations. These will be shown on the Allocation Map and the text of Policy MWC5 will also be amended to detail how the policy will be implemented.

Respondent	Comment	Reference	Comment	Suggested Action
Stockton Viewpoint	Objection	Para 6.2.8	Companies should be encouraged to consider waste management options that deal with waste where it is produced.	The DPDs will do this by allocating sites and providing a robust policy background to provide facilities on sites where waste is produced.
Stockton Viewpoint	Objection	Para 6.2.10	Waste processing will be synonymous with this area, making it difficult to promote growth in other fields as this activity becomes more prominent. At what level will the impact of these proposals become unacceptable?	Waste activities need not appear different to industry. The increase in waste facilities in a locality may have a positive influence on other industrial uses.
Durham Tees Valley Airport (DTVA)	Objection	New policy Safeguarding zones	Reference to safeguarding should be made to address forms of development that could impact on DTVA, including wind farms. Impending developments make the safeguarding of DTVA more	It is agreed that a policy on the safeguarding of land around DTVA, as it refers to minerals and waste developments, should be included in the

Respondent	Comment	Reference	Comment	Suggested Action
		re: DTVA	<p>important and necessary.</p> <p>An appropriate policy and explanatory text should be included in the Core Strategy DPD and Sites DPD which sets out the consultation within relevant zones, also safeguarding zones are illustrated on the proposals Map.</p>	<p>DPDs, and an appropriate policy will be included in the pre-submission / submission document. As the safeguarding zones themselves refer to all developments, these should be included through policies/proposals maps in the main LDF rather than the minerals and waste DPDs. Care will have to be taken with this issue given the different stages of the five authority's LDF documents.</p>

Appendix B – Summary of comments relating to the Minerals and Waste Site Allocations and Proposals map.

Respondent	Response	Para./ Policy	Comment	Action
Teesmouth Bird Club	Objection	MWP2	<p>1) The Policy recommends that “waste developments should be in keeping with the landscape or townscape character of their location. The scale and height of the existing landfills have clearly not been subject to this.</p> <p>2) We have not been consulted on the restoration schemes for any of these sites, where we may have brought added value.</p> <p>3) Post-operational work should include the ‘wilding’ of the sites, which are all too often smoothed over, seeded and left as grass mounds. Woodland and scrub planting, wildflower meadows and water features should be considered.</p>	<p>1) The landforms mentioned at Seaton Meadows, Cowpen Bewley and Port Clarence are all already in place and have been since well before the publication of the preferred options report. The criteria listed in MWP2 can not be applied retrospectively to these.</p> <p>2) The consultation of Teesmouth Bird Club on restoration schemes is a decision to be taken by the Development Control team in respect of the particular circumstances of the applications they are dealing with.</p> <p>3) Policy MWP6 deals with post-operational work (reclamation) and the policy is considered to be worded appropriately to allow for the ‘wilding’ of sites if this is considered appropriate.</p>
Environment Agency	Objection	MWP3	MWP3 suggests that permission will be granted where the application provides evidence that the benefits outweigh the effects created. Consideration should be given within this policy to include mitigation and compensation of any adverse effects on biodiversity in line with PPS9 key principle (vi), if not consent should be refused.	The recommendations of the HRA will be taken on board and reference made to the use of mitigation and compensation measures in the final paragraph.

Respondent	Response	Para / Policy	Comments	Actions
Teesmouth Bird Club	Objection	Para 3.3.9	Do not support the use of the Port Clarence site for expanded waste disposal. It was formerly a mature, brownfield site of significant ecological value. Internationally and nationally designated sites are also nearby. Entec conclude that this site may impact on the adjacent designated sites. We endorse their view that a rigorous EIA must be carried out before any further development is considered. Teesside would undoubtedly suffer from yet more hazardous waste on its roads.	It should be noted that the proposed allocation at Port Clarence is not for further waste disposal but for the recycling and treatment of hazardous waste so that it can be re-used or disposed of safely at an appropriate facility. An application for the proposals at the site was submitted to Stockton BC in 2007, and the application was accompanied by an EIA. The application was approved in February 2008 and it must therefore be taken that any impacts on birds will be acceptable.
RSPB	Objection	Para 3.3.9-3.3.12	Boundary of Augean sites shown in Appendix A varies from the land subject to the existing planning permission, extending to the boundary of the SPA. The allocation in the DPD should not adjoin the SPA and should reflect, at most, the planning permission boundary referred to above. Developments have the	The boundary shown in the DPD is that which was supplied by Augean in their submission to the DPDs and was understood to be the limits of the site boundary under the terms of TDC/94/065. However, from checking the boundaries again it is apparent that the boundaries are different. The permitted boundary is considered to be the

Respondent	Response	Para / Policy	Comments	Actions
			potential to result in adverse effects on the SPA, and should be subject to careful assessment.	most appropriate to use as it does not directly adjoin the SPA, and therefore this will be amended in Appendix A.
Natural England	Objection	MWP9	The SITA Haverton Hill complex lies 1km south-west of the Tees & Hartlepool Foreshore and Wetlands SSSI and Teemouth and Cleveland Coast SPA / Ramsar site. Plans for expansion should take full account of any potential impacts.	The findings of the HRA will be incorporated in the Policies and Sites DPD as appropriate.
NPL Estates	Objection	Para 3.3.29/3.3.30	The anhydrite waste storage/disposal facility is not comparable with surface hazardous waste landfill sites. It caters for waste streams that cannot go to hazardous waste landfill sites. Teesside has no comparable resource and is exporting its waste to Cheshire. The anhydrite mine facility will permit Teesside to dispose of its own waste and offer these facilities to a wider geographical area. Although at the bottom of the waste hierarchy, underground waste storage represents the best possible option.	The points made relating to the anhydrite mines are acknowledged and further work was undertaken to check these statements. It was concluded that there was sufficient capacity to deal with Hazardous Waste arising within the Tees Valley.
Teesmouth Bird Club	Objection	Para 3.3.29/3.3.30	We are very concerned about the use of the site for the disposal of hazardous waste and do not support this in view of its juxtaposition to important designated sites and the Middlehaven development.	Allocation at Port Clarence is not for further waste disposal but for recycling and treatment of hazardous waste. An application submitted to SBC, accompanied by an EIA, was approved in Feb '08. Impacts on birds must be acceptable.
Scott Bros	Objection	Eco-park site ICI	There is no mention of the 60 acre Eco-park site at ICI which was recently granted planning permission for a substantial waste transfer station and separate glass recycling facility. Other operations could also take place at the park which will play an important part in state of the art waste management.	The details of the site will be referenced in the DPDs and any amendments needed will be made as appropriate. Communications between the Steering Group producing the DPDs and other officers in the authorities will be assessed to ensure information is shared.
Scott Bros	Submission	Billingham Bottoms	Site adjacent to A19, west of Haverton Hill/ South Billingham Beck. Unstable, brownfield land contaminated with gypsum slurry (also reed beds). Client proposes restoration scheme for the site including waste transfer facility.	To examine the Billingham Bottoms site to see whether it should be considered for allocation. Appropriate reference, or inclusion of a new policy, will be included in the DPD as appropriate.