



# **Independent Examination of the Publication Draft Norfolk Minerals and Waste Local Plan Matters, Issues and Questions**

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**Inspector appointed by the Secretary of State**

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## **Introduction**

1. Following the initial examination of the Publication Draft Norfolk Minerals and Waste Local Plan (May 2022) (the Plan) and the supporting material, set out below are the Matters (topics) and Issues (points for consideration) that will form the basis for discussions during the Hearing sessions. Matters and Issues may change as the Examination progresses, although participants will be given an opportunity to comment on any new issues that may arise. This document should be read alongside the accompanying Guidance Note, which gives further advice and information on procedural aspects of the Examination.
2. This note provides questions to the Council that potentially go to matters of soundness and, in some cases, are based on the representations that have been made. National policy expressed in the National Planning Policy Framework (September 2023) (NPPF) and the National Planning Policy for Waste (October 2014) (NPPW) will apply for the purposes of the Examination of the Plan, which will also take into account the advice set out in the Government's Planning Practice Guidance (PPG). In my assessment of legal compliance, I will consider, in particular, whether the Plan meets the requirements of the Planning and Compulsory Purchase Act 2004 (as amended) (the 2004 Act); the Town and Country Planning (Local Planning) (England) Regulations 2012 (the 2012 Regulations); and the Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regulations).
3. In framing the Matters, Issues and Questions (MIQs) consideration has been given not only to the definition of soundness at paragraph 35 of the NPPF but also the principles for Local Plans set out in paragraph 16. The NPPF establishes that policies should be clearly written and unambiguous, so that it is evident how a decision maker should react to a development proposal. The Plan should therefore set out clear policies on what will or

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will not be permitted.

4. It is important to note that the MIQs set out below have arisen from my initial assessment of the submission documents and the responses made by interested parties thus far. They may evolve throughout the Examination, not least following on from any responses from the Council or others.
5. I have set out separately and more fully in the Guidance Note how the Council and others can respond to these MIQs in the run up to the Hearing sessions scheduled for 2 July 2024 to 4 July 2024 (inclusive) sitting on 4 July may not be necessary so at this stage it is a reserve session, if needed.
6. Below are general and detailed comments and questions which should be addressed in hearing statements. Answers should be supported by reasons and section(s) of the supporting documents and the evidence base should be referred to as appropriate. A separate document should be submitted in response to each Main Matter. **The Council and all other participants should submit hearing statements to the Programme Officer by Friday 10<sup>th</sup> May 2024.**
7. If any clarification is required on what follows, please contact the Inspector via the Programme Officer.

## **A. LEGAL COMPLIANCE**

### **Main Matter 1 – Legal Compliance and the Duty to Co-operate**

**Issue:** Whether the Duty to Co-operate is adequately demonstrated and met, and whether the Plan is compliant with relevant legislation.

#### **Duty to Co-operate**

1. Has the Council engaged constructively, actively and on an ongoing basis with all relevant organisations on strategic matters of relevance to the Plan's preparation, as required by the Duty to Co-operate (under s20(5)(c) and 33A of the 2004 Act?)
2. On which issues has co-operation taken place?
3. How was co-operation carried out and with what results? Has this been documented? Are there any outstanding issues?
4. How has the Duty to Co-operate been met with regard to the spatial plans of the constituent District Councils, Parish Councils, neighbouring Councils and prescribed bodies on strategic and cross boundary matters?
5. Are there any strategic matters relevant to the Plan which would require cooperation with minerals and waste planning authorities in locations further afield than those adjacent to the Norfolk County boundaries? If so, what engagement has taken place with the relevant authorities?

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## **Planning and Compulsory Purchase Act 2004, Section 19 and the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended)**

6. Has the Plan been prepared in accordance with the Local Development Scheme including content and timescale?
7. Has the Plan been prepared in compliance with the adopted Statement of Community Involvements (SCIs), allowing for effective engagement of all interested parties and meeting the minimum consultation requirements set out in the regulations?
8. Have the publication, advertisement and availability of the Plan followed the procedures set out in the 2004 Act and 2012 Regulations?

## **Whether the Sustainability Appraisal (SA) complies with the requirements of the 2004 Act, the Strategic Environmental Assessment Directive (SEA Directive) and the Environmental Assessment of Plans and Programmes Regulations 2004 (the SEA Regulations)**

9. Has the SA process complied with the requirements of the SEA Directive and the SEA Regulations?
10. Is there clear evidence to indicate why, having considered reasonable alternatives in the SA, the strategy in the Plan is an appropriate response? Does the methodology conform to that in the NPPF and Planning Practice Guidance (PPG)?
11. Has the SA process been genuinely iterative and carried out in step with the stages of plan preparation?
12. Are the alternatives considered by the SA sufficiently distinct to highlight the different sustainability implications of each?
13. Is there clear evidence to indicate why, having considered reasonable alternatives, the Plan's strategy is an appropriate one?
14. Is the Plan consistent with national policy, including the NPPF, National Planning Policy for Waste (NPPW) and PPG? Are there any significant departures from national policy? If so, have they been justified?
15. Does the Plan comply with the 2004 Act and the 2012 Regulations in terms of publishing and making available the prescribed documents?

## **Conservation of Habitats and Species Regulations 2017**

16. Does the Plan meet the requirements of the Conservation of Habitats and Species Regulations 2017, including any relevant case law [in particular the ruling of 12 April 2018 by the Court of Justice of the European Union (CJEU) *People over Wind, Peter Sweetman v Coillte Teoranta*, Case 323/17 and the High Court Judgement *Wealden v SSCLG [2017] EWHC 351Admin*] to consider the likely significant effects of projects or plans on

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European protected sites, individually or in-combination? In particular, have Appropriate Assessments been undertaken under the Habitats Directive? If not, has a screening exercise shown that there is no need for such assessments?

17. How has the Plan taken account of its findings?

18. In order to assist the consideration of this issue, the Inspector would welcome the submission by the Council of an up-to-date Statement of Common Ground (SOCG) with Natural England on this matter, and any other relevant aspects of the Plan.

**Does the Plan contain policies designed to secure that the development and use of land in the Plan area contributes to the mitigation of, and adaptation to, climate change?**

19. To what extent does the development plan contain policies designed to secure that the development and use of land in the Plan area contributes to the mitigation of, and adaptation to, climate change?

**Does the Plan raise any issues which are of relevance to the Public Sector Equality Duty?**

20. Has the Plan been informed by a robust assessment of its potential equality impacts?

21. How have issues of equality been addressed in the Plan? In particular, how will the Plan help to advance equality of opportunity between people who share a "protected characteristic" as defined in the Equality Act 2010<sup>1</sup> and those that do not share it and further the other two aims of the Act?

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<sup>1</sup> "Protected characteristics" are age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; and sexual orientation.

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## **B. SOUNDNESS**

### **Main Matter 2 – Vision and Strategic Objectives of the Plan**

**Issue:** Whether the Vision and Strategic Objectives of the Plan are the most appropriate, are soundly based and provide an appropriate basis for meeting the future demand for minerals and future waste management needs sustainably.

1. Does the Minerals and Waste Local Plan Vision to 2038 (the Vision) adequately and accurately reflect the future environmental, economic and social dimensions of the County to ensure a steady and adequate supply of minerals and the management of waste?
2. Does the Vision adequately address biodiversity and climate change impacts?
3. Should the Vision reflect the national and local economic benefits of mineral extraction and the contribution that these may make to supporting the rural economy?
4. Does the Vision promote and reflect the proximity principle in relation to the management of waste?
5. Should the Vision provide a commitment to the principles of sustainable development to be reflective of Section 5 of the Plan?
6. Should the Minerals Strategic Objectives refer to the need to maintain landbank durations for aggregate and industrial minerals?

### **Main Matter 3 – Whether the Plan makes adequate provision for the steady and adequate supply of aggregate and industrial minerals.**

**Issue:** Whether the provision made in the Plan for the future supply of aggregate and industrial minerals would deliver a steady and adequate supply.

1. Is the basis for the calculation of the future demand for sand and gravel, carstone and silica sand clear and robust enough in order to provide an appropriate basis for determining future demand?
2. Is the application of an additional 10% to the 10-year average sales figures sufficient to predict the forecast need for sand and gravel and carstone over the Plan period?
3. To what extent does the Local Aggregate Assessment for calendar year 2022 (Published February 2024) have any effect on the calculation of the future demand for sand and gravel, carstone and silica sand

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4. Does the calculation of the forecast need for sand and gravel, carstone and silica sand adequately reflect the need to maintain a relevant landbank at the end of the Plan period?
  5. Is Policy MP1 consistent with NPPF paragraph 214 and footnote 74?
  6. Should Policy MP1 be more explicit about the need to maintain landbanks at the end of the Plan period?
  7. In considering mineral extraction proposals for sand and gravel outside of allocated sites, should Policy MP1 provide a degree of flexibility by referring to the need to demonstrate shortfalls in meeting demand or failure to maintain the landbank would be contributing factors to justify the proposals?
  8. Should the Plan provide any distinction and/or protection for the use of carstone as dimension stone, particularly in relation to its use in conservation work and to maintain local vernacular, as opposed to its use as crushed rock?
  9. Is Policy MP2 in relation to silica sand unduly restrictive regarding the need for new sites to be located where they are able to access the existing processing plant and railhead at Leziate?
  10. Does the Plan adequately justify why an "Area of Search" approach for silica sand has been discounted, particularly as the sites proposed to be allocated would not meet the forecast demand and in circumstances where the Area of Search approach was adopted in the Silica Sand Review in 2017?
  11. Does the Plan adequately explain the relationship and application of Policies MP2 and MPSS1 in relation to silica sand?

**Main Matter 4 – Whether the Mineral Extraction Sites proposed for sand and gravel, carstone and silica sand extraction are acceptable in planning and environmental terms and are deliverable.**

**Issue:** Whether the methodology for the identification of future sites is robust and whether the identified sites are acceptable in planning and environmental terms and are deliverable.

1. Do the assessments for each mineral extraction site proposed to be allocated in the Plan provide an appropriate and robust methodology for the identification of the allocated sites to meet the future demand.
2. Does the Plan adequately explain how the assessment was applied to any sites that were proposed by mineral operators but were not allocated in the Plan.

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3. Specific Site Allocation MIN 51/MIN 13/MIN 08 – land west of Bilney Road, Beetley – Does the site assessment adequately consider the cumulative impact of mineral extraction operations, including traffic?
  4. Specific Site Allocation MIN 202 – land south of Reepham Road, Attlebridge – Does the site assessment adequately consider the impact of mineral extraction on ancient woodland?
  5. Specific Site Allocation MIN 64 – land at Grange Farm, Buxton Road, Horstead – Is the extent of the allocation sufficient to contribute to sand and gravel supply for the Plan period?
  6. Specific Site Allocation MIN 96 – land at Grange Farm, Spixworth – Does the assessment adequately consider the impact of mineral extraction operations on housing and employment allocations identified, in the Greater Norwich Local Plan and take into account the Spixworth Neighbourhood Plan?
  7. Specific Site Allocation MIN 25 – land at Manor Farm, Haddiscoe - Does the assessment adequately consider the impact of mineral extraction operations on heritage assets, the living conditions of nearby residents and tourism?

### **Main Matter 5 – Whether the Plan makes adequate provision for the encouragement of the use of secondary and recycled aggregates.**

**Issue:** Whether the Plan sufficiently promotes the use of secondary and recycled aggregates.

1. Does the Plan provide clear and robust guidance regarding the contribution that secondary and recycled aggregates should make as an alternative to primary land won aggregates?
2. How does the Plan take account of the contribution that substitute or secondary and recycled materials and minerals waste would make to the supply of materials before considering extraction of primary materials?
3. How does the Plan deliver Minerals Strategic Objective MSO3 and should there be a “Minerals Specific Policy” in relation to the use of secondary and recycled aggregates or should the relationship with Policy WP4 be explained?
4. In the absence of any specific policy, how realistically can MSO3 be applied and monitored with particular regard to the demonstration that the utilisation of secondary and recycled aggregates will reduce the reliance on primary aggregates?
5. How does the Plan influence non-minerals development with a view to minimising the reliance on primary aggregates such as the adoption of sustainable design principles, construction methods and procurement

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policies and reusing or facilitating the recycling of wastes generated on-site and using alternative construction materials?

6. Does the Plan provide sufficient guidance to applicants and District Council's as to how compliance with MSO3 is expected to be achieved?

## **Main Matter 6 – Protecting Mineral Resources, Infrastructure and Facilities.**

**Issue:** Whether the Plan adequately balances the needs of competing development.

1. Is the appropriate balance struck between the needs of competing development with the need to protect the mineral resource, in particular, is the justification for a 250m buffer clear?
2. Does the Plan provide sufficient guidance to applicants for non-minerals development and District Council's as to how Policies MP10 and MP11 should be implemented?
3. Should Policy MP10 also include facilities for the manufacture of precast blocks and aggregate bagging plants?
4. Should the area defined as a mineral resource safeguarding area for silica sand be increased to include the Carstone formation as well as the Leziate Member and Mintyn Member resources?
5. Are the requirements of Appendix 10 too onerous and should Policy MP11 recognise that the cost of undertaking a Mineral Resource Assessment for smaller scale development, such as smaller housing sites, which are not excluded from safeguarding provisions, may have a detrimental impact on the viability of such development?
6. Should criterion in Policy MP11 also recognise the effect that the prior extraction of minerals can have on the overall viability of a non-minerals development with a view to demonstrating that prior extraction may not be economically feasible?

## **Main Matter 7 – Restoration of Mineral Sites.**

**Issue:** Whether the Plan's overall approach and policies in relation to site restoration are justified, effective and consistent with national policy.

1. In the third bullet point of MP7, how is a high-quality landscape to be assessed? Furthermore, should a restored landscape be commensurate with the landscape character of an area as opposed to being "distinctive" which suggest that it would not accord with local landscape character?
2. Should Policy MP8, and/or the supporting text, explain the circumstances where aftercare beyond the 5 years may be necessary and the



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mechanism by which this would be achieved? Otherwise, how would an aftercare strategy of “at least five years” be secured and how would such aftercare period beyond 5 years be justified?

3. Is the requirement for the provision of a detailed annual management report necessary, justified and supported by national policy or other policies/objectives in the Plan?
4. Is the Plan clear in explaining the benefit and useful purpose of such reports and how their content will inform any subsequent actions by the MPA?
5. Is there a conflict between paragraph MP8.3, which identifies that the requirement for annual reports will be assessed on a case-by-case basis, and Policy MP8 which provides no such flexibility and can be interpreted that an annual report will be required in all cases?

### **Main Matter 8 – Waste Management.**

**Issue:** Whether the Plan’s overall approach and policies in relation to waste that needs to be managed in the plan area over the plan period are robust, justified, effective and consistent with national policy.

1. Does the Waste Management Capacity Assessment (2022) provide an appropriate and robust mechanism to support the identification of the future waste management needs set out in Policy WP1 and does it adequately take into account future growth forecasts?
2. Does the approach taken in the Plan to not identify any specific allocations for new waste management facilities inhibit the movement of waste management up the waste hierarchy?
3. Policy WP2 – Does the policy adequately recognise the proximity principle and should it also recognise that there may be other environmental constraints, such as flood risk and nutrient neutrality, which may provide justification for waste management facilities to be beyond the five and three mile distance to urban areas and main towns?
4. Policy WP4 – Should the policy provide a more positive approach to the provision of secondary and recycled aggregates? Is it clear how this policy contributes to Strategic Objectives WSO3 and MSO3 and is it sufficiently reflective of paragraph 210 (b) of the NPPF (September 2023)?
5. Policy WP7 – Should “may” in the first sentence be replaced with “will” in order to be consistent with Policy WP3 and paragraph W7.5? Otherwise, additional explanatory text may be necessary to explain why proposals for Household Waste Recycling Centres “may” only be acceptable on the types of land identified within Policy WP3.

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6. Policy WP13 – Should the policy make reference to the need for suitable restoration of sites such as that provided in Part 'e' of Policy WP12?
  7. Policy WP14 – Should the policy refer to the need for development, where appropriate, to demonstrate the contribution that it would make to water quality improvement?
  8. Policy WP15 - Is the requirement for a longer-term masterplan reasonable and necessary? Are the requirements of paragraph W15.4 also reasonable and necessary and, if so, how can the proposals contained within the paragraph be delivered?
  9. Policy WP16 – Should the policy also identify that compliance with Policy MW1 will also be necessary?
  10. Policy WP17 - Is the appropriate balance struck between the needs of competing development with the need to safeguard waste management facilities, in particular, is the justification for a 250m buffer clear? Does the Plan provide sufficient guidance to applicants and District Council's as to how Policy WP17 should be implemented? Is the input threshold of 20,000 tonnes per annum too high such that hazardous waste management facilities may not be safeguarded?

## **Main Matter 9 –Policies for Minerals and Waste Management Proposals**

**Issue:** Whether the policies for minerals and waste management strike an appropriate balance between seeking to provide sustainable development and protecting people and the environment and are they justified, effective and consistent with national policy?

Policies MW1, MW2, MW3, MW4 and MW5

1. Are the policies justified, effective and consistent with national policy?

Policy MW2

2. Should the Policy refer to the need for development proposals to demonstrate the use of low or zero emission vehicles?
3. Is sub-section (d) a land use planning matter or is this considered to be a matter of extraordinary damage to a highway that is enforceable through the relevant provisions of the Highways Act? How are physical impacts to a highway expected to be demonstrated at application stage and can the rectification of such damage to a public highway be undertaken pursuant to enforcement under relevant Planning Acts?

Policy MW5

4. Should the soil handling and replacement strategy also include soil storage?

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## **Main Matter 10 – Implementation and Monitoring**

**Issue:** Whether the implementation and monitoring of the Plan will be effective?

1. Is the approach to monitoring and Implementation in the Plan robust and practicable?
2. Should the table identify any remedial/intervention action for each indicator in the event of divergence from a trend or target identified.
3. Is it clear how the monitoring arrangements demonstrate that the Plan takes a pro-active approach to mitigating and adapting to climate change?

*Stephen Normington*

INSPECTOR