



Norfolk County Council

Norfolk Minerals and Waste Local Plan

Main Matter 9 – Policies for Minerals and Waste Management Proposals

Norfolk County Council

Hearing Statement

May 2024

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?

NCC response:

1.1 Policy MW1 is the general Development Management criteria policy. The general tenet of the policy is that mineral development and waste management development will be acceptable subject to the application demonstrating that it would not have an unacceptable impact on a list of criteria set out in the policy. The general tenet is justified, as it is appropriate for planning applications to demonstrate how the proposed development could take place without giving rise to unacceptable impacts. The appraisal tables within Appendix A of the Sustainability Appraisal (document A3.3) contain at pages A6-A8 the appraisal of policy MW1 which scored positively for all sustainability appraisal indicators. No alternative options were identified for this policy. The Habitats Regulations Assessment screening exercise assessed Policy MW1 and found no Likely Significant Effects either alone or in-combination. The NPPF (September & December 2023) paragraph 43, states that the right information is vital to good decision-making; furthermore, the Norfolk Local Validation Requirements for Minerals and Waste Planning Applications (document D2) requires information on the matters listed in Policy MW1 to be included where it is appropriate to the application. There is evidence from past applications in Norfolk that this is an appropriate approach and does not place barriers that would stifle development. Policy MW1 contains a series of potential planning constraints which an application should provide information on to demonstrate that the development would not have an unacceptable impact. The inclusion of each constraint is justified, effective and consistent with national policy, as detailed below.

1.1.A Local amenity and health (including noise levels, odour, air quality, dust, litter, light pollution and vibration); This requirement is justified, effective and consistent with national policy NPPF (September 2023) paragraphs 185-188, 210 (f) and 211 (b and c) September 2023 (NPPF December 2023, paragraphs 191-194, 216(f) and 217(b and c)) regarding the effects of noise, light and air pollution on health and living conditions. The Norfolk Validation Requirements for Minerals and Waste Planning Applications (document D2) requires all planning applications for mineral extraction and waste management facilities to submit a dust impact assessment, all major/strategic developments to submit a health impact assessment, relevant applications to submit an odour impact assessment, all proposals where new external lighting is proposed to submit a lighting scheme, and for relevant applications to submit an air quality impact assessment.

1.1.B The quality and quantity of surface waterbodies and groundwater, for resource purposes and to prevent the deterioration of their existing status, and their associated ecosystems; This requirement is justified, effective and consistent with national policy, including Chapter 15 of the NPPF. The Norfolk Validation Requirements for Minerals and Waste Planning Applications (document

D2) requires that applications where development may impact on the water environment are supported by a Hydrology/Hydrogeological Assessment, requires a nutrient neutrality assessment/statement to be submitted with relevant applications and requires biodiversity surveys and assessments to be submitted with planning applications which have the potential to affect protected habitats and species.

1.1.C *The capacity of existing drainage systems;* This requirement is justified, effective, and consistent with national policy as NPPF (September 2023) paragraph 167 & (December 2023) paragraph 173, requires that decision-makers should ensure that flood risk is not increased elsewhere and there is a presumption that sustainable drainage is incorporated into proposed development.

1.1.D *Flood risk from all sources to those working on site or an increase in flood risk elsewhere, as demonstrated by a Flood Risk Assessment (where required by the NPPF) and making an allowance for climate change;* This requirement is justified, effective and consistent with national policy as NPPF (September 2023) paragraph 167 (& NPPF December 2023 paragraph 173) requires that Flood Risk in all aspects be considered when determining planning applications. The Norfolk Validation Requirements for Minerals and Waste Planning Applications (document D2) sets out when a Flood Risk Assessment must be submitted. A Flood Risk Assessment will include information to determine whether an application is in accordance with Policy MW1.

1.1.E *The best and most versatile agricultural land;* This requirement is justified, effective, and consistent with national policy as NPPF (September 2023) footnote 58 (& December 2023 footnote 62), states that "where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality". Best and most versatile (BMV) land covers Grades 1, 2 and subgrade 3a as the highest quality agricultural land. Subgrade 3a is not mapped at a national scale but is mapped at site level through an Agricultural Land survey (soil survey), which is required by the Norfolk Validation Requirements for Minerals and Waste Planning Applications (Document D2) to support applications for major development on agricultural land.

1.1.F *Aircraft safety due to the risk of bird strike and/or building height and position;* This requirement is justified, effective, and consistent with national policy as NPPF (September 2023) paragraph 211 part b (& NPPF December 2023 paragraph 217 part b); refers to the fact that planning applications should ensure that there are no unacceptable adverse impacts on aviation safety. The Norfolk Validation Requirements for Minerals and Waste Planning Applications (document D2) contains a requirement for certain mineral and waste applications within the civil and military aerodrome consultation zones to be supported by an Airport Safeguarding Statement.

1.1.G *The safety and capacity of the road and any other transport network;* This requirement is justified, effective, and consistent with national policy NPPF (September 2023) paragraphs 110 to 113 (& NPPF December 2023 paragraphs 114 to 117). The Norfolk Validation Requirements for Minerals and Waste Planning Applications (Document D2) requires applications to be supported by a Transport Assessment or Transport Statement which provide information in relation to highway capacity, traffic levels, and mitigation measures required.

1.1.H *The appearance, quality and character of the landscape, countryside and visual environment and any local features that contribute to its local distinctiveness;* This requirement is justified, effective, and consistent with national policy as NPPF (September 2023) paragraph 130 part c (& NPPF December 2023 paragraph 135 part c) states that planning policies and decisions should ensure that developments “are sympathetic to local character and history, including surrounding built environment and landscape settings...”. NPPF (September 2023) paragraph 174 (& NPPF December 2023 paragraph 180) states that policies and decisions should contribute to “protecting and enhancing valued landscapes...” and ‘recognising the intrinsic character and beauty of the countryside...’. The Norfolk Validation Requirements for Minerals and Waste Planning Applications (document D2) requires a Landscape and Visual Impact Assessment to be submitted to support planning applications which assesses the existing landscape, and potential impacts and mitigation measures including through restoration.

1.1.I *Protected landscapes including the Norfolk Coast Area of Outstanding Natural Beauty, the Heritage Coast and the Broads;* This requirement is justified, effective, and consistent with national policy as NPPF paragraph 11 (Presumption in favour of sustainable development) provides protection in principle for these types of landscape. NPPF (September 2023) paragraph 176 (& NPPF December 2023 paragraph 182), state that “great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty which have the highest status of protection in relation to these issues.” The Norfolk Validation Requirements for Minerals and Waste Planning Applications (document D2) requires a Landscape and Visual Impact Assessment to be submitted to support planning applications which assesses the existing landscape, and potential impacts and mitigation measures including through restoration.

1.1.J *Public Open Space, Local Green Space, the definitive Public Rights of Way network and outdoor recreation facilities;* This requirement is justified, effective, and consistent with national policy as NPPF (September 2023) paragraph 100 (& NPPF December 2023 paragraph 104) sets out that planning policies and decisions should protect and enhance rights of way and access, including taking opportunities to provide better facilities for users. NPPF (September 2023) paragraphs 101-103) (& NPPF December 2023 paragraphs 105-107), state the method and reasons for designation of Local Green Space and the level of protection given. The NPPF talks about ‘open space’ and access to them, with no specific mention of the term ‘public open space’. The benefits of and assessment of open space is set out in NPPF (September 2023) paragraphs 98-99 (& NPPF December 2023 paragraphs 102 & 103). The Norfolk Validation Requirements for Minerals and Waste Planning Applications (document D2) requires that applications where there is potentially either the loss of an open space or development may prejudice its continued use would need to be supported by an Open Space Assessment. Potential impacts and mitigation measures would be provided by the assessment. All proposals requiring any diversions or extinguishments of existing PROWs and the creation of new PROWs must be accompanied by a PROW Statement at the planning application stage.

1.1.K *Land stability;* This requirement is justified, effective, and consistent with national policy as NPPF (September 2023) paragraph 174 part e (& NPPF December 2023 paragraph 180 part e), states that planning policies and

decisions should prevent unacceptable risks from land instability on new and existing development. The Norfolk Validation Requirements for Minerals and Waste Planning Applications (document D2) requires that the Planning Statement provide any relevant information regarding land stability for mineral developments.

1.1.L *The natural, geological and hydrogeological environment (including internationally, nationally or locally designated sites and irreplaceable habitats);* This requirement is justified, effective, and consistent with national policy as protection of the natural environment is contained within the objectives of sustainable development. NPPF (September 2023) paragraph 174 (& NPPF December 2023 paragraph 180) which states that planning policies and decisions should contribute to and enhance the natural and local environment, including sites of biodiversity and geological value. This requirement is also in accordance with NPPF (September 2023) 179 and 180 (& NPPF December 2023 paragraphs 185 and 186). The Norfolk Validation Requirements for Minerals and Waste Planning Applications (document D2) requires that applications where development may impact on the water environment are supported by a Hydrology/Hydrogeological Assessment and requires biodiversity surveys and assessments to be submitted with planning applications which have the potential to affect protected habitats and species.

1.1.M *The historic environment (as identified through a Heritage and Archaeology Statement), including heritage and archaeological assets and their settings;* This requirement is justified, effective, and consistent with national policy as protection of the historic environment is contained within the objectives of sustainable development. NPPF section 16 sets out the national policy stance for the conservation and enhancement of the historic environment including both above and below ground heritage assets. NPPF (September 2023) paragraphs 199-208 (& NPPF December 2023 paragraphs 205-214) set the framework for assessing potential harms and benefits from development on heritage assets. The Norfolk Validation Requirements for Minerals and Waste Planning Applications (document D2) requires that applications where development may impact a heritage asset, including through changes in their setting, are supported by a Heritage Statement (above ground heritage), and/or an Archaeological Assessment (below ground heritage).

1.1.N *The character and quality of the area, in which the development is situated, through poor design.* This requirement is justified, effective, and consistent with national policy which states that good design is a key aspect of sustainable development. NPPF section 12 sets out the national policy for the promotion of well-designed places. NPPF (September 2023) paragraph 134 (& NPPF December 2023 paragraph 139) states that proposed development that is not well-designed should be refused, and that significant weight should be given to well-designed development. The Norfolk Validation Requirements for Minerals and Waste Planning Applications (document D2) contains requirements for a number of documents which contain assessment of design elements for a proposed development, such as Design and Access Statement, Climate Change, Energy Statement, Renewable Energy and Sustainability Statement, Daylight/Sunlight Assessment, Health Impact Assessment, Landscape and Visual Impact Assessment, and a Lighting Scheme.

1.2 Policy MW2:-Transport. The policy is justified, as it appropriate for planning applications to demonstrate how the proposed development could take place without giving rise to unacceptable impacts. The appraisal tables within Appendix A of the Sustainability Appraisal (document A3.3) contains at pages A9-A12 the appraisal of policy MW2. The policy scored positively or neutrally for 12 of the sustainability appraisal indicators, with the only potential for negative effects in the economic indicator. No alternative options were identified for this policy which is based on the current transport policies (CS15 and DM10) in the adopted Norfolk Minerals and Waste Core Strategy and Development Management Policies DPD. The Habitats Regulations Assessment screening exercise assessed Policy MW2 and found no Likely Significant Effects either alone or in-combination. Policy MW2 is effective, with the Norfolk Validation Requirements for Minerals and Waste Planning Applications (document D2) requiring applications to provide information on the potential transport impacts, through the submission of a Transport Assessment/Statement, where it is appropriate to the application. The requirements within Policy MW2 are consistent with NPPF (September 2023) paragraphs 110 to 113 (& NPPF December 2023 paragraphs 114 to 117).

1.3 Policy MW3: Climate change mitigation and adaption is justified as the appraisal tables within Appendix A of the Sustainability Appraisal (document A3.3) contains at pages A13-A15 appraisal of policy MW3. The policy scored positively or neutrally for all of the sustainability appraisal indicators. No alternative options were identified for this policy. The Habitats Regulations Assessment screening exercise assessed Policy MW3 and found no Likely Significant Effects either alone or in-combination.

1.4 The policy is effective in that the Norfolk Validation Requirements for Minerals and Waste Planning Applications (document D2) requires that applications for development are supported by a Climate Change, Energy Statement, Renewable Energy and Sustainability Statement, a Net Zero Carbon Statement, and information on Sustainable Drainage Systems.

1.5 The policy is consistent with national policy as mitigation of and adaption to the effects of climate change are contained within the objectives of sustainable development (NPPF paragraphs 8 and 11, both September and December 2023 versions). The policy as a Strategic Policy is consistent with NPPF paragraph 20 part d (both September and December 2023 versions) which requires such policies to include planning measures to address climate change mitigation and adaption. NPPF Section 14 contains national policy regarding the mitigation of and adaption to climate change. Specifically, paragraph 153 (September 2023) (NPPF paragraph 158, December 2023) states that plans should take a proactive approach to mitigation and adaptation to climate change. Policy MW3 contains a number matters that application for minerals and waste development are expected to address:

1.5.A *take account of landform, layout, building orientation, massing and landscaping to minimise energy consumption, including maximising cooling and avoiding solar gain in the summer.* This is consistent with NPPF paragraph 157, part b (September 2023) (NPPF paragraph 162, December 2023).

1.5.B *be planned so as to minimise greenhouse gas emissions.* This is consistent with NPPF (paragraph 154, part b (September 2023) (NPPF paragraph 159, December 2023).

1.5.C set out how the proposal will make use of renewable energy, including generating the energy used on site from decentralised and renewable or low-carbon sources. Where on-site renewable or low-carbon energy generation is not practicable, evidence must be provided to the County Planning Authority, and the applicant should source the electricity required from renewables through an energy supplier. This is consistent with NPPF paragraph 155 and paragraph 157, part a (September 2023) (NPPF paragraphs 160 and 162, December 2023).

1.5.D use sustainable drainage systems, rainwater harvesting, stormwater harvesting, including from impermeable surfaces wherever feasible and layouts that accommodate wastewater recycling where a connection to the public sewerage network is required. This is consistent with NPPF paragraph 167, part c (September 2023) (NPPF paragraph 173(c), December 2023).

1.5.E take account of potential changes in climate including rising sea levels and coastal erosion. This is consistent with NPPF paragraphs 170-173 (September 2023) (NPPF paragraphs 176-179, December 2023).

1.5.F take opportunities to incorporate trees, retain existing trees and include measures to assist habitats and species to adapt to the potential effects of climate change wherever possible. This is consistent with NPPF paragraph 131 (September 2023) (NPPF paragraph 136, December 2023).

1.5.G set out how the transportation related to the development will help reduce carbon emissions and incorporate proposals for sustainable travel, including travel plans where appropriate. This is consistent with NPPF paragraph 105 and paragraph 124, part c (September 2023) (NPPF paragraphs 109 and 128(c), December 2023).

1.5.H for waste management proposals, set out how the principles of the waste hierarchy have been considered and addressed. This is consistent with National Planning Policy for Waste (NPPW) paragraph 1.

1.6 Policy MW4: The Brecks Protected Habitats and Species is justified as the appraisal tables within Appendix A of the Sustainability Appraisal (document A3.3) contains at pages A16-A17 appraisal of policy MW4. The policy scored neutrally for most of the sustainability appraisal indicators, positively for three indicators, with the only potential for negative effects in the economic indicator. No alternative options were identified for this policy which is based on evidence studies on Stone Curlew undertaken for Breckland Council. However, since the publication of the NM&WLP, Natural England's guidance on assessing the development effects of Breckland SPA Stone Curlew population has been revised and therefore modifications have been proposed to both the policy and the supporting text (documents A25 and A26) as advised by Natural England in response to the Regulation 19 stage. The Habitats Regulations Assessment screening exercise assessed Policy MW4 and found no Likely Significant Effects either alone or in-combination. The policy is effective in that the Norfolk Validation Requirements for Minerals and Waste Planning Applications (document D2) requires biodiversity surveys and assessments to be submitted with planning applications which have the potential to affect protected habitats and species. The policy is consistent with NPPF (September 2023) paragraphs 179,180 and 182 (& NPPF December 2023 paragraphs 185, 186 and 187).

1.7 Policy MW5: Agricultural soils is justified as the appraisal tables within Appendix A of the Sustainability Appraisal (document A3.3) contains at pages A18-A19 appraisal of policy MW5. The policy scored neutrally for most of the sustainability appraisal indicators and positively for three indicators. No alternative options were identified for this policy which contains only minor changes from the current soils policy in the adopted Norfolk Minerals and Waste Core Strategy and Development Management Policies DPD. The Habitats Regulations Assessment screening exercise assessed Policy MW5 and found no Likely Significant Effects either alone or in-combination.

1.8 The policy is effective in that the Norfolk Validation Requirements for Minerals and Waste Planning Applications (document D2) requires a soil assessment to be submitted with applications for major development on agricultural land where significant quantities of soil would be removed and/or a significant area of agricultural land would be lost. The Norfolk Validation Requirements also require a soils management and handling strategy to be submitted with applications where significant development of agricultural land is involved. The policy is consistent with NPPF (September 2023) paragraphs 174, 175 (including footnote 58) (& NPPF December 2023 paragraphs 180,181 and footnote 62) regarding best and most versatile agricultural land.

Policy MW2

2. Should the Policy refer to the need for development proposals to demonstrate the use of low or zero emission vehicles?

NCC response:

2.1 No, the policy should not refer to the need for development proposals to demonstrate the use of low or zero emission vehicles. The NPPF paragraph 112 (September 2023) (NPPF paragraph 116, December 2023) states that “applications for development should be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations”, it does not include any requirements for development proposals to demonstrate the use of low or zero emission vehicles. Norfolk County Council’s ‘Parking Guidelines for new developments in Norfolk (July 2022) states that all new non-residential buildings with less than 10 car parking spaces should have at least one electric vehicle charging point.” Therefore, whilst permanent built developments with car parking spaces should include electric vehicle charging points in line with existing guidelines, we do not consider that use of low or zero emission vehicles could be conditioned as part of a planning permission and therefore is not appropriate to include within the NM&WLP policy. In addition, mineral extraction sites are a temporary use of land and may not have a mains electricity connection.

2.2 We consider that the issue of the use of low or zero emission vehicles is more relevant to Policy MW3 (Climate Change Mitigation and Adaption) which already includes requirement (g) for developments to “set out how the transportation related to the development will help reduce carbon emissions and incorporate proposals for sustainable travel, including travel plans where appropriate”. We will propose an additional modification to the supporting text to Policy MW3 to state that: “Over the life of the NM&WLP Norfolk County Council will seek to encourage the use and adoption of low or zero emission

vehicles for the movement of minerals and waste, however, it is recognised that future uptake and use is dependent on technological development, standards and government legislation which fall outside the scope of the planning system.”

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?

NCC response:

3.1 Sub-section (d) of Policy MW2 refers to developments not generating unacceptable physical impacts on the highway network (e.g. road or kerbside damage). Whilst there are mechanisms within the Highways Act for wear and tear agreements to manage the damage to the highway, the policy requirement for developments to not generate unacceptable physical impacts on the highway is a landuse planning matter because it is regarding the suitability of the access roads to a proposed development site, to cater for the HGV traffic associated with that development. If the proposed access road is not wide enough to cater for the proposed HGV movements without eroding the verge or carriageway edge, then mitigation measures would be required, such as road widening or provision of passing places, otherwise the Highway Authority would be likely to object to the development proposal.

3.2 This position is in accordance with Norfolk County Council’s published document ‘Safe, Sustainable Development – Guidance notes for Local Highway Authority requirements in Development Management’ (July 2022) which contains the following requirements in section 6.2 regarding the aim to keep commercial vehicles away from areas where their presence would result in danger/ unacceptable disruption to the highway/or cause irreparable damage.

“• Development likely to serve or attract significant numbers of commercial vehicles should have good access to the routes specifically designated to carry this kind of traffic.

- Where appropriate, provide suitable signs to guide HGVs along acceptable routes.

- Where appropriate, enter into legal agreements to secure contractual obligations for the routing of vehicles visiting or operating from the site, and/or mandatory restrictions (Traffic Regulation Orders (TROs)) to prevent the vehicles from using unacceptable routes.

- Where pedestrian footways are narrow, it may in some cases be possible to alleviate problems - for example by 15 localised widening/ the use of bollards/reducing traffic speed limits.

Where routes do not meet the required standard, developers will be required to contribute, in whole, or in part, towards their improvement or implement such improvements as may be required to mitigate the development’s traffic impact.”

3.3 The potential for physical impacts to the highway is expected to be demonstrated at the planning application stage through the information provided in the Transport Assessment or Transport Statement (where one is required), which will be assessed by Norfolk County Council as Local Highway Authority.

3.4 With regards to the question of whether the rectification of such damage of a public highway be undertaken pursuant to enforcement under relevant planning acts; highway improvements, such as road widening or the provision of passing places, and HGV routing agreements would be conditioned as part of a planning permission if they were required for the development to be acceptable. Therefore, if these planning conditions were not complied with then they could be enforced under the relevant planning acts.

3.5 Further information is provided within supporting text paragraphs 7.5 to 7.10 of the NM&WLP. This requirement also forms part of the existing adopted policy CS15 (Transport) in the Norfolk Minerals and Waste Core Strategy.

Policy MW5

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

NCC response:

4.1 The intention of the policy was that 'soil handling and replacement' included storage. We consider that, for clarification, it would be beneficial for the supporting text to explain this, and therefore an additional modification to the supporting text is proposed to state: "A soils management and handling strategy must be submitted to the County Planning Authority for applications where development is proposed on agricultural land. The strategy should contain a comprehensive soil assessment including a detailed soil survey to identify soil types, profiles and depths and details to demonstrate how the proposal will undertake any soil operations including stripping, storage and replacement".

4.2 The proposed modification is in line with the requirements of Norfolk County Council's adopted National and Local Validation Requirements for Minerals and Waste Planning Applications, (June 2023) (document D2) which requires a 'soils management and handling strategy' to be submitted for all applications where significant development of agricultural land is involved.

4.3 In addition, the policy currently refers to Defra's 'Good Practice Guide for Handling Soils' which has been replaced by the Institute of Quarrying's 'Good Practice Guide for Handling Soils in Mineral Workings (2021)' (Soils Guidance (quarrying.org)) and therefore a modification is required to the policy in this regard.