

Norfolk County Council: Minerals and Waste Local Plan; Publication Draft May 2022.
Representation on behalf of the **Mineral Products Association (MPA)**.

Contact:

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Please note that the MPA would wish to attend the EiP.

Comment:

Mineral Strategic Objective

The following adjustments are suggested to the following objectives to make the to properly reflect NPPF;

Proposed Changes (deletions in ~~strikethrough~~; new text in **bold**)

MSO1. *To provide a steady and adequate supply of aggregate minerals **and to provide at least a 7-year land bank for sand and gravel, and 10-year landbank for carstone**, by identifying adequate mineral extraction sites/areas within Norfolk sufficient to meet the requirements of the Local Aggregate Assessment and safeguarding existing infrastructure.*

MSO2. *To provide a steady and adequate supply of industrial minerals by identifying adequate mineral extraction sites/areas within Norfolk sufficient to meet the forecast need **and stocks of permitted reserves of silica sand of at least 10 years production for individual silica sites or at least 15 years where significant new capital is capital is required** and safeguarding existing infrastructure.*

Biodiversity and Geological Conservation

Para 6.18 – 6.21

We consider that the above paragraphs do not properly reflect NPPF in that the Plan as drafted does not properly *distinguish between the hierarchy of international, national and locally designated sites* as required by paragraph 171 of the NPPF. As such the Plan is unsound.

Policy MW2: Transport

Suggested altered wording for the last bullet point of the policy as follows to make the policy effective.

Proposed Changes (deletions in ~~strikethrough~~; new text in **bold**)

Where practical and *Appropriate measures to reduce car travel to the site by workers and visitors and encourage walking, cycling and use of public transport.*

This alteration is made to prevent a dogmatic approach being taken. We have examples of cycle racks needing to be provided when it was clearly impractical for individuals to safely cycle to the site.

Policy MW3: Climate Change

Proposed Changes (deletions in ~~strikethrough~~; new text in **bold**)

*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 **practical and** appropriate; and*

Due to the often-isolated nature of mineral workings public transport or cycling are not practical. Therefore, the additional wording is suggested to make the policy effective and preventing unnecessary work for the developer/applicant.

Policy MW5: Agricultural soils

It is felt that the last bullet point is unnecessary and could dilute the policy in terms of the importance of agricultural restoration. With climate change the ability to have land to grow food will become even more important. The proposed changes make the policy effective.

The wording of the policy needs adjusting as follows:

Proposed Changes (deletions in ~~strikethrough~~; new text in **bold**)

Where development is proposed on agricultural land, the County Council has a clear preference for locating new mineral extraction and associated activities, and composting facilities, on land of agricultural grades 3b, 4 and 5.

Development proposals affecting Grade 1 agricultural land will only be permitted in exceptional circumstances, where it is demonstrated that there are no alternative locations for the development. In addition to the above, when minerals development, particularly extraction, is proposed on agricultural land of grades 1, 2 or 3a it will ~~only~~ be permitted where:

- Provision is made for high standards of soil management that would enable restoration to a condition at least as good as its previous agricultural quality. To demonstrate this, soil and land quality surveys, and soil handling and replacement strategies (based upon Defra's 'Good Practice Guide for Handling Soils') must be submitted to the County Planning Authority; or*
- ~~The benefit of restoring the land to another after use can be shown to outweigh the loss of the agricultural use of the land.~~*

Policy MP1: Provision for minerals extraction

Changes are required to make it clear that the landbanks levels have to be maintained so they are in place at the end of the plan period to make the policy accord with national policy and be effective. In respect of silica sand changes are needed to make the policy accord with NPPF. As currently drafted the policy is unsound as it is not compliant with National Policy.

In respect of silica sand Paragraph 214 of the National Planning Policy Framework (NPPF) states:

"Minerals planning authorities should plan for a steady and adequate supply of industrial minerals by:...

c) maintaining a stock of permitted reserves to support the level of actual and proposed investment required for new or existing plant, and the maintenance and improvement of existing plant and equipment⁷⁴.”

Footnote 74 states:

“These reserves should be at least 10 years for individual silica sand sites; at least 15 years for cement primary (chalk and limestone) and secondary (clay and shale) materials to maintain an existing plant, and for silica sand sites where significant new capital is required; and at least 25 years for brick clay, and for cement primary and secondary materials to support a new kiln.”

National policy is clear that Mineral Planning Authorities are required to plan for a steady and adequate supply of silica sand, it is therefore wholly inappropriate for Policy MP1 to state that a landbank of at least 10 years shall be maintained “*where practical*”. It is notable that where significant new capital is required a landbank of at least 15 years is required rather than just 10 years. This means that the policy as drafted is not prepared positively and is not consistent with national policy.

The calculation of forecasted need is not consistent with national policy. Whilst there is no guidance on how this should be calculated for the purposes of plan making, Paragraph: 090 Reference ID: 27-090-20140306 of Planning Practice Guidance (PPG) provides guidance for how this should be calculated at the point of planning application submission:

*“The required stock of permitted reserves for each silica sand site should be based on the average of the **previous 10 years sales**. The calculations should have regard to the quality of sand and the use to which the material is put.”*

No reference is made to the permitted throughput of a processing site. Indeed the ‘throughput’ of a particular site does not determine the sales made from the site. National policy makes the clear distinction that sales should be used to determine the level of permitted reserves required as the processing of raw mineral results in waste unsuitable for sale.

We are advised that the average 10-year sales (2012 to 2021) for our member Sibelico King’s Lynn Quarry complex is 807,548 tonnes per annum. Therefore, the forecasted need over the Plan period is at least 14,535,864 tonnes.

Taking into consideration permitted silica sand reserves (3,232,000 tonnes) this indicates a **shortfall of 11,303,864 million tonnes**.

Suggested re wording of policy as follows;

Proposed Changes (deletions in ~~strike through~~; new text in **bold**)

The strategy for minerals extraction is to allocate sufficient sites to meet the forecast need for both sand & gravel and hard rock (carstone).

*For sand and gravel, specific sites to deliver at least 12.597 million tonnes of resources will be allocated. The sand and gravel landbank will be maintained at a level of at least 7 years supply **throughout the Plan period** (excluding any contribution from borrow pits for major construction projects).*

Mineral extraction for sand and gravel outside of allocated sites will be resisted by the Mineral Planning Authority unless the applicant can demonstrate:

- a) *There is an overriding justification and/or overriding benefit for the proposed extraction, and*
- b) *The proposal is consistent with all other relevant policies set out in the Development Plan.*

*There is not a forecast shortfall in permitted reserves for Carstone during the Plan period. However, a site for Carstone will be allocated to provide flexibility to meet any future increase in demand for Carstone. The landbank for carstone will be maintained at a level of at least 10 years' supply **throughout the Plan period.***

*For silica sand, sufficient sites to deliver at least ~~10.34~~ **11.30** million tonnes of silica sand resources will be required during the Plan period. The landbank for silica sand will be maintained at a level of at least 10 years' supply **or at least 15 years' supply where significant new capital is required** ~~where practicable~~. Planning applications for silica sand extraction located outside of allocated sites, which would address the shortfall in permitted reserves, will be determined on their own merits in accordance with the policies in this Local Plan, including the requirements contained within Policy **MP2 and MPSS1***

Policy MP2: Spatial Strategy for minerals extraction

Policy MP2 is not legally compliant or sound. Paragraph 209 of the NPPF states:

“It is essential that there is a sufficient supply of minerals to provide the infrastructure, buildings, energy and goods that the country needs. Since minerals are a finite natural resource, and can only be worked where they are found, best use needs to be made of them to secure their long-term conservation.”

It is notable that Policy MP2 dictates that specific sites for silica sand, “*should be located where they are able to access the existing processing plant and railhead at Leziate via conveyor, pipeline or off-public highway haul route.*” There is no basis or justification for imposing this restriction as a new mineral site could be a significant distance from the existing processing plant which might mean that the only viable or the most sustainable option is to build a new processing plant or warehousing facility. This is clearly not an effective approach to meet unmet need and is not consistent with the principles of national policy which set out that minerals can only be worked where they are found.

Furthermore, there is very little basis for the remainder of the spatial strategy, which simply states areas where mineral extraction sites are not acceptable. This ignores that silica sand is a nationally important mineral and that the extraction of this mineral in areas mentioned within the policy has been found to be acceptable. This very clearly cannot be termed a spatial strategy for silica sand extraction and as drafted is not justified, consistent with national planning policy, effective or positively prepared. It is simply unsound.

Paragraph 23 of the NPPF states:

“Broad locations for development should be indicated on a key diagram, and landuse designations and allocations identified on a policies map. Strategic policies should provide a clear strategy for bringing sufficient land forward, and at a sufficient rate, to address objectively assessed needs over the plan period, in line with the presumption in favour of sustainable development. This should include planning for and allocating sufficient sites to deliver the strategic priorities of the area (except insofar as these

needs can be demonstrated to be met more appropriately through other mechanisms, such as brownfield registers or nonstrategic policies)."

Paragraph 210 of the NPPF states:

"Planning policies should:

a) provide for the extraction of mineral resources of local and national importance, but not identify new sites or extensions to existing sites for peat extraction;...

The reasoning for removing Areas of Search from the plan is unequivocally flawed. Especially as the criteria used differs from that set out in the policy and effectively implies that the whole of the resource area is an unacceptable location for minerals development. This undermines the strategic and national importance of silica sand whilst also prejudging specific applications which may evidence that a particular location is suitable for mineral extraction.

The draft Plan approach does not meet the requirement of Paragraph 210 of the NPPF which states that planning policies should provide for the extraction of mineral resources. Indeed, Paragraph 23 of the NPPF is clear that strategic policies should provide a clear strategy for bringing forward sufficient land to address objectively assessed need. This policy does not do this, but rather attempts to set out a principle that silica sand resources are not located in areas acceptable for extraction. This means that the policy is not positively prepared, justified, effective or consistent with national policy. It is important to note that Norfolk is one of the only areas in England processing sand capable of colourless glass manufacture. This damaging rhetoric and reckless approach to policy making threatens the viability of the nation's glass industry. Using a set of baseless principles that would be liable to legal challenge.

The policy as drafted serves no basis and should be re-evaluated in light of the above-mentioned policies and PPG. Paragraph: 008 Reference ID: 27-008-20140306 of the PPG states:

"Mineral planning authorities should plan for the steady and adequate supply of minerals in one or more of the following ways (in order of priority):

- 1. Designating Specific Sites – where viable resources are known to exist, landowners are supportive of minerals development and the proposal is likely to be acceptable in planning terms. Such sites may also include essential operations associated with mineral extraction;*
- 2. Designating Preferred Areas, which are areas of known resources where planning permission might reasonably be anticipated. Such areas may also include essential operations associated with mineral extraction; and/or*
- 3. Designating Areas of Search – areas where knowledge of mineral resources may be less certain but within which planning permission may be granted, particularly if there is a potential shortfall in supply.*

National Park Authorities are not expected to designate Preferred Areas or Areas of Search given their overarching responsibilities for managing National Parks.

Furthermore, in exceptional circumstances, such as where a local authority area is largely made up of designated areas such as Areas of Outstanding Natural Beauty, it may be appropriate for mineral

planning authorities to rely largely on policies which set out the general conditions against which applications will be assessed.

In planning for minerals extraction, mineral planning authorities are expected to co-operate with other authorities.”

The Specific Sites proposed for allocation cover a very small proportion of the overall forecasted need for silica sand. Sibelco strongly disagree with the Council’s assertion in paragraph 13.4 of the Silica Sand Topic Paper that, *“there are exceptional circumstances in Norfolk to rely largely on a criteria-based policy.”* Norfolk is not made up largely of designated areas such as Areas of Outstanding Natural Beauty. There are a number of areas where silica sand extraction could come forward in both non-designated and designated areas. Nationally important mineral is routinely extracted within Areas of Outstanding Natural Beauty and other designated sites such as Ramsar and SSSI’s where effective mitigation measures can control development. The following evidence should also be considered in NCC policy making:

- In his examination of the Norfolk County Council Minerals Site Specific Allocations DPD (2017) the Inspector found that to address a shortfall of 0.68 million tonnes of silica sand, it was appropriate to designate some 946 hectares of Area of Search. On this matter the Inspector concludes, *“I am mindful that the Plan has identified 946 hectares of land within the AoS, which I consider provides a suitable level of provision, given the uncertainties involved and the need for some flexibility should the future need for silica sand increase. Overall, I consider that the site selection methodology is sound.”*
- In his examination of the Norfolk County Council Minerals Site Specific Allocations DPD (2017) the Inspector found the site selection methodology sound. The current site selection methodology appears to be the same. It is therefore difficult to understand why the Sustainability Appraisal excludes all the proposed Areas of Search, especially as these areas were deemed acceptable for inclusion and proposed allocation within the Norfolk Minerals and Waste Local Plan Review Preferred Options.

The policy should be deleted and replaced with the following wording:

To help meet the at least 14.54 million tonne silica sand requirements for the Plan period as identified in in Policy MP1, the following hierarchy of resource delivery will apply:

- 1. the delivery of specific sites MIN 40 and SIL01 over other proposals; then***
- 2. the delivery of a site Preferred Area; then***
- 3. an extension to an existing quarry located within an Area of Search; then***
- 4. an extension to an existing quarry outside an Area of Search or a new quarry located within an Area of Search; then***
- 5. a new quarry outside of an Area of Search.***

Policy MP10: safeguarding of port and rail facilities, and facilities for the manufacture of concrete, asphalt and recycled materials

The MPA welcomes and support the reference to the ‘agent of change’ principle in the policy and the policy itself. However, it is felt that for the purposes of clarity and effectiveness the wording of the policy should be adjusted as follows for clarity and effectiveness.

Proposed Changes (deletions in ~~strikethrough~~; new text in **bold**)

The County Council will safeguard:

a) Existing, planned and potential rail heads, rail links to quarries, wharfage and associated storage, handling and processing facilities for the bulk transport by rail, sea or inland waterways of minerals, including recycled, secondary and marine-dredged materials; and

*b) Existing, planned and potential sites for concrete batching, the manufacture of coated materials, other concrete products and the handling, processing and distribution of **primary**, substitute, recycled and secondary aggregate material.*

Development proposals within 250 metres of the above minerals related facilities should demonstrate that they would not prevent or prejudice the use of those facilities. The ‘agent of change’ principle will be applied to all such development.

The Mineral Planning Authority should be consulted on all development proposals within Minerals Consultation Areas, except for the excluded development types set out in Appendix 4.

The County Council will oppose development proposals which would prevent or prejudice the use of safeguarded sites for those purposes unless suitable alternative provision is made, or the applicant demonstrates that those sites no longer meet the needs of the aggregates industry.

Policy MP11: Mineral Safeguarding Areas and Mineral Consultation Areas.

The MPA supports this policy and the additional reference to the agent of change.

The MPA would like to be present at any EiP.

M E NORTH
14 December 2022