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**From:** Mark North [REDACTED]  
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**Subject:** Notts MLP Publication Version October 2019;Comments on behalf of the Mineral Products Association  
**Attachments:** MPA Comments Nottinghamshire County Council Minerals Local Plan; Publication Version October 2019..pdf  
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Dear Sir/Madam

Please find attached comments on behalf of the Mineral Products Association in respect of the above document .Please acknowledge safe receipt .

Yours faithfully

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**Mineral Products Association**



**Quarries & Nature**

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**Nottinghamshire County Council: Minerals Local Plan; Publication Version October 2019.**

**Representation on behalf of the Mineral Products Association (MPA).**

Contact:

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The MPA would wish to attend the Examination in Public.

**Comments:**

**Vision:**

At paragraph 4 of the Vision change the term '*mineral reserves*' in the paragraph on safeguarding to '*mineral resources*' in line with BGS guidance and national policy. It is noted that the term '*resources*' not '*reserve*' is used in SO4.

We believe the vision should be stronger about meeting the growth needs of the community; i.e. providing a steady and adequate supply of minerals, as required by NPPF, to meet objectively assessed development needs, and then say you will also make an appropriate contribution to wider local and national needs.

**Strategic Objectives:**

SO2: Providing an adequate supply of minerals.

We support the principle of this objective but feel additional wording is required to make it effective as follows;

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

Assist in creating a prosperous, environmentally sustainable and economically vibrant County through an adequate supply of all minerals to assist in economic growth both locally and nationally. Provide sufficient land to enable a steady and adequate supply of minerals **and/or maintain productive capacity** over the plan period.

SO6: *Protecting and enhancing natural assets* should include agriculture as an appropriate restoration outcome. This is required to make the Plan effective and positive.

SO7: *Protecting and enhancing historic assets* makes no distinction of the proportionate approach required by the NPPF appropriate to the asset's significance (NPPF para 126 and 128). This is unsound as not in line with national Policy.

### **SP3: Climate Change**

It is suggested the policy is adjusted to consider the importance of agricultural restoration to make the plan effective as follows:

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

#### **Policy SP4 – Climate Change**

*1. All minerals development, including site preparation, operational practices and restoration proposals should minimise their impact on the causes of climate change for the lifetime of the development. Where applicable development should assist in the reduction of vulnerability and provide resilience to the impacts of climate change by:*

*a) Being located, designed and operated to help reduce greenhouse gas emissions, withstand unavoidable climate impacts and move towards a low-carbon economy;*

*b) Avoiding areas of vulnerability to climate change and flood risk. Where avoidance is not possible, impacts should be fully mitigated;*

*c) Developing restoration schemes which will contribute to addressing future climate change adaptation, including through biodiversity and habitat creation, carbon storage, ~~and flood alleviation~~ **and agriculture to support food production.***

### **SP4: Sustainable Transport**

Paragraph 3.42 refers to the *restrictions on barge sizes upstream of Cromwell Lock **may** (emphasis added) restrict the viability of barging of minerals downstream to Nottingham.* While viability of operations is a matter for our members to argue *the* fact is that the restrictions on barge sizes **will** obviously restrict viability and this should be acknowledged in the text to make the plan effective.

The wording of the policy needs adjusting to make it effective as follows:

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

#### **Policy SP5 – Sustainable Transport**

*1. All mineral proposals should seek to maximise the use of sustainable forms of transport, including barge and rail **where practical and economic.***

*2. Where it can be demonstrated that there is no viable alternative to road transport, all new mineral working and mineral related development should be located as follows:*

*a) within close proximity to existing or proposed markets to minimise transport movement; and*

*b) within close proximity to the County's main highway network and existing transport routes in order to avoid residential areas, minor roads, and minimise the impact of road transportation.*

~~*3. Proposals requiring the bulk transport of minerals, minerals waste/fill or materials/substances used for the extraction of minerals by road will be required to demonstrate that more sustainable forms of transport are not viable.*~~

Part 3 of the policy is not necessary with the proposed additional wording in part 1.

### **SP5: The Built, Historic and Natural Environment**

We welcome the acknowledgement in para 3.45 that the impact of mineral extraction on the natural and built environment is temporary in nature and that it can also bring about many environmental benefits.

However, the policy is UNSOUND as it does not follow national policy. In respect of the first bullet point the NPPF at paragraph 171 makes it clear that;

*Plans should: distinguish between the hierarchy of international, national and locally designated sites;.....*

As currently drafted the first bullet point makes no such distinction and is UNSOUND. This issue also needs acknowledging in the supporting text.

The same principle applies to the third bullet point where no distinction is made between different qualities of heritage assets and recognised in paragraph 189 of the NPPF. This issue needs addressing in the supporting. As drafted the policy is UNSOUND.

Paragraph 3.63 is not effective and needs words deleting as follows:

~~*Nottinghamshire has an extensive physical network of transport, communications, water, energy, and waste infrastructure. Mineral working provides the raw materials to maintain much of this essential infrastructure but it is important that the process of mineral extraction does not compromise the operation of existing or planned future infrastructure. When considering development proposals, consultation with the utility companies, rail operators and other network providers will be required to identify potential risks and to ensure appropriate safeguards and/or mitigation measures. This is likely to include the need for appropriate stand-offs from overhead or underground transmission cables, buried or surface pipelines and rail infrastructure.*~~

Mineral development should not be blighted by 'planned Infrastructure' which can be often 20 years or more in pipeline and still never happen. This is against the principles of sustainability and could lead to sterilising otherwise workable mineral.

The last sentence goes beyond the planning regime and such issues are dealt within the Mining Code. Having such a sentence in the plan will prejudice developers' rightful claims for sterilisation of workable reserves due to the presence of *infrastructure* which would be contrary to national policy which is to avoid potential overlap between regulatory regimes.

#### **SP7: Minerals Safeguarding, Consultation Areas and Associated Minerals Infrastructure**

The policy as drafted is UNSOUND as it does not accord with National Policy, is not effective and is not positively prepared. NPPF para 204c requires;

*...that known locations of specific minerals of local and national importance are not sterilised...*

There is no reference to *economically important mineral resources*. The purpose of the safeguarding approach is to safeguard all known mineral resources for future generations. Economics change over time.

In addition, buffer zones should be put on both the MSA and the added value operations/mineral infrastructure sites. In addition, the mineral infrastructure sites should be listed by name and location as well as being identified on the policy map.

In addition, the *agent of change* principle should be incorporated as required by paragraph 182 NPPF.

All the above comments need to be recognised in the supporting text to this policy.

It is suggested that the proposed policy be deleted totally and replaced by the following;

#### **Policy SP7**

*The county council will safeguard known mineral resources from unnecessary sterilisation by non-mineral development by implementing Mineral Safeguarding Areas and Mineral Consultation Areas as indicated on the Policies Map.*

*Any proposals for non-mineral development which fall within the Mineral Safeguarding Areas and Mineral Consultation Areas (including a 250 m buffer around such areas), other than applications for development on the 'Safeguarding Exemption Criteria list' will be subject to consultation with the Minerals Planning Authority. The 'agent of change' principle will be applied by the County Council to all such development.*

*After consultation with the Mineral Planning Authority, the submission of a Mineral Resource Assessment may be required to establish the existence or otherwise of a viable mineral resource. Assessments shall be site specific and include geological survey data undertaken by a suitably qualified professional.*

*The Mineral Planning Authority will object to proposals for non-mineral development within the Mineral Safeguarding Areas and Mineral Consultation Areas, as shown on the Policies Map, unless it is clearly demonstrated to the Mineral Planning Authority that:*

- mineral extraction is not environmentally acceptable; or*
- the need for the non-mineral development clearly outweighs the need for the mineral resource and therefore sterilisation of the mineral resources; or*
- the proposed development does not constrain potential future extraction i.e. playing fields or open land; or*
- the development would not constrain future mineral extraction in the vicinity.*

*Prior extraction will be sought where practicable unless it is demonstrated that the mineral cannot practically be extracted in advance of the proposed development.*

*In these circumstances, full consideration should be given to the use of raised sand and gravel material on site in construction projects to reduce the need to import material as opportunistic use.*

#### *Minerals ancillary infrastructure safeguarding*

*Existing and planned minerals ancillary infrastructure sites identified on the Policies Map, with a 250m buffer zone, will be safeguarded against development which would prevent or frustrate the use of the site for minerals ancillary infrastructure purposes, unless:*

- i) The need for the alternative development outweighs the benefits of retaining the site; and*
- ii) Where minerals ancillary infrastructure is in active use on the land, a suitable alternative location can be provided for the displaced infrastructure; or*
- iii) The site is not in use and there is no reasonable prospect of it being used for minerals ancillary infrastructure in the foreseeable future.*

*Where development, other than exempt development as defined in the Safeguarding Exemption Criteria list, is proposed within an identified buffer zone permission will be granted where adequate mitigation can, if necessary, be provided to reduce any impacts from the existing or proposed adjacent minerals ancillary infrastructure uses to an acceptable level, and the benefits of the proposed use outweigh any safeguarding considerations. The agent of change principle will apply to all such encroaching non-mineral development.*

#### *Transport infrastructure safeguarding*

*Railheads, rail links and wharves identified on the Policies Map, with a 250m buffer zone, will be safeguarded against development which would prevent or frustrate the use of the infrastructure for minerals or waste transport purposes, unless:*

- i) The need for the alternative development outweighs the benefits of retaining the facility; and*
- ii) Where the minerals or waste transport infrastructure is in active use on the land, a suitable alternative location can be provided for the displaced infrastructure; or*
- iii) The infrastructure is not in use and there is no reasonable prospect of it being used for minerals or waste transport in the foreseeable future.*

*Where development, other than exempt development as defined in the Safeguarding Exemption Criteria list, is proposed within an identified buffer zone permission will be granted where adequate mitigation can, if necessary, be provided to reduce any impacts from the existing or proposed adjacent minerals or waste transport infrastructure uses to an acceptable level, and the benefits of the proposed use outweigh any safeguarding considerations. The agent of change principle will apply to all such encroaching non-mineral development.*

The suggested Safeguarding Exemption Criteria list is as follows;

- *Infilling in an otherwise built up frontage within a settlement*
- *Householder applications within the curtilage of a property*
- *Advertisement applications*
- *Reserved matters applications*
- *Applications for new or improved accesses*
- *Minor' extensions/alterations to existing uses/buildings which do not fundamentally change the scale and character of the use/building 'Temporary' development (for up to five years)*
- *Agricultural buildings adjacent to existing farmsteads*
- *'Minor' works such as fences, bus shelters, gates, walls, accesses.*
- *Amendments to current permissions (with no additional land take involved)*
- *Changes of use*
- *Applications for development on land which is already allocated in an adopted local plan where the plan took account of minerals and waste safeguarding requirements*
- *Listed Building Consent and applications for planning permission for demolition in a conservation area*
- *Applications for work on trees or removal of hedgerows*
- *Prior notifications for telecommunications, forestry, agriculture and demolition*
- *Redevelopment of previously developed land not increasing the footprint of the former development*
- *Certificates of Lawfulness of Existing Use of Development and*
- *Certificates of Lawfulness of Proposed Use or Development*

## **MP1: Aggregate Provision**

The publication version on the Mineral Plan has failed to properly forecast future aggregate demand as required by National Policy and is therefore UNSOUND. The reason for this is set out below.

The Minerals Local Plan has been produced using evidence contained within the published Local Aggregate Assessment published in October 2017 using the data period up to 31/12/2016. The MPA as members of the East Midlands Aggregate Working Party commented on the LAA. These comments were referenced in the MPA response to draft Plan consultation in July 2018 and for completeness and context are repeated below:

*National policy says that forecasts of demand should be based on a rolling average of 10 years sales data and other relevant local information, and an assessment of all supply options. National practice guidance says that forecasts must not be based solely on the 10-year rolling average. It is essential, especially now that we have come out of the recession, for the County Council to use this other relevant information. We are aware that the Council's change of approach is politically motivated, but it is not sound, and it is not best practice.*

*Several things have distorted the traditional relationship between development in Nottinghamshire and sand and gravel supplies. In your Issues and Options draft, you allude to the effects of the recession and to short term commercial decisions made by producers, which has resulted in large export volumes to Doncaster and large import volumes from Lincolnshire, and to quarries being mothballed as producers adapted to vastly difficult market conditions. This does not represent a long-term sustainable supply pattern and should not be used to curtail future supply from the county, which still is the most important source of high-quality sand and gravel in the region.*

*Companies have only recently had the capacity to recapitalise mothballed sites, and to look for replacements for others which had become exhausted, which takes a long time to come to fruition, and is not yet reflected in the sales figures. There is already strong evidence of industry interest in the county returning to the county, indicated by the numbers of new sites proposed for the last Local Plan process. It would be a profound mistake for the County Council to fossilise the current abnormal conditions which if not corrected will undoubtedly lead to future under provision of mineral contrary to national policy.*

*The MPA commented on the failure to consider other relevant information as required by NPPF in our comment to the draft LAA in August 2017, which does not seem to have been heeded in the Draft MWLP.*

*The LAA is indicating an annual housing completion rate of 4,574. As a reality check, we can compare the forecast with the last time 4,574 dwellings were completed which was in 2005 when 4,842 dwellings were completed. The extraction rate of sand and gravel in that year was 3.08 Mt. This would seem to suggest that the LAA 10 year rolling average of only 1.7*



*Mtpa is inadequate. Furthermore, there appears to have been no consideration to other infrastructure project that may impact the County.*

*On this basis, the MPA considers that the County Council should plan for future sand and gravel demand of 3.0Mtpa for the plan period. By reference to your Table 2 this means that over the plan period (19 years) the requirement for sand and gravel will be 57 Mt. Deducting existing permitted reserves results in a shortfall to be proved by the Local Plan of 39.5 Mt. This means finding an additional 21.7 Mt than you have assumed.*

*In addition, the policy needs to make clear that landbanks should be maintained for at least 7 years for sand and gravel, at least 7 years for Sherwood Sandstone and at least 10 years for crushed rock. Furthermore, it should be made clear that these land banks should be maintained at the end of the plan period.*

It was clearly identified from the above that there was a shortfall in provision of sand and gravel. This appears not to have been accepted or addressed in the publication draft on the mineral plan or for that matter in the current draft LAA for Nottinghamshire. Below is an analysis of the current draft LAA and the publication draft of the mineral plan which shows that the situation has not changed in respect of the under provision of mineral resources by Notts:

The Publication version of the Mineral Local Plan, subject of this consultation response uses the 10-year average from 2016 for determining Local Plan provision which is 1.7 Mtpa for sand and gravel and 0.37Mtpa for Sherwood Sandstone. The current draft LAA proposes to retain exclusively the use of the 10-year average to assess demand for sand and gravel which is 1.46 Mtpa .

As with previous LAAs the LAA contains no forecast of aggregate demand as required by National Policy.

The LAA remarks (table 5) that exports have increased to Northamptonshire from 0 to 406 kt, and to South Yorkshire from 145kt to 386kt. Furthermore the draft LAA reports (table 6) that imports have grown from Lincolnshire (361kt) and Staffordshire (155kt).

Comparing AM2009 with AM2104 imports of sand and gravel to Nottinghamshire has increased from 327ktpa to 583ktpa (a rise of 78%).

It appears that the sum of Nottinghamshire's sand and gravel used within the county has fallen from 750kt to 126kt (a drop of 84%). However, the LAA claims that unknown destinations should be added to this sum which reduces the difference but still indicates a fall of 23% between 2009 and 2014/18.

The LAA notes that population is forecast to increase by 9.6% during the plan period and, the house building programme is planned (i.e. Local Plan commitments) to increase from current 4695 units to 8025 units by 2020/1 and falling again to 3031 units by 2027/8 (not the whole plan period). This is an average of 5264 units per year (table 12).

Figure 4 shows that house building rates have risen by 71% since 2013/4 (fig 4). The draft LAA says that housebuilding is only a part of the aggregate's market and that sand and gravel is used for other uses. However, if this is accepted it follows that a combination of a

- a. 71% increase in housebuilding activity since 2013, plus
- b. associated infrastructure/community/commercial/industrial development, plus
- c. the major infrastructure project of the East Midlands Gateway Rail Freight Interchange,

would have raised sand and gravel demand by a conservative 25%. However, figure 1 shows that the sand and gravel sales have flatlined.

Increased aggregates demand but not supplied from Notts sources can be gauged by the steep increase in imports to the county from Lincolnshire (historically not a significant exporter to Nottinghamshire) and from Staffordshire.

Support for higher aggregates demand is the draft LAA's observation that quantities of construction and demolition waste have grown by an estimated 11% since 2011 indicating higher levels of construction (para 3.31).

Support for higher aggregates demand also comes from the observation of the LAA that in the East Midlands sand and gravel sales rose from 5.5 Mtpa in 2009 to 6.96 Mtpa in 2016 falling slightly to 6.79 Mtpa in 2017 (para 5.8). This represents a regional growth in sand and gravel demand of 23%-26%. Only in Nottinghamshire have sand and gravel sales apparently flatlined.

The evidence is clear that the sand and gravel sales in Nottinghamshire have been constrained. The draft LAA says this is because of the recession and the replacement of worked out quarries has remained low. This puts Nottinghamshire in a special position which means that sales do not fairly represent the demand for sand and gravel in the county. In this respect, it is like Oxfordshire which was recognised at Examination to have had suppressed sales because of commercial decisions during the recession to mothball sites. In Nottinghamshire's case, similar commercial decisions and an unreadiness to be able to replace sites, partly as a result of having no mineral plan in place, is judged to have been the cause for low sales and make up of demand principally from imports. In short, this is an anomalous situation which should be recognised in the mineral plan and draft LAA and accounted for in planned provision.

There are two possible approaches to calculating forecast demand from data which counters the effects of the recession on the 10-year average and plans for future growth.

- d. The last year house build rates were close to the planned average (5264 units) was in 2005 (4842 units) when sand and gravel sales were 3.08Mt. Allowing for higher planned rates of housing suggests sand and gravel provision should be at least 3.10Mtpa.

- e. Using the approach adopted in Oxon of calculating the % share of sand and gravel production before the recession and applying it to current conditions, gives the following result
- i. In the five-year period prior to the recession (2004-2008) Notts sand and gravel sales as a proportion of all England averaged 6.53%. In 2016 the proportion was 3.85%.
  - ii. If this is converted into a figure for the county linked to the current level of sales in England which in 2016 was 41.26 Million tonnes, then applying a pre-recession proportion of 6.53% gives a demand for Notts of 2.694 Million tonnes.
  - iii. Once an allowance for soft sand has been deducted, the like-for-like sand and gravel demand figure is about 2.32 Mtpa.
  - iv. Although this is lower than the first method, this is because all the Oxfordshire method does is restore the county to conditions as they were before the distorting effects of the recession; it does not explicitly take account of future growth and demand created by major infrastructure. It is emphasised that this is minimum which does not take account of the significant growth over and above historic levels of demand which is planned for. On a precautionary approach the provision should be at the higher estimate namely 3.1Mt per annum.

The limited use of the 10-year average and not considering other factors, as outlined above, and as required by NPPF means that Nottinghamshire will continue to see downward spiral of sales that will be a self-fulfilling prophecy. The mineral plan and draft LAA has failed to forecast properly for future aggregate.

As can be seen from above as drafted this mineral plan is set to fail in respect of providing a steady and adequate supply of aggregates as required by national policy and is therefore unsound.

The MPA would wish to attend the Examination in Public.

M E North

Mineral Products Association

07/10/2019.

