

From: Localdevelopment <Localdevelopment@rushcliffe.gov.uk>
Sent: 11 October 2019 09:32
To: Planning Policy
Cc: Cllr R Walker; Richard Mapletoft
Subject: Minerals Plan - RBC Representation
Attachments: RBC Response Form MP2.pdf; RBC Response Form MP1.docx.pdf

Follow Up Flag: Follow up
Flag Status: Completed

Dear Sir/Madam,

Please find attached Rushcliffe Borough Council's representations on the Publication Draft Nottinghamshire Minerals Local Plan. These representations address the demand for Sand and Gravel and the proposed quarry allocation at Mill Hill, Barton in Fabis.

Regards

John King

John King MRTPI
Planning Policy Officer

Rushcliffe Borough Council
Rushcliffe Arena
Rugby Road
West Bridgford
Nottingham
NG2 7YG

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Call us on 0115 981 9911 (8.30am to 5pm, Monday to Friday), email
customerservices@rushcliffe.gov.uk or visit www.rushcliffe.gov.uk



Representation Form

This is the representation form for the Nottinghamshire Minerals Local Plan - Publication Version published by Nottinghamshire County Council. The Publication Version and the supporting information can be found online at www.nottinghamshire.gov.uk/minerals. You can submit your representations online via our interactive system by using this link.

The formal representation period is open from Friday 30th August 2019 to 4.30pm Friday 11 October. All representations must be received during this period.

If you wish to submit a representation to the Plan using this form, please complete all parts and then send it to us via email or post, using the addresses below. Please note:

- **All respondents need to provide their personal details.** It is not possible for representations to be anonymous. All responses will be made public.
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- **Part B of the form contains your representations.** Please fill in a separate Part B for each representation you wish you make. You only need to fill in Part A once.
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If you have any queries please contact us as below or ring us on 0300 500 80 80.

Please return completed forms to:

 Planning Policy Team County Hall, West Bridgford, Nottingham, NG2 7QP	 planning.policy@nottscc.gov.uk
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All of the representations received will be submitted with the Plan and will be examined by a planning inspector who will consider whether the Plan is 'sound' and complies with the legal requirements.

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Part A – Personal details

Office use only

Person No:

Rep Nos:

	1. Personal details	2. Agent details (where applicable)
Title	Mr	
First name	John	
Last name	King	
Address line 1	Rushcliffe Arena	
Address line 2	Rugby Road	
Address line 3	West Bridgford	
Postcode	NG2 7YG	
Email		
<i>For those replying on behalf of an organisation or group:</i>		
Organisation	Rushcliffe Borough Council	
Job title	Planning Policy Officer	

Part B – Your representation

Office use only

Person No:

Rep No:

Please read the guidance note before completing this section.

Name or organisation: Rushcliffe Borough Council

3. To which part of the Local Plan does this representation relate?

Policy	MP1	Site code		Map/Plan		Paragraph		Other	
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4. Do you consider the identified part of the Local Plan to be:

Legally compliant?	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
Sound?	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>
Complies with the Duty to co-operate	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>

Please tick as appropriate.

5. Please give details of why you consider the identified part of the Local Plan is not legally compliant or is unsound, or fails to comply with the duty to co-operate. Please be as precise as possible.

If you wish to support the legal compliance or soundness of the Local Plan or its compliance with the duty to co-operate, please also use this box to set out your comments.

Policy MP1: Aggregate Provision

Policy MP1 part 1 states that 32.30 million tonnes of Sand and Gravel will be provided over the plan period to meet identified levels of demand. This amount is based solely on the Local Aggregates Assessment (LAA) published in October 2017 which is itself based on December 2016 data.

In May 2019, Nottinghamshire County Council published an updated LAA (based on 2017 sales data) and Rushcliffe Borough Council (RBC) believes this data should underpin policy MP1. Using the most recent LAA complies with paragraph 31 of the NPPF, which states that:

“The preparation and review of all policies should be underpinned by relevant and up-to-date evidence. This should be adequate and proportionate, focused tightly on supporting and justifying the policies concerned, and take into account relevant market signals.”

Paragraph 207 parts a) and c) of the NPPF provides specific guidance on minerals planning. These require an annual assessment informs the selection of sites within plan, based on a rolling average 10 years' sales data. Given that an annual assessment is required and by implication the most up-to-date data used, RBC believes this most recent LAA should inform the provision of minerals to meet demand.

The 2019 LAA identifies demand for 29.2 million tonnes of sand and gravel (based on average 10 years sales of 1.53 million tonnes x 19 (years)), 3.1 million tonnes less than that proposed in the plan.

If the required provision is based solely on demand calculated within the LAA, in accordance with the NPPF, this should be based on the most up-to-date evidence of demand within the most recent LAA. Whilst the minerals planning authority can use other evidence to justify a different target (for example predicted market conditions and future developments), it must be justified.

Policy MP1 part 2 states that the County Council will maintain a landbank of at least 7 years for sand and gravel. This complies with the NPPF and is supported by RBC. It should be noted that the most recent LAA (2019) identifies a landbank of permitted reserves of 17.89 million tonnes and this equates to 11.69 years (17.89/1.53). This also excludes the permission at Langford Quarry which was granted in 2018 for 3.6 million tonnes. If this is

included it would increase the landbank to 14 years (21.49/1.53). This is double the required landbank required within the NPPF and provides flexibility when identifying suitable minerals reserves

The failure to use the most recent LAA data means the plan is not based on proportionate evidence and therefore is not justified. It is also inconsistent with the NPPF, which promotes the use of annual assessments to inform the plan. The use of an out of date LAA challenges this approach.

6. Please set out what change(s) you consider necessary to make the identified part of the Local Plan legally compliant or sound, in respect of any legal compliance or soundness matters you have identified above. (please note that non-compliance with the duty to co-operate is incapable of modification at examination). You will need to say why each modification will make the Local Plan legally compliant or sound. It will be helpful if you are able to put forward your suggested revised wording of any policy or text. Please be as precise as possible.

Policy MP1 Part 1 should state:

“1. To meet identified levels of demand for aggregate mineral over the plan period (2018-2036) the following provision will be made:

- ~~32.30~~ 29.2 million tonnes of Sand and Gravel”

Paragraph 4.10 should refer to the Local Aggregates Assessment published in May 2019 (2017 data) and Table 1 amended to include minerals production figures between 2008 and 2017 as set out in the May 2019 LAA.

Please note: In your representation you should provide succinctly all the evidence and supporting information necessary to support your representation and your suggested modification(s). You should not assume that you will have a further opportunity to make submissions.

After this stage, further submissions may only be made if invited by the Inspector, based on the matters and issues he or she identifies for examination.

7. If your representation is seeking modification to the plan, do you consider it necessary to participate in the examination hearing session(s)?


No , I do not wish to participate in the hearing session(s)	
Yes , I wish to participate in the hearing session(s)	Yes

Please note that while this will provide an initial indication of your wish to participate in the hearing session(s), you may be asked at a later point to confirm your request to participate.

8. If you wish to participate in the hearing session(s), please outline why you consider this to be necessary:

RBC wish to attend in order to discuss the evidence which supports Policy MP1 as it has implications for the Borough and its residents.

Please note the Inspector will determine the most appropriate procedure to adopt to hear those who have indicated that they wish to participate in hearing session(s). You may be asked to confirm your wish to participate when the Inspector has identified the matters and issues for examination.

Signature		Date	11 October 2019
Name	John King		

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Part A – Personal details

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Person No:

Rep Nos:

	1. Personal details	2. Agent details (where applicable)
Title	Mr	
First name	John	
Last name	King	
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Address line 3	West Bridgford	
Postcode	NG2 7YG	
Email		
<i>For those replying on behalf of an organisation or group:</i>		
Organisation	Rushcliffe Borough Council	
Job title	Planning Policy Officer	

Part B – Your representation

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Person No:

Rep No:

Please read the guidance note before completing this section.

Name or organisation: Rushcliffe Borough Council

3. To which part of the Local Plan does this representation relate?

Policy	MP2	Site code		Map/Plan		Paragraph		Other	
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4. Do you consider the identified part of the Local Plan to be:

Legally compliant?	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
Sound?	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>
Complies with the Duty to co-operate	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>

Please tick as appropriate.

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If you wish to support the legal compliance or soundness of the Local Plan or its compliance with the duty to co-operate, please also use this box to set out your comments.

MP2: Sand and Gravel Provision

As set out in our representation on Policy MP1 (Aggregate Provision), the provision of aggregate required to meet demand should be reduced to 29.2 million tonnes of sand and gravel. This reflects the most up-to-date evidence in the LAA (2019).

Given this reduction the Minerals Planning Authority should, prior to publication, have reviewed its site selections and considered whether demand could be met through existing permitted reserves and the expansion of existing sites.

The total amount of remaining reserves identified in policy MP2 (MP2a-j) amounts to 23.31 million tonnes (not 17.5 million tonnes as stated in paragraph 4.17) and proposed extensions to existing permitted quarries amounts to 8.8 million tonnes. Combined these total 32.11 million tonnes, 2.91 million more than is required within the most recent LAA.

Policy SP1 within the publication draft sets out the strategy for the supply of minerals. It states that a) an adequate supply of minerals will be identified during the plan period and b) priority will be given to the extension of existing sites, where economically, socially, and environmentally acceptable. In accordance with this approach and considering the permitted reserves and extensions identified in Policy MP2, there does not appear to be a need for an additional new quarry at Barton Hill, or elsewhere. Its inclusion is therefore not justified.

Mill Hill – MP2s

Notwithstanding RBC's position that there is no need to allocate a new quarry to meet demand, RBC has serious concerns regarding the environmental impacts of the proposed sand and gravel allocation at Mill Hill near Barton in Fabis (MP2p).

Green Belt and Landscape Impacts

As the site is within the Green Belt, and would require significant infrastructure to transport the mineral up Mill Hill to the loading area adjacent to Green Street, there is likely to be significant harm to the openness of the Green Belt

and the Green Belt purpose which safeguards the countryside from encroachment. This concern is confirmed by the landscape appraisal of the allocation, which according to the Sustainability Appraisal and Site Assessment Methodology and Assessment document determines the landscape impacts to be very negative. Post-restoration, the landscape impacts are considered to remain very negative. The Landscape Character Assessment identifies the site as being the most sensitive site option (scoring 96/100 for both operational and long term effects).

As stated within the NPPF and draft policy SP6 (The Nottinghamshire Green Belt), mineral extraction is not inappropriate in the Green Belt, provided it preserves the openness and does not conflict with the purposes of including land within it. The supporting SA, landscape character assessment, and Site Assessment Methodology and Assessment all indicate that the quarry will significantly affect the openness of the Green Belt, especially the minerals transportation infrastructure which will extend up Mill Hill and the loading area on the summit. As these elements will not preserve the openness of the Green Belt, the allocation for minerals development should be considered inappropriate.

Consequently, in accordance with paragraph 144 of the NPPF, very special circumstances are required in order to allocate this site, these will not exist unless the potential harm to the Green Belt by reason of inappropriateness (impact on openness and encroachment into the countryside), and any other harm resulting from the proposal (see below), is clearly outweighed by other considerations. As substantial weight is given to any harm to the Green Belt and the quarry will have significant environmental impacts (see below) RBC does not believe very special circumstances exist. Critically the only other consideration that would outweigh these harmful effects, is the need to provide a geographical spread of sites as there is no need for a new quarry within the plan area according to the data within the 2019 LAA.

Given the importance of preserving the openness of the Green Belt, the MPA should have undertaken a Green Belt review of the sites to establish whether those allocations within the Green Belt would be inappropriate and, if so, whether very special circumstances exist.

Loss of Rights of Way and Impacts on Visual Amenity

Impacts on visual amenity are exacerbated by the number of rights of way that cross the site, including a bridleway and footpath to Barton in Fabis. The diversion of these routes and the enjoyment of them will be significantly affected whilst the quarry is in operation. The Trent Valley Way, an important regional trail, is on the opposite bank of the River Trent, within the Attenborough Nature Reserve. The enjoyment of this route is also likely to be affected. This is highlighted within the Landscape Character Assessment.

Impacts on Nature Conservation Assets

Located within the Trent Valley, the site includes or is immediately adjacent to the Barton Flash Local Wildlife Site (LWS), Barton Pond and Drain LWS, Brandshill Wood LWS, Brandshill Grassland LWS and Brandshill Marsh LWS. It is also in close proximity to Attenborough Gravel Pits and Holme Pit Site of Special Scientific Interest, and several more LWSs including Clifton Fox Covert, Burrows Farm Grassland and Clifton Wood. Page 235 of the SA Report highlights potential for direct and indirect impacts on these sites, during operations, through noise, dust, NOx and changes to hydrology and hydrogeology. Whilst restoration would include the creation of 62ha of priority habitat, the SA Report concludes that the allocation would still involve an overall reduction in BAP habitat and the loss and degradation of a number of LWSs and features used by protected species. The overall net reduction in priority habitat is a significant constraint.

Concerns regarding the surveys of protected and priority species have been raised, specifically Barn Owls which nest in the vicinity of the site. Given the known presence of this species, further surveys should be undertaken to establish the importance of the site for this species and whether breeding birds or their young would be disturbed (which is contrary to Wildlife and Countryside Act 1981).

Where such significant ecological impacts occur, in accordance with paragraph 175 of the NPPF, the 'mitigation hierarchy' should be applied. This favours avoidance (alternative sites (including extensions to existing quarries)) rather than mitigation or compensation (as is occurring here through restoration) as a last resort. If compensation would not avoid significant harm (as is the case with this allocation), the NPPF permits the refusal of development. As such the direct loss of LWS should be avoided and adequate avoidance and mitigation measures (such as buffers) put in place to ensure LWS and SSSIs in the vicinity are not adversely affected by noise, dust, NOx or changes in ground water quality and levels.

Impacts on Air Quality

The transportation by road and generation of dust raise air quality concerns, and the cumulative impact of this allocation and the adjacent Clifton Pastures employment and housing strategic urban extension must be considered. SA objective 11 seeks to protect and improve air quality, however the SA Report's assessment of Mill

Hill (on page 239) does not examine the types and levels of pollution generated (only the number of lorry movements) and there is no consideration of cumulative effects with the neighbouring strategic urban extension. The only mitigation measures proposed is dust suppression.

As previously advised, any extension to existing quarries or use of new land for sand and mineral extraction should be accompanied by air quality assessments. These assessments should consider the air quality impact as a result of operations including land movements and the extraction of sand and gravel. As well as the impact on vehicle movements arriving and leaving the sites, this assessment should reference the IAQM guidance on Mineral Dust Impacts for Planning 2016 as well as LAQM Technical Guidance (TG16). The scope of works should be agreed with officers from Rushcliffe Borough Council before any assessments commence.

Noise and Vibration

As previously advised, any extension to existing quarries or use of new land for sand and mineral extraction should be accompanied by noise and vibration assessments. These assessments should be in line with MPG 11 – control of noise at surface mineral workings. The scope of works should be agreed with officers from Rushcliffe Borough Council before any assessments commence.

Contaminated Land

Due to the potential for land surrounding the areas of mineral works being highlighted as potentially contaminated land RBC recommend that at least a Phase 1 desk top study is submitted with any application to determine whether a source – receptor pathway exists.

Cumulative Effects

Given the proximity of the Clifton Urban Extension, other cumulative effects with non-minerals proposals, beyond the effects of the policies as a whole or quarries combined, should also be considered within the SA.

Impacts on Local Residents

In addition to environmental impacts, the SA recognises that the site is in close proximity to settlements, especially Barton in Fabis which is approximately 130m to the south and west, and that during the operational phase there could be an adverse effect resulting from noise, dust and traffic. In terms of visual amenity, there would be a significant adverse change to views for residents on the northern edge of Barton in Fabis with windows facing the site and riverside properties to the eastern edge of the River Trent. It concludes that the allocation would have a very negative adverse effect on the SA's 14th objective which requires the protection and improvement of human health and quality of life.

Sustainability Appraisal

Overall the allocation has a negative effect on 8 of the 14 SA objectives (4 of which are very negative) and only scored positively against those objectives that other sites would equally perform positively against (meeting mineral needs and local employment). Only the allocation's close proximity to the A453 and Nottingham are unique to this site and this appears to have led to the site's allocation.

Paragraphs 6.50 to 6.54 of the SA Report state that twenty two sand and gravel sites were assessed and it was found that those which scored most negatively in the operational period included Barton-in-Fabis (Mill Hill). This is a consequence not only of the issues above, but the site's location within flood zone 3, impact on the historic environment, loss of agricultural land, and loss of water quality (all of which result in a negative assessment in the SA). Furthermore the Areas of Multiple Environmental Sensitivity Study 2014, which has informed the SA, identifies the site as being High Environmental Sensitivity ('Red').

The negative impacts identified within the SA Report have been recognised within the Site Selection Methodology and Assessment which justifies the allocation of the site on the basis that a site must be found within the Nottingham area in order to meet growth anticipated during the plan period and to achieve a geographical spread of sites (page 61). It concludes that of three possible sites in the area all would have very negative impacts, however this site has been selected due to its location adjacent to the A453. Evidence has not been provided that quarries within the Newark area, cannot however meet needs within Greater Nottingham.

Summary

RBC accepts that a geographical spread of minerals to meet needs across the county and beyond is preferable. However, due to the significant adverse effects upon the environment and local community of Barton in Fabis, the site's location within the Green Belt (which protects openness and Green Belt purposes) and critically the absence of any need for a new quarry (using the most recent LAA), this new site allocation should be removed from the

plan. It is therefore not justified, taking into account reasonable alternatives (extensions to existing quarries only) and proportionate evidence (within the LAA).

Finally, the trajectory of mineral extraction from Mill Hill indicates that this will commence in 2019. This appears ambitious given that the submitted application has not yet been determined.

6. Please set out what change(s) you consider necessary to make the identified part of the Local Plan legally compliant or sound, in respect of any legal compliance or soundness matters you have identified above. (please note that non-compliance with the duty to co-operate is incapable of modification at examination). You will need to say why each modification will make the Local Plan legally compliant or sound. It will be helpful if you are able to put forward your suggested revised wording of any policy or text. Please be as precise as possible.

Policy MP2 should be amended to reflect the latest data within the 2019 LAA. Part c should be removed in accordance with the strategic approach to minerals provision as set out within Policy SP1. It will have significant environmental effects on the area, harm the openness and purposes of the Green Belt. Consequently very special circumstances do not exist to allocate this site.

The justification should also be amended accordingly and the correct total of 23.31 million tonnes for remaining reserves (MP2a to MP2j) should be used to calculate the additional reserves required to deliver 29.2 million tonnes of sand and gravel during the plan period.

Please note: In your representation you should provide succinctly all the evidence and supporting information necessary to support your representation and your suggested modification(s). You should not assume that you will have a further opportunity to make submissions.

After this stage, further submissions may only be made if invited by the Inspector, based on the matters and issues he or she identifies for examination.

7. If your representation is seeking modification to the plan, do you consider it necessary to participate in the examination hearing session(s)?


No , I do not wish to participate in the hearing session(s)	
Yes , I wish to participate in the hearing session(s)	Yes

Please note that while this will provide an initial indication of your wish to participate in the hearing session(s), you may be asked at a later point to confirm your request to participate.

8. If you wish to participate in the hearing session(s), please outline why you consider this to be necessary:

RBC wish to participate in the hearings in order to discuss the evidence which justifies the allocation of this quarry within the Borough.

Please note the Inspector will determine the most appropriate procedure to adopt to hear those who have indicated that they wish to participate in hearing session(s). You may be asked to confirm your wish to participate when the Inspector has identified the matters and issues for examination.

Signature		Date	11 October 2019
Name	John King		