

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.

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- **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.
- **If you are part of a group that share a common view,** it would be helpful for that group to send a single representation rather than multiple copies stating the same point. Please indicate how many people are represented and how it has been authorised (e.g. by means of a list with contact details for each person or by a committee vote). This holds the same weight as separately submitted representations.

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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Part A – Personal details

Office use only

Person No:

Rep Nos:

	1. Personal details	2. Agent details (where applicable)
Title	Mr	
First name	Julian	
Last name	Coles	
Address line 1	██████████	
Address line 2	██████████	
Address line 3	██████████	
Postcode	██████████	
██████	██████████████████	
<i>For those replying on behalf of an organisation or group:</i>		
Organisation	Barton in Fabis Parish Council Thrumpton Parish Meeting Lark Hill Residents Association Clifton Village Residents Association SAVE (Save the Ancient Valley Environment)	
Job title	Parish Councillor	

Part B – Your representation

Office use only

Person No:

Rep No:

Please read the guidance note before completing this section.

Name or organisation: Barton in Fabis Parish Council / Thrumpton Parish Meeting / Lark Hill Residents Association / Clifton Village Residents Association / S.A.V.E (Save the Ancient Valley Environment)

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

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

Legally compliant?	Yes		No	X
Sound?	Yes		No	X
Complies with the Duty to co-operate	Yes		No	

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.

(Continue on a separate sheet/expand box if necessary)

Introduction

The submissions made in the attached documents are jointly made on behalf of the following organisations:

Barton in Fabis Parish Council
Thrumpton Parish Meeting
Clifton Village Residents Association
Lark Hill Residents Association

Note: Lark Hill Retirement Village

S.A.V.E (Save the Ancient Valley Environment)

Note: S.A.V.E is a campaigning group formed by members from the wider community and local residents affected by the proposal for a quarry at Mill Hill near Barton in Fabis. This includes residents from additional areas such as Attenborough, Beeston Rylands, Gotham as well as recreational users of the area such as horse riders, walkers, fishermen, bird watchers.

Scope of submission:

Separate representation forms / documents are made on the following policies / statements and sections of the Minerals local Plan Publication Version

- Overview, Vision and Strategic Objectives
 - SP2 Biodiversity Led Restoration
 - SP3 Climate Change
 - SP4 Sustainable Transport
 - SP5 The Built, Historic and Natural Environment
 - MP2 / MP2p Sand and Gravel Provision & allocated site Mill Hill near Barton in Fabis
- Appendices to MP2/MP2p response:
- o Appendix 1: Response to Consultation on Issues and Options on behalf of organisations listed above
 - o Appendix 2: Response to Consultation to Draft Minerals Local Plan on behalf of organisations listed above
 - o Appendix 3: Copy of Inspector's Report for the examination of the Essex County Minerals Local Plan
 - o Appendix 4: Letter to Greenfield Associates from Nottinghamshire County Council (22/8/19) setting out harm resulting from Planning Application ES/3712 covering the same proposed quarry as Site Allocation MP2p Mill Hill near Barton in Fabis.

Additional area:

- NCC Statement of Community Involvement

Schedule of additional appendices

- Response to Consultation on Issues and Options on behalf of organisations listed above
- Response to Consultation to Draft Minerals Local Plan on behalf of organisations listed above
- Copy of Inspector's Report for the examination of the Essex County Minerals Local Plan (referenced in submission on Policy MP2 / MP2p)
- Letter to Greenfield Associates from Nottinghamshire County Council (22/8/19) setting out harm resulting from Planning Application ES/3712 covering the same proposed quarry as Site Allocation MP2p Mill Hill near Barton in Fabis.

Additional background

We wish to bring to the Inspector's attention at any future Examination in Public the following background points:

The current Minerals Local Plan Publication Version (MLPPV) replaces a previous Minerals Local Plan Publication Version which was withdrawn prior to its scheduled Examination in Public (but after approval by the Full Council) following the County Council elections in May 2017 and a change of council leadership. **Both plans had identical Vision and Strategic Objectives, but have reached significantly different conclusions in terms of sites identified for the extraction of sand and gravel.**

The latest MLPPV includes a site at Barton in Fabis / Mill Hill previously rejected in the previous MLPPV on the basis of the environmental damage and low sustainability score for that site according to the County Council's own Sustainability Appraisal. This site has replaced a site at Shelford (in the ward of the now current leader of the County Council) which has a higher sustainability score.

The rationale for the change in allocation of sites appears to be based on the inclusion of a criteria in the latest MLPPV of establishing a 'geographical spread' of sites across the County. This is a completely new criteria which has the effect of 'trumping' adverse impacts relating to key Strategic Objectives notably: SO5 'Minimising impacts on communities'; and, SO6 'Protecting and enhancing natural assets'. In addition, the 'Site Selection Methodology and Assessment' now states that the Shelford site would be too large and skew the pattern of supply impacting the geographical spread of sites. However, there has been no analysis of the pattern of demand across the County or in terms of exports outside the County.

Note: We develop these points further in our submission under MP2 / MP2p and in relation to sites in the Nottingham area.

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.

(Continue on a separate sheet/expand box if necessary)

See representation forms:

- Overview, Vision and Strategic Objectives (paragraph 2.31)
- SP2 Biodiversity Led Restoration
- SP3 Climate change
- SP4 Sustainable Transport
- SP5 The Built, Historic and Natural Environment
- MP2 / MP2p Allocated site Mill Hill near Barton in Fabis

Additional area not covered by MLPPV:

- NCC Statement of Community Involvement

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)?

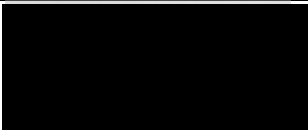
No , I do not wish to participate in the hearing session(s)	
Yes , I wish to participate in the hearing session(s)	X

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:

The organisations listed in Part A above represent a substantial number of residents affected by the Minerals Local Plan and in particular the allocated site at Mill Hill nr Barton in Fabis (MP2p) and have been endorsed at public meetings to represent the views of local 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	11/10/19
Name	Julian Coles		

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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	Julian	
Last name	Coles	
Address line 1	██████████	
Address line 2	██████████	
Address line 3	██████████	
Postcode	██████████	
Email	██████████████████	
<i>For those replying on behalf of an organisation or group:</i>		<i>For th</i>
Organisation	Barton in Fabis Parish Council Thrumpton Parish Meeting Lark Hill Residents Association Clifton Village Residents Association SAVE (Save the Ancient Valley Environment)	
Job title	Parish Councillor	

Part B – Your representation

Office use only

Person No:

Rep No:

Please read the guidance note before completing this section.

Name or organisation: Barton in Fabis Parish Council / Thrumpton Parish Meeting / Lark Hill Residents Association / Clifton Village Residents Association / S.A.V.E (Save the Ancient Valley Environment) _____

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

Policy	Vision	Site code		Map/Plan		Paragraph	2.31	Other	
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4. Do you consider the identified part of the Local Plan to be:

Legally compliant?	Yes		No	
Sound?	Yes		No	X
Complies with the Duty to co-operate	Yes		No	

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.

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(Continue on a separate sheet/expand box if necessary)

Strategic Objective 1: Improving the sustainability of minerals development

This strategic objective is unsound because it is poorly drafted and is therefore ineffective (para 35 NPPF). It includes the aim of “more efficient exploitation” without specifying what the comparator is. More than what? Is it more compared to the operation of the last plan? If so, how is efficiency judged? Is it more than the current national average? Again, if so, what is the base-line measure?

A further aspect of the unsoundness is that the objective to “Secure a spatial pattern of mineral development that efficiently delivers resources to markets within and outside Nottinghamshire” is too narrowly drawn. The objective relates to “Improving the sustainability of minerals development” which includes but does not solely relate to market delivery. The objective is therefore not effective in delivering sustainable minerals development.

The Vision for the Minerals Local Plan Publication Version (MLPPV) states that “mineral development will be concentrated in locations that offer the greatest level of accessibility to the major markets and growth areas and to sustainable transport nodes to encourage sustainable patterns and modes of movement.” However, the complete absence of numerical or other analysis in the MLPPV or indeed the County Council’s Local Aggregate Assessments in recent years of: a) what are the major markets and growth areas; and b) the failure to specify sites which utilise the most sustainable modes of movement

such as barging means that the MLPPV is fundamentally flawed. The Vision fails the 'justified' test of Paragraph 35 of the NPPF in that it is not based on proportionate evidence and accordingly is unsound.

SO3: Addressing climate change

This strategic objective is unsound because it makes no reference to carbon budgets and managing or assessing impact on carbon emissions in relation to the declared climate emergency. It therefore does not meet the criterion of effectiveness as set out in Para 35 of the NPPF. Given the time frame of the minerals plan, and the national goals of carbon neutrality, the strategic objective lacks any meaningful targets in relation to the need to minimise, mitigate and offset emissions or to encourage the use of recycled and alternative materials.

SO6: Protecting and enhancing natural assets

This strategic objective is unsound because it makes no reference to ensuring no net loss of biodiversity, and because in its criteria for supporting minerals development it does not specify avoiding the highest quality habitats for biodiversity – only landscapes of the highest quality for character. It therefore does not meet the criterion of effectiveness as set out in Para 35 of the NPPF.

SO5, SO6 and SO7

We are supportive of the strategic objectives dealing with minimising impacts on local communities (SO5), protecting and enhancing natural assets (SO6) and protecting and enhancing historic assets (SO7). However, the Minerals Local Plan is unsound because these objectives are not applied in the development and application of the site appraisal and allocation methodology. The goal of developing an appropriate and sustainable spatial distribution of sites (SO1) overrides the goals set out in SOs 5, 6 and 7. Moreover the goal of promoting sustainable modes of transport (SO1) is not applied as a consideration in the site allocation process

A sustainable spatial distribution of sites is not one which is simply determined by proximity to market and transport costs. Indeed, it can be argued that given that potential developers are probably better informed about the geography of the market and the economics of working a site than NCC, then it can be assumed that all the sites put forward by extraction companies are equally economically viable. In developing a Minerals Local Plan the goal of developing a sustainable spatial distribution is therefore dependent upon ensuring that of the sites allocated, those selected have the least impact on wider sustainability goals.

Conclusion:

The MLPPV is unsound because despite its strategic vision fails to avoid the allocation of sites with significant negative impact on landscape, heritage, biodiversity and climate, and therefore justifies inappropriate proposals over others that would be more beneficial.

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 cooperate 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.

(Continue on a separate sheet/expand box if necessary)

Strategic Objective 1: Improving the sustainability of minerals development

This objective should be reworded to include reference to metrics and indicators by which the improvement in efficiency can be assessed. There needs to be a proper target set for this strategic objective to be meaningful.

The statement that the plan aims to “Secure a spatial pattern of mineral development that efficiently delivers resources to markets within and outside Nottinghamshire” should be qualified as follows “Secure a spatial pattern of mineral development that minimises environmental and social impact while also delivering resources to markets within and outside Nottinghamshire as efficiently as possible”. This change would ensure that a sustainable minerals plan is not solely focussed on transport issues.

The Plan needs to include a thorough geographical analysis of allocation options. The interpretation of the concept of a sustainable spatial distribution simply in terms of the geography of the market is contrary to the overall sustainability goals that frame the MLPPV, and indeed undermines them. The MLPPV needs to specify what constitutes a sustainable spatial distribution of sites in a meaningful and balanced way and is inconsistent with its strategic objectives for sustainability. As it stands, the Plan is an ‘unjustified’ as an appropriate strategy, and is inconsistent with the principles of the NPPF, both failures against the tests of Paragraph 35 of the NPPF.

SO3: Addressing climate change

This objective should be redrafted because it (a) only references transport and working methods as drivers of climate change, and (b) mainly focusses on adaptation rather than mitigation. In the policy (see SP3) there should be reference to how actions impact on the management and minimisation of carbon emission by all activities and plan options, and specific reference to how carbon neutrality and recycling can be achieved, or contributed to, by the plan.

SO6: Protecting and enhancing natural assets

The second paragraph of this objective should be redrafted to more clearly reference and distinguish biodiversity and landscape issues. Thus, the text should read: “Prevent biodiversity loss and maximise net biodiversity gain by protecting, enhancing and re-connecting existing habitat and creating new habitat through a landscape-scale approach. Support minerals development that provides long term enhancements to biodiversity and landscape character and avoids damaging the highest quality landscapes and habitats”.

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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)	X

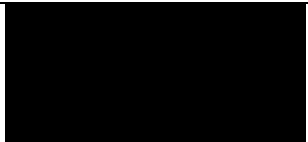
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8. If you wish to participate in the hearing session(s), please outline why you consider this to be necessary:

To demonstrate that the Vision and Strategic Objectives are unsound because they fail to avoid the allocation of sites with significant negative impact on landscape, heritage, biodiversity and climate, and therefore encourages inappropriate proposals over others that would be more beneficial.

Note: The organisations listed in Part A above represent a substantial number of residents affected by the Minerals Local Plan and in particular the allocated site at Mill Hill nr Barton in Fabis (MP2p) and have been endorsed at public meetings to represent the views of local residents.

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Signature		Date	11/10/19
Name	Julian Coles		

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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	Julian	
Last name	Coles	
Address line 1	██████████	
Address line 2	██████████	
Address line 3	██████████	
Postcode	██████████	
Email	██████████████████	
<i>For those replying on behalf of an organisation or group:</i>		
Organisation	Barton in Fabis Parish Council Thrumpton Parish Meeting Lark Hill Residents Association Clifton Village Residents Association SAVE (Save the Ancient Valley Environment)	
Job title	Parish Councillor	

Part B – Your representation

Office use only

Person No:

Rep No:

Please read the guidance note before completing this section.

Name or organisation: Barton in Fabis Parish Council / Thrumpton Parish Meeting / Lark Hill Residents Association / Clifton Village Residents Association / S.A.V.E (Save the Ancient Valley Environment)

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

Policy	SP2	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		No	
Sound?	Yes		No	X
Complies with the Duty to co-operate	Yes		No	

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.

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(Continue on a separate sheet/expand box if necessary)

Summary

The policy is unsound because it is not 'effective' or consistent with national policy in delivering sustainable development through appropriate biodiversity led restoration and therefore fails the tests of Paragraph 35 of the NPPF. Specifically:

- a) it fails to set out what happens where biodiversity gains are not maximised;
- b) it does not reference restoration measures to any mitigation hierarchy; and,
- c) it fails to specify requirements for sustainable long-term aftercare where restoration takes place.

Supporting detail

- a) The policy is not 'effective' because it fails to set out what happens where biodiversity gains are not maximised. Is there, for example, a requirement for a minimum threshold in relation to gain (e.g. no net loss)? Alternatively, is there any requirement to look at the nature and extent of concomitant biodiversity loss or the extent and likely success of biodiversity compensation measures? In the absence of such detail the policy is unlikely to be effective.

- b) The policy is also unsound in relation to its effectiveness because it does not reference restoration measures to any mitigation hierarchy which ensures that a preventative approach is prioritised thereby preventing avoidable biodiversity loss. Biodiversity restoration is not the sole criterion of the acceptability of development and does not outweigh the need for conservation of existing resources. The policy is ineffective because it does not explain how the balance between restoration and conservation is to be judged in any decision-making context. Nor does it specify that the development and restoration should result in **net biodiversity gain** rather than simply restoration. Paragraphs 8 and 32 of the NPPF advise that the planning system and plan making should look for opportunities to achieve net gains.
- c) The policy is unsound in relation to its effectiveness because **it also fails to specify requirements for sustainable long-term aftercare** where restoration takes place. Unless the biodiversity restoration/net biodiversity gain can be maintained then the policy cannot be effective in the long-term and support wider policies related to sustainable development.

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.

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Summary

The policy should re-drafted to:

- (a) Specify what happens where biodiversity gains are not maximised and whether there is a requirement for a minimum threshold (e.g. no net loss). To be effective the policy should provide an explanation of the constraints associated with biodiversity-led restoration and the issues that need to be considered if proposals for such restoration are to be judged adequate. The policy should also specify how the potential for biodiversity-led restoration is assessed in relation to the needs for conservation of existing resources.
- (b) Specify how judgments about the merits of restoration are made in relation to the application of the mitigation hierarchy normally used to manage biodiversity impacts. The requirements for adopting an approach based on the mitigation hierarchy that are outlined in DM4 (5.55) need to be included in the statement of SP2 (3.14) and therefore applied subsequently through the site appraisal and allocation process.
- (c) Specify what the requirements are for managing and sustaining long term biodiversity-led restoration gains.

Necessary Changes

(a) Maximising biodiversity gains

The policy should specify what factors influence judgements about biodiversity-led restoration when biodiversity gains are not maximised. Moreover, since biodiversity restoration does not necessarily imply restoration of existing species and habitats in the area, how judgements about the need to conserve existing resources are balanced against the needs of restoration. The policy should also specify how it stands in relation to issues of no net biodiversity loss and the design of biodiversity compensation measures to mitigate the impacts on existing biodiversity.

(b) The mitigation hierarchy

Currently planning policy recognises that although restoration provides an opportunity for the recreation of new habitats, it is not a substitute for conservation of existing resources. To be effective the Minerals Local Plan and SP2 needs to make a strong and meaningful link between the statements on biodiversity-led restoration and those in relation to sustainability objective SO6 Protecting and Enhancing Natural Assets). To be effective the policy must recognise that biodiversity-led restoration is not a substitute for conservation and the aim of ensuring no net biodiversity loss. The requirements for adopting an approach based on the mitigation hierarchy that are outlined in DM4 (5.55) need to be included in the statement of SP2 (3.14) for the policy to be effective. In this way they can be applied subsequently through the site appraisal and allocation process.

In their review of the NPPF, the British Ecological Society¹ state in relation to planning for no net loss to biodiversity that:

Anticipated impacts on biodiversity must be avoided or reduced through the use of alternative development sites or designs; unavoidable impacts must be mitigated and any residual damage must be compensated for (for example by creating the same habitat off-site). It is desirable for developments to aim for a 'net gain' in biodiversity overall, for example by providing more habitat than needed for mitigation and compensation.

The policy of ensuring that there is 'no net loss' of biodiversity as a result of development is well established in the UK, and so for SP2 to be effective it needs to be more explicitly referenced. The current statement of SP2 is unsound because it merely describes in simple terms what biodiversity-led restoration entails and the kinds of habitat that might be restored in the context of mineral development. There is no explanation of the constraints associated with biodiversity-led restoration or the issues that need to be considered if proposals for such restoration are to be considered adequate. As a result, the application of the principle of biodiversity-led restoration in the plan is ineffective in delivering appropriate biodiversity outcomes.

The views of the British Ecological Society noted above reflect current scientific consensus on restoration namely, that while it can be successful this is by no means guaranteed. For example, Curran et al. show² that while active restoration measures can significantly accelerate the increases in species diversity, the inherently large time lags, uncertainty, and risk of restoration failure require offset ratios that far exceed what is currently applied in practice, and that restoration offset policy therefore leads to a net loss of biodiversity. Similarly, Schoukens and Cliquet³ conclude that given the limitations of restoration "a reinforcement of the preventative approach is instrumental in averting a further biodiversity loss within the European Union". To be effective therefore SP2 needs to be explicit in terms of how issues around achieving no net biodiversity loss are to be achieved and how such measures sit in relation to the concept of biodiversity led restoration in a decision-making context. This is especially important because policy SP5 (The Built, Historic and Natural Environment) which deals with nature conservation also lacks any reference to these issues. However, even if they are implicit in SP5, the overall policy framework is ineffective because it fails to show how the balance between conservation and restoration can be judged.

Notwithstanding the need to revise the policy SP2 on Biodiversity-led restoration to reflect its place in the mitigation hierarchy, the material relating to restoration also needs to be strengthened by reference to criteria that will ensure that where biodiversity-led restoration is appropriate, then ecologically appropriate robust schemes are brought forward. Only then will the policy be effective. This change does not merely consist of listing the kinds of habitat that might be expected in any restoration schemes but in also specifying what kinds of actions effective restoration measures entail.

The Guidelines for Ecological Impact Assessment of the Chartered Institute of Ecology and Environmental Management states, for example, that proposers should demonstrate commitment to the package of mitigation, compensation and enhancement measures which should include: a monitoring scheme to evaluate the success of mitigation measures; remedial measures in the event that mitigation measures and/or compensation measures are unsuccessful or there are unforeseen effects; and an auditing/reporting framework. Clearly, the mitigation and remedial measures should be sufficient to ensure

that compensation ratios are sufficient. Moreover, to be effective in the formulation of SP2 there should be a greater presumption towards ensuring net biodiversity gain.

(c) Long-term, sustainable management

To be effective the SP 2 should also ensure that developers demonstrate that the timespan and implementation of the restoration plan is ecologically meaningful and can be sustained over that period. Unless there is serious and demonstrable commitment to restoration at the outset, efforts for biodiversity-led restoration in any scheme are likely to be unsuccessful. The requirements on adequate aftercare contained in DM12 should be reflected more strongly in the text related to SP2, namely that:

Restoration proposals will be subject to a minimum five-year period of aftercare. Where proposals or elements of proposals, such as features of biodiversity interest, require a longer period of management the proposal will only be permitted if it includes details of the period of extended aftercare and how this will be achieved. (5.120, point 5)

References

¹ <https://www.britishecologicalsociety.org/planning-for-no-net-loss-of-biodiversity/>

² Curran, M., S. Hellweg, and J. Beck. 2014. Is there any empirical support for biodiversity offset policy? *Ecological Applications* 24:617-632.

³ Schoukens, H. and Cliquet, A., 2016. Biodiversity offsetting and restoration under the European Union Habitats Directive: balancing between no net loss and deathbed conservation? *Ecology and Society*, 21(4).

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)	X

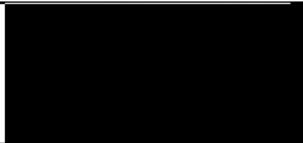
Please note that while this will provide an initial indication of your wish to participate in the hearing session(s), you may be asked at a later point to confirm your request to participate.

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

To show that the Policy SP2 is unsound and results in the incorrect evaluation of biodiversity issues and the incorrect allocation of the site at Mill Hill, Barton in Fabis.

Note: The organisations listed in Part A above represent a substantial number of residents affected by the Minerals Local Plan and in particular the allocated site at Mill Hill nr Barton in Fabis (MP2p) and have been endorsed at public meetings to represent the views of local 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	11/10/19
Name	Julian Coles		

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Nottingham, NG2 7QP

✉ planning.policy@nottscc.gov.uk

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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	Julian	
Last name	Coles	
Address line 1	██████████	
Address line 2	██████████	
Address line 3	██████████	
Postcode	██████████	
Email	██████████████████	
<i>For those replying on behalf of an organisation or group:</i>		
Organisation	Barton in Fabis Parish Council Thrumpton Parish Meeting Lark Hill Residents Association Clifton Village Residents Association SAVE (Save the Ancient Valley Environment)	
Job title	Parish Councillor	

Part B – Your representation

Office use only

Person No:

Rep No:

Please read the guidance note before completing this section.

Name or organisation: Barton in Fabis Parish Council / Thrumpton Parish Meeting / Lark Hill Residents Association / Clifton Village Residents Association / S.A.V.E (Save the Ancient Valley Environment)

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

Policy	SP3	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		No	
Sound?	Yes		No	X
Complies with the Duty to co-operate	Yes		No	

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.

(Continue on a separate sheet/expand box if necessary)

We are supportive of the inclusion of climate change in the suite of strategic policies that shape the Minerals Local Plan. However, SP3 is unsound because it is deficient in two respects which undermine its effectiveness:

- a) That the statement in point b) of Policy SP3 needs be modified to clarify what ‘vulnerability’ is referring to. Flood risk is identified as an issue. Communities, natural and historic assets and agricultural soils also need to be highlighted. The need to minimise the vulnerability of existing biodiversity assets to climate change impacts should be identified as an issue, and also should be a factor in determining the general allocation of sites for development.**
- b) That while the reference to restoration is appropriate in point 1c) of policy SP3, the policy also needs to state that such restoration schemes can contribute to climate change adaptation providing that they compensate for the impacts they have had as a result of the development.**

We are supportive of the recognition that in some circumstances mineral development can provide a number of opportunities to mitigate and adapt to the impacts of future climate change (3.34). However, we are concerned that this theme is not carried over into expectations in terms of the issues outlined in point 1a) of Policy SP3. The location, design and operation, and significantly the restoration of sites, should not only seek to avoid climate change impacts, but also deliver a net gain in terms of climate change adaptation.

Given the time frame of the minerals plan, and the national goals of carbon neutrality, the policy fails to be effective in that it lacks any meaningful targets in relation to the need to assess climate change impacts of plans and options. It also fails to provide any targets for the management of carbon emissions or to show how the use of recycled or alternative materials can be encouraged by the Plan.

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 cooperate 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.

(Continue on a separate sheet/expand box if necessary)

To be effective, the policy on climate change should be revised to:

- a) To take account of the vulnerability of assets to climate change
- b) Be clear as to what scale of 'contribution' to climate change mitigation and adaptation is appropriate otherwise the requirement not effective.
- c) Require that location, design and operation, and significantly the restoration of sites, should not only seek to avoid climate change impacts, but also deliver a net gain in terms of climate change adaptation.
- d) Make reference to how actions impact on the management and minimisation of carbon emission by all activities and plan options, and specific reference to how carbon neutrality can be achieved, or contributed to, by the Plan. This should be done at a strategic level as well as on a site by site basis.
- e) The policy should be revised to include meaningful targets in relation to the need to manage carbon emissions.
- f) The policy should be revised to include a statement of how the use of recycled materials can be encouraged in order to minimise the climate change impacts of primary extraction.

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)	X


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:

To demonstrate that Policy SP3 is unsound and fails to cover key aspects of climate change.

Note: The organisations listed in Part A above represent a substantial number of residents affected by the Minerals Local Plan and in particular the allocated site at Mill Hill nr Barton in Fabis (MP2p) and have been endorsed at public meetings to represent the views of local 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	11/10/19
Name	Julian Coles		

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- b) **Representations must be on the basis of the ‘soundness’ of the plan or its legal and Duty to Co-operate compliance.** Please read the guidance note on this for further information.
- c) **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.
- d) **If you are part of a group that share a common view,** it would be helpful for that group to send a single representation rather than multiple copies stating the same point. Please indicate how many people are represented and how it has been authorised (e.g. by means of a list with contact details for each person or by a committee vote). This holds the same weight as separately submitted representations.

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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	Julian	
Last name	Coles	
Address line 1	██████████	
Address line 2	██████████	
Address line 3	██████████	
Postcode	██████████	
Email	██████████████████	
<i>For those replying on behalf of an organisation or group:</i>		
Organisation	Barton in Fabis Parish Council Thrumpton Parish Meeting Lark Hill Residents Association Clifton Village Residents Association SAVE (Save the Ancient Valley Environment)	
Job title	Parish Councillor	

Part B – Your representation

Office use only

Person No:

Rep No:

Please read the guidance note before completing this section.

Name or organisation: Barton in Fabis Parish Council / Thrumpton Parish Meeting / Lark Hill Residents Association / Clifton Village Residents Association / S.A.V.E (Save the Ancient Valley Environment)

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

Policy	SP4	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		No	
Sound?	Yes		No	X
Complies with the Duty to co-operate	Yes		No	

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.

(Continue on a separate sheet/expand box if necessary)

Summary

We contend that the policy is unsound because:

- a) The objectives of the Policy have not been appropriately integrated into site selection decisions and Policy SP4 is not effective.
- b) Accordingly, the MLPPV as a whole does not have sufficient regard for sustainable transport and is not an appropriate strategy, failing the 'justified' test of paragraph 35 of the NPPF

Supporting detail

- a) Policy SP4 seeks to encourage sustainable forms of transport such as barge and rail in Policy statement 3.39 point 1 "All mineral proposals should seek to maximise the use of sustainable forms of transport, including barge, rail and pipeline." However, the Minerals Local Plan is **unsound** in that this policy objective has not been applied in the subsequent allocation of sites, and therefore there is a mis-alignment between policy and practice. SP4 (3.41) states that "the promotion of alternative, more sustainable forms of transport such as barge or rail is important" and (3.4.2) notes that barge transport has historically been used on the River Trent and that "Studies have shown there is potential to increase water-borne freight on parts of the river". Despite this, no site has

been allocated which makes any use of barging although the site at Shelford would transport 40% of its output by barge and that SP7 safeguards the required wharf at Colwick (3.87 / 3.88). **Note: We develop this argument further in our submission under MP2 and in relation to the sites in the Nottingham area.**

- b) The distance over which minerals need to be transported is one factor to consider. However, this is treated in a simplistic way in the Policy statement, 3.39 point 2a) “within close proximity to existing or proposed markets”. Close proximity to market is an issue, but this statement also needs to be qualified to emphasise a proviso that that this does not result in sites with the greatest social, environmental and landscape impacts being allocated in preference to others with lesser impact. In other words, **proximity to market is one factor but not an overriding one**. If it is given too much emphasis in site allocation then this would undermine other policy objectives set for the Minerals Local Plan such as SO5 Minimising impacts on communities and SO6 Protecting and enhancing natural assets.
- c) The goal of encouraging the sustainable use of resources through the use of recycled and secondary aggregates will be undermined by undue emphasis on geographical location in relation to market as a factor in site allocation. Transport costs should reflect the true and total cost of exploitation and delivery from sites which in all other respects entail the least damage to natural, historic and social assets. Recycling will not occur unless there is pressure to do so.

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.

(Continue on a separate sheet/expand box if necessary)

Summary

The policy should re-drafted as follows:

- a) Policy statement, 3.39 point 2a) “within close proximity to existing or proposed markets” should be qualified to make it clear that this should not result in sites with the greatest social, environmental and landscape impacts being allocated in preference to others with lesser impact. In other words, **proximity to market is one factor but not an overriding one**. This qualification should then be taken in to the site selection methodology.
- b) Since it is not included in other Policies, reference should be included in SP4 to the need for transport costs to reflect the true and total cost of exploitation and delivery from sites which in all other respects entail the least damage to natural, historic and social assets in order to encourage the goal of the sustainable use of resources through the use of recycled and secondary aggregates. Specify what happens where biodiversity gains are not maximised and whether there is a requirement for a minimum threshold (e.g. no net loss). To be effective the policy should provide an explanation of the constraints associated with biodiversity-led restoration and the issues that need to be considered if proposals for such restoration are to be judged adequate. The policy should also specify how the potential for biodiversity-led restoration is assessed in relation to the needs for conservation of existing resources.
- c) If Policy SP4 and the Plan as a whole is to conform with the ‘effective’ test of paragraph 35 of the NPPF, the site selection methodology should be revisited to take fuller account of the statements in Policy SP4 below:

3.39 point 1 “All mineral proposals should seek to maximise the use of sustainable forms of transport, including barge, rail and pipeline”

3.41 that “the promotion of alternative, more sustainable forms of transport such as barge or rail is important”

3.4.2 noting that barge transport has historically been used on the River Trent and that “Studies have shown there is potential to increase water-borne freight on parts of the river”.

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.

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

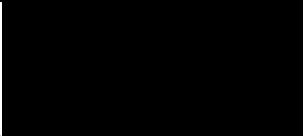
Please note that while this will provide an initial indication of your wish to participate in the hearing session(s), you may be asked at a later point to confirm your request to participate.

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

To demonstrate that Policy SP4 is unsound and that this has implications for the correct implementation of the site assessment methodology.

Note: The organisations listed in Part A above represent a substantial number of residents affected by the Minerals Local Plan and in particular the allocated site at Mill Hill nr Barton in Fabis (MP2p) and have been endorsed at public meetings to represent the views of local 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	11/10/19
Name	Julian Coles			

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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	Julian	
Last name	Coles	
Address line 1	██████████	
Address line 2	██████████	
Address line 3	██████████	
Postcode	██████████	
Email	██████████████████	
<i>For those replying on behalf of an organisation or group:</i>		
Organisation	Barton in Fabis Parish Council Thrumpton Parish Meeting Lark Hill Residents Association Clifton Village Residents Association SAVE (Save the Ancient Valley Environment)	
Job title	Parish Councillor	

Part B – Your representation

Office use only

Person No:

Rep No:

Please read the guidance note before completing this section.

Name or organisation: Barton in Fabis Parish Council / Thrumpton Parish Meeting / Lark Hill Residents Association / Clifton Village Residents Association / S.A.V.E (Save the Ancient Valley Environment)

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

Policy	SP5	Site code		Map/Plan		Paragraph		Other	
--------	-----	-----------	--	----------	--	-----------	--	-------	--

4. Do you consider the identified part of the Local Plan to be:

Legally compliant?	Yes		No	
Sound?	Yes		No	X
Complies with the Duty to co-operate	Yes		No	

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.

(Continue on a separate sheet/expand box if necessary)

Summary

Policy SP5 is unsound and fails to meet the 'effective or 'justified tests of NPPF paragraph 35 because:

- a) The emphasis on restoration throughout should be reduced and the importance of preservation and enhancement of assets stressed in line with paragraph 174 of the NPPF in order that the policy can be justified.
- b) The lack of transparency in the way Policy SP5 is applied in the site allocation process makes it ineffective. The emphasis on restoration throughout should be reduced and the importance of protection and maintenance of assets stressed. Accordingly, the Plan, as a whole does not have sufficient regard for the built, historic and natural environment transport and is not an appropriate strategy, failing the 'justified' test of paragraph 35 of the NPPF.

Supporting detail

- a) Since this policy concerns the need to protection and enhancement of built, historic and natural assets, it is misleading to refer to the opportunities of restoration once they are damaged or

removed (Para 3.45). The policy needs to state that there are circumstances in which minerals development (despite the opportunities for restoration) may not be appropriate because of the initial or ongoing impact and loss it will entail for the built, historic and natural assets. Thus paragraph 3.47 needs to be expanded to include natural and built assets, placed at the head of the section on Policy SP5, and the policy then actually needs to be designed around it. **Unless this is done the policy cannot be effective and the decisions based on it justified.**

- In general terms, policy, if it is to be meaningful, needs to shape and guide action or change the way people and organisations do things for the better. **The current structure of SP5 is unsound because it fails to do this.** It is unduly focussed on some of the constraints that need to be considered by developers in making proposals, and the requirements of an environmental impact assessment should one be required.
 - For example, in relation to nature conservation the policy should, given the strategic remit of SP5, make reference to paragraph 174 of the NPPF. This states that planning policies should “promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity”. Further considerations (paragraph 175 (b)) also includes those relating to the off-site impacts of developments on SSSIs and other designated areas.
 - In the context of nature conservation it is also essential to include the requirements of the recent update of the NPPF, which in para 175 (c) states that: development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists. Wholly exceptional includes infrastructure projects (e.g. nationally significant infrastructure projects, orders under the Transport & Works Act and hybrid bills), where the public benefit would clearly outweigh the loss or deterioration of habitat. The definition of wholly exceptional projects does not include mineral workings.
- b) While the requirements of the NPPF clearly apply to individual planning applications, they must also apply to the minerals planning process itself which involves assessing sites relative to each other across a range of criteria relating to the built, historic and natural environment. Unless a site allocation methodology is devised that reflects the requirements of the NPPF then it is likely that the outcome would be the promotion of unsuitable locations. Policy should therefore state how it will operate given the requirements of the NPPF in allocating sites and in identifying those that are unsuitable given the scale and nature of their impacts.

Note: We develop this argument further in our submission under MP2 and in relation to the sites in the Nottingham area.

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.

(Continue on a separate sheet/expand box if necessary)

Summary

The policy should re-drafted to:

- a) State that there are circumstances in which minerals development (despite the opportunities for restoration) may not be appropriate because of the initial or ongoing impact and loss it will entail for the built, historic and natural assets.
- b) Paragraph 3.47 needs to be expanded to include natural and built assets, placed at the head of the section on Policy SP5, and the policy then actually needs to be designed around it.
- c) Reflect the fact that policy, if it is to be meaningful, needs to shape and guide action or change the way people and organisations do things for the better. It is unduly focussed on some of the constraints that need to be considered by developers in making proposals, and the requirements of an environmental impact assessment should one be required.
- d) In relation to nature conservation the policy should make reference to paragraph 174 of the NPPF. This states that planning policies should “promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity”. Further considerations (paragraph 175 (b)) also includes those relating to the off-site impacts of developments on SSSIs and other designated areas.
- e) In the context of nature conservation it is also essential to include the requirements of the recent update of the NPPF, which in para 175 (c) states that: development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists. Wholly exceptional includes infrastructure projects (e.g. nationally significant infrastructure projects, orders under the Transport & Works Act and hybrid bills), where the public benefit would clearly outweigh the loss or deterioration of habitat. The definition of wholly exceptional projects does not include mineral workings.
- f) Policy should therefore state how it will operate given the requirements of the NPPF in allocating sites and in identifying those that are unsuitable given the scale and nature of their impacts.

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)	X

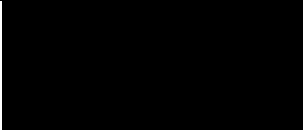
Please note that while this will provide an initial indication of your wish to participate in the hearing session(s), you may be asked at a later point to confirm your request to participate.

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

To demonstrate that Policy SP5 is unsound and that this results in the mis-allocation of the site at Mill Hill, Barton in Fabis.

Note: The organisations listed in Part A above represent a substantial number of residents affected by the Minerals Local Plan and in particular the allocated site at Mill Hill nr Barton in Fabis (MP2p) and have been endorsed at public meetings to represent the views of local 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	11/10/19
Name	Julian Coles		

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.
- **Representations must be on the basis of the ‘soundness’ of the plan or its legal and Duty to Co-operate compliance.** Please read the guidance note on this for further information.
- **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.
- **If you are part of a group that share a common view,** it would be helpful for that group to send a single representation rather than multiple copies stating the same point. Please indicate how many people are represented and how it has been authorised (e.g. by means of a list with contact details for each person or by a committee vote). This holds the same weight as separately submitted representations.

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

We must receive your representations before 4.30pm, Friday 11th October 2019.

Representations received after this cannot be accepted.

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.

Nottinghamshire County Council’s Planning Policy Service is committed to protecting your privacy and ensuring all personal information is kept confidential and safe. View our privacy notice at www.nottinghamshire.gov.uk/privacy

Part A – Personal details

Office use only

Person No:

Rep Nos:

	1. Personal details	2. Agent details (where applicable)
Title	Mr	
First name	Julian	
Last name	Coles	
Address line 1	██████████	
Address line 2	██████████	
Address line 3	██████████	
Postcode	██████████	
Email	██████████████████	
<i>For those replying on behalf of an organisation or group:</i>		
Organisation	Barton in Fabis Parish Council Thrumpton Parish Meeting Lark Hill Residents Association Clifton Village Residents Association SAVE (Save the Ancient Valley Environment)	
Job title	Parish Councillor	

Part B – Your representation

Office use only

Person No:

Rep No:

Please read the guidance note before completing this section.

Name or organisation: Barton in Fabis Parish Council / Thrumpton Parish Meeting / Lark Hill Residents Association / Clifton Village Residents Association / S.A.V.E (Save the Ancient Valley Environment)

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

Policy	MP2	Site code	MP2p	Map/Plan		Paragraph		Other	
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4. Do you consider the identified part of the Local Plan to be:

Legally compliant?	Yes		No	
Sound?	Yes		No	X
Complies with the Duty to co-operate	Yes		No	

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.

(Continue on a separate sheet/expand box if necessary)

Summary

The Nottinghamshire Minerals Local Plan Publication Version (MLPPV) does not meet the criteria for 'justification' as set out in para 35 of the National Planning Policy Framework, because in relation to the site at Mill Hill, Barton in Fabis, it does not apply an appropriate site selection strategy that takes account the reasonable alternatives. The justification for the selection of the site at Barton and the omission of other sites considered at the draft stage (e.g. Shelford) is not based on a proportionate and consistent evaluation of the available evidence. Contrary to the objectives of the NPPF as a whole, the allocation of Mill Hill does not constitute sustainable development. Specifically:

- a) **Unsoundness of site selection methodology:** The methodology in site selection is unsound and unjustified because it is not aligned with the results of the public consultation at the Issues and Options stage.
- b) **Application of site selection methodology:** The application of the existing site selection methodology is unsound because of the weight given to geographical spread. The plan lacks justification because there is a significant absence of evidence to support the application of geographical spread. We show that contrary to the position of the County Council, the allocation of Shelford would not affect the geographical spread of sites and not selecting Shelford misses a highly significant opportunity to embrace sustainable transport principles.
- c) **Site Assessment for Mill Hill, Barton in Fabis:** The site at Mill Hill, Barton in Fabis, has the greatest score for negative impacts of all the sites selected for allocation in the Plan. Page 61 of the Site Selection Methodology and Assessment (SSMA) May 2019 states "In assessment against sustainability appraisal objectives, the site scores very negatively during the operational phase (our emphasis) and slightly negatively in the long term." We consider, however, that the site should score more negatively than is conveyed in the Sustainability Appraisal: there are highly negative impacts in relation to heritage, ecology, landscape, flood risk, air quality and impact on human health and quality of life. The allocation of Mill Hill Barton in Fabis has significantly greater adverse effects than Shelford, which we consider should be allocated instead. The selection of Mill Hill, Barton in Fabis is therefore unjustified.

It should be noted also that as a result of a planning application for gravel extraction for part of the proposed site at Barton in Fabis a number of other adverse issues can be identified that makes the allocation the Minerals Plan unjustified. The planning application at Barton on Fabis (reference ES/3712) is for a site larger than the proposed allocation and includes land within Nottingham City. The Parish Council has objected to this application and has followed its progress closely. We recognise that the application will need to be determined on its own merits but it is clear from correspondence from the County Council that there is clear fundamental harm derived from the application proposals and we append the County Council's letter to the Applicant dated 30 August 2019 (Our Appendix 4) .

In regard to Heritage, the County Council state:

"Following consultation, officers disagree with a number of the conclusions of the assessment and are of the view the development would result in the following impacts:

- *There would be substantial harm to the setting of Clifton Hall (Grade I listed) and its Registered Park and Garden (grade II listed) during extraction;*
- *There would be less than substantial harm to Clifton Hall and its Registered Park and Garden following restoration."*

Substantial harm to a Grade I listed building should be wholly exceptional and to a Registered Park and Garden, exceptional, as defined by paragraph 194 of the NPPF. It is highly pertinent to

note that the officers of the County Council do not consider this harm would be likely to be reduced through amendments. While they advise that substantial public benefits could be forthcoming “through the improvements to the understanding of Clifton Hall Registered Park and Garden and the preparation and implementation of a Conservation Management Plan to improve the condition and management of the heritage asset”. We do not consider that this would be either feasible or sufficient to mitigate the harm created to Clifton Hall and the Registered Park and Gardens and alone is sufficient justification to de-select the site as a proposed allocation.

Note: Our previous responses to the 1) Consultation on Issues and Options and 2) Consultation on the Draft Minerals Local Plan (our Appendices 1 & 2) are attached as background to the above points.

Supporting detail

a) Unsoundness of site selection methodology

Any consideration of the soundness of MP2 / MP2p must refer back to the Issues and Options Analysis published in March 2018 which has formed the basis for MP2. This is important because the Options on which the site was based fail to materialise in any obvious way through the sustainability appraisal and the site selection evidence. The Options Analysis evaluated five policy options:

- A. Geographical spread across the County
- B. Prioritise specific areas
- C. Prioritise locations with potential for transporting sand and gravel by river barge
- D. Allocate sites based on their individual merits
- E. Use criteria-based policy approach.

It concluded that “Options A and C scored equally favourably and were more sustainable than the other options”. We make objection to this conclusion as the analysis which led to it is unsound. Our reasons are as follows:

- As is acknowledged in the summary on Page 50 of the Issues and Options Analysis, there is “considerable uncertainty” as to the possible impacts of the options on the sustainability objectives; half of them were not included in the scoring due to lack of detail. As a result of such uncertainty, a precautionary approach would suggest that sustainable outcomes are more likely to be achieved if sites are considered on their individual merits than by the application of general criteria such as geographical spread.
- The flawed logic used in the analysis is evidenced by the commentary against:

Criterion 2 ‘Protect and enhance biodiversity at all levels and safeguard features of geological interest’: We argue that if sites are considered on their individual merits then this is more likely to result in safeguarding than if they are overridden by criteria such as geographical spread. We therefore argue that option D should be rated as positive in order that decisions made on the basis of the plan are justified.

Criteria 4, 5, 7, 8, 9, 11, 12 and 14: The same logic as applied to criterion 2 also applies to these objectives. If overall impacts of minerals development are to be minimised then the negative outcomes can only be minimised by considering sites on their merits. We therefore argue that option D should be scored as positive across all these criteria in order that decisions made on the basis of the plan are justified.

Criterion 3 ‘Promote sustainable patterns of movement and the use of more sustainable modes of transport’: The commentary states that geographical spread is likely to result in sites being closer to markets thus reducing road haulage distances. Such a conclusion could only be supported if a detailed geographical analysis of the market had been done. **It has**

not. The closest to such an analysis is the commentary provided on page 44-45 of the Site Selection Methodology and Assessment, which focusses almost exclusively on the local market. However, the 2017 Nottinghamshire and Nottingham Local Aggregates Assessment shows that:

- o more than half of the sand and gravel extracted in Nottinghamshire is exported (para 3.9);
- o that there is considerable import of sand and gravel in the south across the County boundary (para 3.11); the 2019 LAA also notes that exports of sand and gravel “are likely to remain a significant proportion of sales” and,
- o that average annual haulage distances are approximately 35 miles and increasing (para 3.13).

Thus, there is considerable uncertainty about the location of the actual market and the geography of patterns of supply and demand and no detailed analysis has been undertaken. As a result, this objective should be scored as uncertain or unknown rather than positive for Option A.

Criteria 3 and 7: The analysis is biased toward Option A because the issue of minimising road haulage is counted twice. Climate change impacts (Criterion 7) are assumed to be minimised by wider geographical spread of sites because of market proximity. Such an assumption is uncertain as we have shown above. However, the issue of double counting would apply even if a more robust analysis of the geography of the market was available. Reference to road haulage should therefore be removed from criterion 7 and criterion 7 scored as uncertain because the extent to which sites minimise impact on climate can only be assessed in a case by case basis (i.e. on their merits using criteria such as the amount of emissions per ton of aggregate extracted). If transport is to be included then the ability to provide alternative modes of haulage such as barge transport should be used here in line with SP4 3.41 A precautionary approach to the evaluation of the impacts of the five options on the sustainability objectives would therefore suggest that option D has been inappropriately and negatively scored relative to Option A. The preferred options that meet the County’s sustainability goals are clearly C and D, rather than A and C. As a result, the Plan is inconsistent and cannot be used to justify the proposed set of sites.

The MLPPV is therefore unsound in terms of the justification for the site selection methodology used and the options selected should be revised reflect a fully justified and robust analysis of their likely impacts on the MLPPV’s sustainability appraisal objectives.

b) Application of site selection methodology

The application of the site evaluation methodology is unsound on the grounds that it is flawed and applied inconsistently. As a result, its conclusions are unjustified.

We argue that geographical spread can be used as a criterion to decide between sites all other things being equal. In other words, if sites had similar environmental and social impacts then those more widely spaced might be selected over a more concentrated distribution. However, by identifying geographical spread as an over-riding factor, the current plan shifts impacts to more potentially damaging sites as is evidenced by the commentary on Mill Hill near Barton in Fabis, on page 61 of the Site Selection Methodology and Assessment document “When tested against sustainability objectives, it has a higher negative impact than the other sites but whilst the sustainability appraisal reports very negative impacts in the operational phase, these become slight negative impacts in the long term. In terms of landscape impact, the site scores higher than other Nottingham related sites. The site is selected nonetheless on grounds of geography, even though there are less damaging sites in other parts of the county (e.g. Coddington or Shelford).

In support of the contention for the unsoundness of this aspect of the Plan, it should also be noted that:

- Although SO1 of the Plan states that it should seek to 'secure a spatial pattern of mineral development that efficiently delivers resources to markets within and outside Nottinghamshire' it should be noted that no analysis of the ways in which different possible spatial configurations of sites might meet this objective are provided. NCC have confirmed (email 30/8/18) that "There is no published data related to the geographical spread for the particular allocation of sites". **As a result, any argument that the Minerals Local Plan can actually deliver this Strategic Objective are unjustified and the plan is unsound.**
- The lack of a detailed analysis is a serious omission from the Plan because it is possible to develop an overview of demand by taking the % of total housebuilding in each area as a reasonable guide as to where quarry sites should be located. The Nottinghamshire and Nottingham LAA (2019) confirms (5.14) that housebuilding accounts for 20% total aggregate production (other estimates put this figure at 35%), where houses are built is where jobs are created with associated commercial buildings and major infrastructure projects and local infrastructure such as roads and schools – thereby equating to a higher percentage. Table 1 provides an estimate of the distribution of house development in Nottinghamshire; it shows that about 56% of the demand is in the Nottingham area.

	Local Authority	Average dwellings PA	Area percentage share
North	Bassetlaw	435	
Area total		435	9.5%
Central	Ashfield	452	
	Mansfield	376	
	Newark	740	
Area Total		1568	34.3%
Nottingham Area	Broxtowe	362	
	Gedling	426	
	Nottingham	1009	
	Rushcliffe ²	774	
Area Total		2571	56.2%

- Table 2 uses figures provided in the MLPPV for the total requirement 32.3mt in the plan period and the amount available after taking account of 'export' requirements; we use 40% and 50% export levels for the analysis. We focus particularly on the estimates of the requirement in the Nottingham area of 10.89mt, and 9.08mt respectively, and the extent to which this estimated demand is met by alternative site allocations in the Nottingham area.

	40% export	50% export
Total exported	12.92	16.15
Net Total for Notts	19.38	16.15
North (9.5%)	1.84	1.57
Central / Newark (34.3%)	6.64	5.53
Nottingham Area (56.2%)	10.89	9.08

- Table 3 shows the extent to which the sites allocated in the Nottingham area meet the estimated demand with 40% and 50% export. With the allocation of East Leake (approved), and Mill Hill Barton in Fabis there is a deficit in the proportional supply to the Nottingham area of between 4.8 and 2.99mt.

	40% export	50% export

¹ Nottinghamshire and Nottingham Local Aggregate Assessment October 2017 <http://www.nottinghamshire.gov.uk/media/127116/october-2017.pdf>

² Rushcliffe is included in the Nottingham area because the majority of its housing is allocated to the urban edge of the conurbation

Total req'd Nottingham area	10.89	9.08
East Leake approved	2.34	2.34
Mill Hill Barton in Fabis	3.0	3.0
Total	6.09	6.09
Deficit/Excess	-4.8	-2.99

- However, if the larger Shelford site was allocated instead of the smaller Mill Hill, Barton in Fabis site then these deficits would be lessened or virtually eliminated (Table 4).

	40% export	50% export
	10.89	9.08
East Leake approved	2.34	2.34
Shelford	6.5	6.5
Total	8.84	8.84
Deficit/excess	-2.05	-0.24

- The analysis suggests that by the inclusion of Shelford, for example, a better geographical spread is achieved than is realised by the MLPPV. The inclusion of Shelford would move 3mt of output from North Nottinghamshire to South Nottinghamshire where it is most needed. **Consequently, the statement in the 'Sites Assessment Methodology' on the Shelford site that "The size of this site is such that if it were allocated, provision would be limited in other parts of the County and this would not comply with the objective of maintaining a geographical spread of mineral sites across the County" is unjustified.**

In further considering the criterion to 'Promote sustainable patterns of movement and the use of more sustainable modes of transport', the conclusion that the proposed site at Mill Hill, Barton in Fabis is closest to developments likely to take the output from quarries in the south of the County is unjustified. We have made an analysis of the current situation as part of our earlier response to the planning application made for Mill Hill, Barton in Fabis, and looked at the status of the location of potential developments and the quarries which already are or could potentially serve them. Specifically:

- The developments and quarries considered are shown in Table 5, which also shows the distance to the nearest quarries and the distance to the proposed site at Mill Hill, Barton in Fabis. Colwick Wharf has been included as this is a proposed barge terminal close to Trent Lane, Trent Bridge to which some 40% of the material from the Shelford site would be delivered. (Colwick Wharf is specifically identified under SP7 Minerals Safeguarding, Consultation Areas and Associated Minerals Infrastructure as a 'safeguarded' wharf.

Table 5: Distance of sand and gravel sources to major developments in Nottingham area with comparison to distance to Mill Hill, Barton in Fabis

Development	Note	Nearest quarries	Distance from Mill Hill Barton in Fabis
East Midlands Rail Freight Hub / Kegworth by-pass	Work is completed on these projects or aggregate is already being supplied with contracts already therefore agreed	Lockington 5.86km, Shardlow 9.08km	12.11km
Toton (HS2)	Timescales for this project are not yet clear	Lockington 8.98km, Shardlow 15.02	15.03km
Gamston	No planning application has yet emerged	Colwick wharf 6.45km, Shelford 10.95km (East Leake: 15.14km)	13.45km
Edwalton	Construction already under way and contracts for aggregate supply are in place	Colwick wharf 8.49km (East Leake: 15.44, Shelford: 12.9km)	8.79km
Waterfront	Timescales unknown	Colwick wharf 0.5km (Shelford 12.6km, Lockington 22.71km)	9.54km
Boots site	Planning permission granted	Colwick wharf 5.69km (East Leake 17.55km)	5.96km
Bus Depot	Timescales unknown	Colwick wharf 8.77km,	9.89km

		Lockington 9.07km	
Clifton Pastures / Clifton West	Clifton Pastures timescales unknown. Clifton West yet to have outline planning application approved	Mill Hill, Barton in Fabis (East Leake 11.84km, Colwick wharf 8.24km)	c0.5km, Clifton Pastures 1km, Clifton West,

Note: the distances shown are by road and so the quarries in bold are the nearest location by road distance;

- For the analysis shown in Table 5 we recognise that it may be financially viable for other quarries to the north of Nottingham and further in to Derbyshire or Leicestershire to supply the projects identified, but we have focused only on the closest in terms of travel distances to simplify the picture. In relation to Table 5 it is important to note that:
 - **Mill Hill, Barton in Fabis site is significantly further than alternatives** to the major infrastructure projects of the East Midlands Rail Freight Hub and Toton (HS2) and several of these projects are already complete or contracts for aggregate supply let.
 - **Mill Hill, Barton in Fabis site is not significantly nearer to two of the three major areas in Rushcliffe allocated for the sustainable urban extension** (i.e. Gamston and Edwalton). While it is obviously closest for the Clifton West and Clifton Pastures development, the proportion of the output required here is small in relation to proposed total output (c 1 year's output) and so does not by itself justify development
 - **Shelford is equally well placed to provide output to these developments as Mill Hill, Barton in Fabis, and with the development of more sustainable barge transport via Colwick Wharf would be significantly more so.**

- It is also important to note that given the impacts associated with the Shelford site are less than that at Mill Hill, Barton in Fabis, and the reallocation of this site in the MLPPV would also reduce the overall social, environmental and landscape in line with SO5, SO6 and SO7. However, as we have shown in Section a) the emphasis given to geographical distribution as an overriding factor in the site selection criteria is unsound. **The subsequent application of the Options A and C in the site selection process is also inconsistent with the stated Strategic Objectives and as a result the MLPPV is further unsound and unjustified against paragraph 35 of the NPPF on the basis of the conclusions drawn.** We focus particularly on the Mill Hill, Barton in Fabis site. Our grounds are as follows:
 - Despite Option C (Prioritise locations with potential for transporting sand and gravel by river barge) being identified as a priority in site selection none of the sites selected meet this criteria, although some of those rejected (e.g. Shelford) do. The documentation shows that the operator at Shelford proposes to transport 40% of output via barge but there is no rationale provided for why this site has not therefore been prioritised as the adoption of Option C requires.
 - On the basis of the scoring applied in the site assessment methodology the combined environmental impact of the development of Mill Hill, Barton in Fabis and any other site would be greater both during the operational and long-term phases, than the single site at Shelford (see Table 4 Site Selection Methodology and Assessment) ; the development of one site rather than two is likely to result in less overall impact and on these ground this strategy is likely to better address the MLPPV.

Thus, the application of the Site Selection Methodology and Assessment and its conclusions are unsound and the outcome are unjustified given the stated policy objectives that underpin the MLPPV. Specifically:

- No evidence is provided to show that the allocation of Shelford rather than Mill Hill, Barton in Fabis, would limit the ability of the plan to ensure a spread of quarries, given the average distance travelled by aggregates is roughly 35 miles and increasing (see para 3.11, 2017 *Nottinghamshire and Nottingham Local Aggregates Assessment*).

- There has been no attempt by the County Council to explore spreading the total output of Shelford over a longer operational period
- No evidence or argument is provided for the omission of the priority for barge transport in the selection of sites; and,
- The current application of the site allocation methodology in the MLPPV results in greater adverse impact on the environment than otherwise would be the case, despite the requirements of the MLPPV that future minerals development in Nottinghamshire should meet:
 - Strategic Objective 1 'Improving the sustainability of minerals development' by making use of sustainable modes of transport
 - Strategic Objective 6 'Protecting and enhancing natural assets' by conserving and enhancing Nottinghamshire's natural environment, including its distinctive landscapes, habitats, geology, wildlife species and ecological health of water bodies by avoiding, minimising and mitigating potential negative impacts'.
 - Strategic Objective 7 'Protecting and enhancing historic assets' by protecting and where appropriate enhancing Nottinghamshire's distinct historic environment and ensuring heritage assets and their settings are adequately protected and where appropriate enhanced.

Sand and gravel can only be worked where it is found, but it does not follow that geographical spread is the only way to ensure continued supply. Moreover, minimisation of HGV transport is only one criterion that must be used to make site allocations. As we have shown this is inconsistent with the stated policy objectives in the MLPPV, because it overlooks the relative impacts on built, natural and heritage assets, and the Green Belt arising at individual sites. In this context, it is important to note the comments of the **Inspector's Report for the examination of the Essex County Minerals Local Plan January 2013 (Para 138)³ (Our Appendix 3)**. Although the Inspector was considering the issue of spatial concentration of proposed sites, the observation that "Notwithstanding the wide choice of potentially developable sites in other districts it is appropriate that sites are selected with reference to their individual merits and planning impacts" is relevant here. **It is our contention that to be sound in terms of justification, the Plan should consider sites on their individual merits and should not be unduly influenced by geographical location.**

c) Site Assessment for Mill Hill, Barton in Fabis

The site assessment made for Mill Hill, Barton in Fabis shows it to be one of the most negatively affected should development be permitted. The Plan is unsound because there is no justification provided for its inclusion. There is no coherent statement in the Plan as to why this finding should be ignored and the site allocated, when there are other sites where impacts would be less serious.

We contend that the scale of the impacts for the Mill Hill site have been under-estimated, making the decision even less secure. The mis-representation of the conditions and associated impacts at Mill Hill, Barton in Fabis are given below. We base our response on evidence in the public domain and that generated by the recent planning application for the site. In assessing the site the Planning Policy Team has failed to take account of the detailed comments and information by such bodies as Historic England, RSPB, Notts Wildlife Trust, Natural England, CPRE, Ramblers Association, and indeed several of the County Council's own officers. Specifically we contend:

Criterion 2: Protect and enhance biodiversity at all levels and safeguard features of geological interest.

³ <https://www.essex.gov.uk/minerals-waste-planning-policy/minerals-local-plan>

- The evidence relating to the biodiversity status of the site and its surroundings point to an assessment that the impact during the operational phase is very negative (-3) and in the long-term as negative (-2). The site assessment fails to: recognise the importance of the site at the landscape scale, promote the preservation of existing ecological networks and the populations of priority species they support; and recognise or mitigate the significant on-site impact on LWS and off-site impacts on SSSIs. **As a result, the allocation of the site is not consistent with the objectives of SO6 or SP5.**
- Approximately two thirds of the habitat within the proposed site consists of habitats of Local or National Conservation Importance. Nine Local Wildlife Sites will be directly or indirectly impacted upon during the operational period; Borrows Pit (LWS), which is within the site boundary, has been omitted from the Site Appraisal Matrix. Only partial mitigation by using appropriate buffers will be possible and a number of the LWS will be destroyed entirely.
- The ancient woodland status of Brandshill Wood and Clifton Wood has not been considered, and the potential impact of changes in hydrology, dust and noise factored into the analysis.
- There are extensive areas of BAP habitat within the site which will be lost, including neutral and semi-improved grassland, marshy grassland, scrub, hedgerow, ditch and floodplain grazing marsh. All these habitats have targets for their conservation and protection. Restoration of the site would not effectively compensate or restore these existing ecologically high value habitats. The long-term impact is therefore negative rather than slightly negative.
- The SSSIs of Attenborough and Holme Pit are adjacent to the proposed site and both will be adversely affected during the operational phase and long-term. Attenborough is important for a number of bird species will be impacted by noise and permanent loss of feeding areas. The water quality of Holme Pit will be impacted during periods of flooding. Flood patterns and their impact relative to Holme Pit have not been considered in the design and operation of the proposed site.
- The site also holds a number of species of national or local importance, including bats, harvest mouse, grass snake and common toad. There are many species of red and amber listed birds including noise/disturbance sensitive species such as barn owl, Cetti's warbler and long-eared owl. Importantly the site hosts a diverse invertebrate fauna including the endangered beetle, *Carabus monilis*. All of these species will be subject to severe adverse impacts.
- The restoration plan for this site does not maximise BAP priority habitats for the area and there is no significant biodiversity compensation achieved as a result of proposed restoration measures. Indeed, the nature of the "Alternative working proposals/buffer zones to retain/protect LWSs and SSSIs" mentioned under mitigation are not specified and it is inappropriate to include them in the assessment. Moreover, the time span over which restoration is proposed (5 years, see Para 9.1.4 of Site Proposal by Greenfield Associates, dated January 2018) is inadequate (see NMPCD para 5.118, point 9) ecologically so that the measures are unlikely to be successful. The claim made by Greenfield Associates in para 9.1.5 of their submission document dated January 2018 that restoration is likely to be beneficial in the long-term is therefore unfounded.

Criterion 3: Promote sustainable patterns of movement and the use of more sustainable modes of transport.

- The proposal only includes road haulage and so cannot be considered as offering 'sustainable' modes of transport. At best this criterion should be scored as 0.

Criterion 4: Protect the quality of the historic environment, heritage assets and their settings above and below ground.

- The assessment underestimates the impact on historic environment, heritage assets and their settings especially in the long-term by virtue of the resulting negative impact on the historic environment post restoration in respect of the setting and significance of Clifton Hall.

- Barton in Fabis Parish Council recently produced a detailed assessment of the historic cultural links between Clifton Hall (Grade 1 listed) and Barton in Fabis which highlights the importance of the historic environment of the Mill Hill Site to the setting of Clifton Hall. The evidence presented clearly shows that the operation and restoration of the site would have a major impact on the setting of Clifton Hall and its Registered Parks and Gardens. Since these impacts are significant the allocation of the Mill Hill is inconsistent with the third bullet point of SP3 (3.4)
- The long-term impact should be regarded as at least as negative as during the operational phase and both should arguably be set, as a minimum, at -2.
- As we note in our summary, development would result in substantial harm to a Grade I listed building and the Registered Park and Gardens at Clifton Hall. Substantial harm to a Grade I listed building should be wholly exceptional and to a Registered Park and Garden, exceptional, as defined by paragraph 194 of the NPPF. In their correspondence⁴ Officers of the County Council do not consider this harm would be likely to be reduced through amendments, and on these grounds alone the inclusion of the site is unjustified and inappropriate. The NPPF indicates that substantial harm to the significance of designated heritage assets must be avoided where possible unless it is demonstrated that there are substantial public benefits arising from the development. None of these public benefits are identified and so inclusion of the site is unjustified.

Criterion 5: Protect and enhance the quality and character of our townscape and landscape.

- The fact that the assessment finds that the landscape impact scores as maximum in the operational phases and long-term, and since these scores are amongst the highest attributed to any site in the appraisal matrix, the allocation of this site in the MLPPV is clearly inconsistent with the Policy SP5. The site is within the Nottinghamshire Green Belt. Whilst the NPPF is clear that minerals development can be seen as appropriate development, this is on the presumption that openness and the purposes of Green Belt are maintained. Whilst accepting that the determination of the planning application and the examination of the Plan are two separate entities, it is pertinent to note that that in relation to the current planning application for the Barton site (ES/3712), County Council planners have stated (30/8/19) “*Officers are of the view that the proposed development does not preserve the openness of the Green Belt, and does conflict with the purposes of including land within it.*” (**Our Appendix 4**). This must severely call in to question the appropriateness of allocating this site in the Green Belt and adds further weight to the significant adverse landscape impacts associated with this proposed allocation.

Criterion 6: Minimise impact and risk of flooding.

- The assessment is wrong in terms of the long-term impacts of the proposal at Mill Hill. The flood risk assessment made for the current planning application for sand and gravel extraction at this site shows that the scheme at best is neutral in terms of its impacts on flood risk. There are no measures proposed that would mitigate future flood risk and so at best the score awarded should be ‘0’ and not ‘+1’.
- Given that the flood assessment shows that generally the area is likely to experience increasing risk, a requirement of the proposal should be that flood mitigation measures are included in the design so that these increased future risks are minimised.
- The commentary should include the potential risk of flooding and erosion to the high-pressure gas main that bisects the site. There is a risk posed to critical infrastructure associated with this proposal.

Criterion 7: Minimise any possible impacts on, and increase adaptability to, climate change.

⁴ [Letter to Oliver meek, 17/11/2017](#)

- The assessment scores shown in the Sustainability Appraisal Report are inconsistent with the commentary provided, and the scores awarded are misleading.
- The impacts during the operational phase is clearly negative, given the loss of habitat and the carbon stores associated with them, and the use of road haulage. Thus, the score of '?' is probably not an accurate representation of the situation. In the long term the assessment states that the impacts could be positive or negative depending on the resilience of the flora and fauna and the details of the restoration. Since this is unknown then the score of +1 is again erroneous.
- We suggest that as a minimum both the operational and long-term phases should be scored as '?', and that the contribution of the proposed site to climate change adaptability is uncertain.

Criterion 8: Protect high quality agricultural land and soil.

- The assessment is in error in terms of the assessment of long term impacts, in that it states that it judges the impact to be positive given "Restoration to high quality agricultural land if that is possible". Such restoration is neither possible nor proposed. If it is proposed then this would reduce the area of BAP and Priority Habitat restoration. At best we suggest the long-term score should be the same as the operational phase, i.e. -1.

Criterion 12: Protect and improve water quality and promote efficient use of water.

- The assessment scores this criterion as slightly negative (-1) reflecting "dewatering and discharges into watercourses". In fact, the evaluation of the pending planning application has revealed serious concerns about the impact of the development (and specifically the location of storage heaps and lagoons) on the quality of water reaching the SSSI of Holme Pit as the result of flooding.
- There is now evidence from the flooding of April 2018 of the way flood waters move across the site, and we can show that flood waters typically overtop the banks of the Trent at Cottagers' Field and ran northwards towards and eventually into Holme Pit, before re-entering the river at below Clifton Hall. These waters cross the centre of the proposed site and especially the area where material will be stockpiled. Such uncontrolled events are likely to impact on the water quality at Holme Pit SSSI through siltation and nutrient input. Moreover, there is no guarantee that the quality of water reaching Home Pit will in the long term improve given the uncertainties associated with the restoration plan.

Criterion 13: Support wider economic development and promote local job opportunities.

- The assessment only considers the wider economic impact and suggests that some jobs will be created locally. The assessment overlooks the fact that employment may be lost by the impact on agriculture in the area, and the loss of amenity and access on which the local equestrian centres depend. The impact is probably uncertain at best in the short term.

Criterion 14: Protect and improve human health and quality of life.

- The appraisal correctly assesses the impact of the proposed site on human health and significant (-3) although the commentary justifying the score overlooks a number of serious issues.
- In relation to the Public Rights of Way it should be noted that Bridleway 3 is an extremely well-frequented, strategic route between Barton and Thrumpton in the country and Clifton and Wilford in the city. As the site access road and gravel conveyor will have to be crossed by the footpath this will have major impacts on users. Most significantly it will affect horse riders along the base of Brandshill Grassland by posing a safety risk. This should be flagged up in the commentary on the Site Appraisal Matrix.
- In addition the commentary should note the proximity of the proposed site to Attenborough Nature research and the riverside path along the Trent opposite the extraction site. Only the River Trent separates the site from Attenborough Nature Reserve which many people visit

throughout the year; The RSPB publication 'Bigger and Better' estimates that 600,000 people visit Attenborough Nature Reserve annually. Those who walk Attenborough's riverside paths will continually view the adverse effects of the site over the lengthy operational period and will no longer be able to enjoy the peace and tranquillity of the reserve. The planting of willow along the Barton bank of the Trent is immature, unsuccessful in places, and in any case obscures the open views across the flood plain which are of high amenity value.

- In terms of public access to the site it should also be noted that while it is described throughout the documentation in terms of its proximity to Barton in Fabis, it is also located close to Clifton. Inspection of the census data available from the NOMIS website shows that in 2013 the estimated population of people between 16-64 for the wards of Gotham, Clifton South and Clifton North was in excess of 19,000 people. This estimate does not include children or those older than 64. The assessment should therefore reflect the fact that the site represents the nearest countryside (<1k) to a significant number of people, and given that currently policy for promoting health and well-being includes promoting walking and other activities in green, tranquil areas, the development of the site would result in a significant loss of public amenity.

We also argue that the Plan is unsound and unjustified because there is a lack of transparency in the assessment in terms of how the site is allocated on grounds of viability and location when the impact assessment clearly indicates that there are other sites where impacts are less serious. We have shown that:

- the evaluation process leading to the inclusion of geographical spread as an objective of the plan is flawed and that on grounds of sustainability sites should be considered on their merits;
- the goal of developing a spatially sustainable plan involves more than consideration of market geography, but also involves promoting a spatial distribution that is consistent with wider goals of sustainability (e.g. conservation and protection of most vulnerable and valuable sites); and,
- the summary provided on Page 55 of the *Site Selection Methodology and Assessment* is inaccurately drafted and poorly constructed because the statement that allocation is appropriate is unconnected to the evidence that has been assembled in the appraisal matrix which is supposed to underpin any recommendation.

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 cooperate 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.

(Continue on a separate sheet/expand box if necessary)

a) *Unsoundness of site selection methodology*

The revision of the findings on the sustainability appraisal to emphasise the contributions of options C and D would ensure that the MLPPV is better aligned with the results of the public consultation, as is evidenced by the commentary under 'What you told us at the Issues and Options stage' on page 59 of the Draft Plan Consultation document. The commentary notes that responses were split in relation to the importance of geographical spread and that "Generally, respondents felt that prioritising specific geographic areas above others would not be appropriate, instead, each site should be judged on its own merits".

b) *Application of site allocation methodology*

The MLPPV is unsound and should be revised to meet the County's own sustainability objectives in order that its conclusions can be justified. In order to do so:

- sites should be considered on their own merits in order to minimise the likely overall environmental impacts of the Plan;
- the criterion for prioritising barge transport should be applied on grounds of consistency; and,
- geographical spread should only be used to make decisions between sites when all other aspects things are considered equal in order that it does not over-ride consideration of the scale of environmental damage likely to arise by the inappropriate selection of sites due to location - proximity to an unquantified market is not sufficient evidence to outweigh the substantial harm caused by the proposed allocation at Mill Hill, Barton in Fabis.

In terms of the specific case of the site at Mill Hill, Barton in Fabis a transparent rationale needs to be provided as to why this site is included rather than Shelford, when (a) the likely adverse impacts of the latter are less; (b) the opportunities for prioritising barge transport are greater; and (c) given the average haulage distance for aggregates it is better placed to serve the needs of the local market as the other two. Evidence also needs to be provided to support the claim that the allocation of Shelford, rather than the site at Mill Hill, Barton in Fabis, would limit the ability of the Plan to ensure a spread of quarries.

c) *Site assessment for Mill Hill, Barton in Fabis*

On the basis of the arguments presented above we suggest that a more realistic assessment of the operational and long-term impacts for Mill Hill, Barton in Fabis would be -15 and -8 respectively. The adjusted individual scores are summarised in Table 6 alongside those presented in the site appraisal.

Table 6: Revised impact scores for Mill Hill, Barton in Fabis.

Sustainability Appraisal Objectives	Effect as scored in Draft Minerals Plan		Suggested Adjustment to Scores		Inconsistencies with the Strategic Objectives and Policies that frame Minerals Plan
	Operational period	Long-term	Operational period	Long-term	
1. Ensure that adequate provision is made to meet local and national mineral demand.	2	0	2	0	
2. Protect and enhance biodiversity at all levels and safeguard features of geological interest.	-2	-1	-2	-2	Allocation is inconsistent with SO6, SP1, SP3, SP4 and SP6
3. Promote sustainable patterns of movement and the use of more sustainable modes of transport.	1	0	0	0	Allocation is inconsistent with SO1, SO3, SO5, SP5
4. Protect the quality of the historic environment, heritage assets and their settings above and below ground.	-2	1	-2	-2	Allocation is inconsistent with SO6, SP6
5. Protect and enhance the quality and character of our townscape and landscape.	-3	-3	-3	-3	Allocation is inconsistent with SO7, SP6
6. Minimise impact and risk of flooding.	-3	1	-3	?	Allocation is inconsistent with SO6, SP4
7. Minimise any possible impacts on, and increase adaptability to, climate change.	?	1	?	?	Allocation is inconsistent with SO3, SP4
8. Protect high quality agricultural land and soil.	-1	1	-1	-1	
9. Promote more efficient use of land and resources.	0	?	0	?	
10. Promote energy efficiency and maximise renewable energy opportunities from new or existing development.	?	?	?	?	
11. Protect and improve local air quality.	-3	0	-3	0	Allocation is inconsistent with SO6
12. Protect and improve water quality and promote efficient use of water.	-1	0	-2	?	Allocation is inconsistent with SO1, SP1
13. Support wider economic development and promote local job opportunities.	2	0	2	0	
14. Protect and improve human health and quality of life.	-3	?	-3	?	Allocation is inconsistent with SO5 SP6
Total	-13	-3	-15	-8	

The negative impact of the allocation of the site at Mill Hill is significant, and given the evidence available does not justify the conclusion of the Sustainability Appraisal Report which suggests that “in assessment against sustainability appraisal objectives, the site scores very negatively during the operational phase and slightly negatively in the long term”. The impacts are very negative in both the operational phase and the long term. As a result, its allocation is clearly inconsistent with most of the key sustainability objectives and strategic policies that supposedly frame the minerals plan.

The Sustainability Appraisal Report should be revised to reflect the nature of the impact at Mill Hill, Barton in Fabis and the site, and the Plan amended to remove this site from the allocation. Given the geographical location, lesser impacts the previously considered site at Shelford should be reintroduced.

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)	X

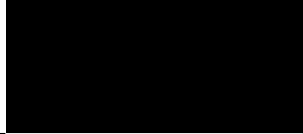
Please note that while this will provide an initial indication of your wish to participate in the hearing session(s), you may be asked at a later point to confirm your request to participate.

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

To show that the Policy MP2 and the Site Assessment Methodology behind it is unsound and results in the incorrect allocation of the site MP2p at Mill Hill, Barton in Fabis

Note: The organisations listed in Part A above represent a substantial number of residents affected by the Minerals Local Plan and in particular the allocated site at Mill Hill nr Barton in Fabis (MP2p) and have been endorsed at public meetings to represent the views of local 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	11/10/19
Name	Julian Coles		

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.
- **Representations must be on the basis of the ‘soundness’ of the plan or its legal and Duty to Co-operate compliance.** Please read the guidance note on this for further information.
- **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.
- **If you are part of a group that share a common view,** it would be helpful for that group to send a single representation rather than multiple copies stating the same point. Please indicate how many people are represented and how it has been authorised (e.g. by means of a list with contact details for each person or by a committee vote). This holds the same weight as separately submitted representations.

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

We must receive your representations before 4.30pm, Friday 11th October 2019.

Representations received after this cannot be accepted.

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.

Nottinghamshire County Council’s Planning Policy Service is committed to protecting your privacy and ensuring all personal information is kept confidential and safe. View our privacy notice at www.nottinghamshire.gov.uk/privacy

Part A – Personal details

Office use only

Person No:

Rep Nos:

	1. Personal details	2. Agent details (where applicable)
Title	Mr	
First name	Julian	
Last name	Coles	
Address line 1	██████████	
Address line 2	██████████	
Address line 3	██████████	
Postcode	██████████	
Email	██████████████████	
<i>For those replying on behalf of an organisation or group:</i>		
Organisation	Barton in Fabis Parish Council Thrumpton Parish Meeting Lark Hill Residents Association Clifton Village Residents Association SAVE (Save the Ancient Valley Environment)	
Job title	Parish Councillor	

Office use only

Person No:

Rep No:

Part B – Your representation

Please read the guidance note before completing this section.

Name or organisation: Barton in Fabis Parish Council / Thrumpton Parish Meeting / Lark Hill Residents Association / Clifton Village Residents Association / S.A.V.E (Save the Ancient Valley Environment)

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

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

Legally compliant?	Yes		No	X
Sound?	Yes		No	
Complies with the Duty to co-operate	Yes		No	

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.

(Continue on a separate sheet/expand box if necessary)

Failure to conform with County Council's Statement of Community Involvement (SCI) / Respond to issues raised in the consultation process

Summary

The Plan should be considered not legally compliant because in the preparation of the Plan the County Council has failed to:

- a) abide by the terms of its own SCI
- b) properly respond to or take account of responses to its own consultation process.

Supporting detail

- a) The terms of the County Council's 'Statement of Community Involvement state that: "the County Council must consult all organisations and other bodies it considers relevant to the document being prepared. These will normally include Government department sand agencies, the minerals and waste industries, district and parish councils and environmental groups."(3.2) and
- b) "Neighbourhood forums for an area affected by proposals will be supplied with the materials to enable them to place notices providing information regarding site specific proposals". (3.14)

- c) Where there is no parish council, town council or parish meeting to conduct the activities detailed in paragraphs 3.14 and 3.15 in an area affected by the proposals, the responsibility for information is placed would fall to Nottinghamshire County Council.
- d) The area impacted by site MP2p Mill Hill nr Barton in Fabis is unique amongst those sites allocated for mineral extraction in that it lies adjacent to the major conurbation of the City of Nottingham with an estimated 12,000 people living within a mile of the site and outside the Nottinghamshire County Council area.
- e) Contrary to the SCI there has been no attempt to engage with residents associations or ward forums in communities within Nottingham City such as Clifton, Clifton Village and Lark Hill contrary to SCI 3.2 other than display boards erected in Clifton library for a short period which is c1.5 miles from those communities. In particular, the County Council has discriminated against residents with restricted mobility such as those occupying Lark Hill Retirement Village unable to access Clifton library.
- f) Appendix 1, the MLP Draft Plan Consultation Summary Document and the lack of resulting changes to the MLPPV is also contrary to the principles of the SCI. In contrast to the number of responses to most draft policies being no more than 20/30, no recognition is given to the fact that responses related to MP2 Sand and gravel provision is recorded at 1031. We calculate that within that number in excess of 1,000 relate to site MP2p Mill Hill nr Barton in Fabis which should be recognised in the commentary.
- g) There is a dismissive reference to “a large number of proforma responses were submitted by local residents” objecting to the allocation of the Mill Hill nr Barton in Fabis site. In fact, firstly the core text of these letters was agreed by an open meeting as representing the common view and secondly, the majority of responses either did not use the proforma or included additional comments on the proforma letters.
- h) The Consultation Summary Document and Council Response makes no attempt to answer the specific issues raised and simply states that “any specific issues raised are capable of being addressed / mitigated at the detailed planning stage”. In fact, the majority of responses (including the proforma responses) raised strategic issues, rather than detailed planning issues, such as the lack of data to substantiate the Council’s proposed “geographical spread” of sites, the failure to prioritise sites with potential to transport sand and gravel by barge (contrary to SO1)

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.

(Continue on a separate sheet/expand box if necessary)

Summary

The County Council should be required to respond to the legitimate points raised in responses ((h) above) and redraft the Consultation Summary Document and Council Response as a result.

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)	X

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:

<p>Summary</p> <p>To show that the County Council has failed to abide by its own Statement of Community Involvement and that the resulting MLPPV is not legally compliant.</p> <p>To require the County Council to address the key strategic issues raised by those who did respond to the consultation (see (d) above).</p> <p>Note: The organisations listed in Part A above represent a substantial number of residents affected by the Minerals Local Plan and in particular the allocated site at Mill Hill nr Barton in Fabis (MP2p) and have been endorsed at public meetings to represent the views of local residents.</p>

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	11/10/19
Name	Julian Coles		

Response to Issues and Options Consultation Document

– Barton in Fabis Parish Council 11/12/2017

Question 1 Do you think any other information should be included in the overview of the area?

Yes. Please see points below for inclusion.

Page 8

“Around two thirds of the population live in, or around, Nottingham which is a major centre for employment and retailing. The remainder live in, or close to, the other main towns of Mansfield, Kirkby in Ashfield, Sutton in Ashfield, Hucknall, Worksop, Newark and Retford. Outside these urban areas, the rest of the County is largely rural with scattered small villages, farmland, woodland and commercial forestry.”

The point should be added that as a result of the concentration of population access open space adjacent to the larger conurbation plays an important role in the health and wellbeing of local people and mineral extraction in those areas should be avoided wherever possible.

Page 8

“Nottinghamshire also supports a wide network of important sites for nature conservation, the most important focused within Sherwood Forest, near Edwinstowe. This includes a Special Area of Conservation and possible future Special Protection Area, both of which hold international status.”

Attenborough Nature Reserve in the south of the county should be added to the list of sites for nature conservation as this attracts 600,000 visitors per year (RSPB ‘*Bigger and Better*’). It is recognised as being of national ecological importance. Reference should be made to the importance of preserving / enhancing SSSIs across the county. We propose that a map of SSSIs is included in the MLP.

Page 8

“However, the overall quality of our natural environment has suffered in the past from industry and other development pressures and there has been a decline in biodiversity, with losses of ancient woodland, heathland, species-rich grassland, hedgerow and wetland habitats, as well as the species that these habitats support.”

We agree. However, it should be stated that there should be no further loss or impact

on designated sites including SSSIs, SINCs and Local Wildlife Sites in view of the County's decline in biodiversity. Reference should therefore be added to the need to preserve remaining examples of the habitats referred to, especially in considering sites for mineral extraction. Reference to conserving and strengthening ecological networks and corridors should also be added.

Page 8

“Road and rail links to the rest of the UK are generally good especially via the main north-south routes of the M1, A1 and direct rail links to London from Newark and Nottingham.”

Reference should be added to the River Trent as a potential navigable route for aggregates along part of its length

Page 9

“Mansfield, Worksop and Newark are important centres for warehousing and distribution whilst service, technology and research based industries tend to cluster around Nottingham. The energy industry also has a major role with four power stations along the River Trent. Elsewhere, agriculture and forestry are no longer major employers but still make up much of the County's rural landscape, particularly to the south and east.”

Reference should be added to the fact that rural landscape in the south of the county has already diminished as a result of new road links and expansion of Nottingham. It should be noted that while agriculture may not be a major employer the importance of retaining the best agricultural land remains a priority.

Page 11

“As the County is quite poor in biodiversity, sand and gravel reclamation schemes have had a very significant role in redressing the balance.”

Reference should be added for the need for areas which are already rich in biodiversity to be preserved, and where these would be negatively impacted by sand and gravel restoration schemes. It should be noted that restoration is beneficial in those areas already degraded ecologically. In those areas that are currently significant for biodiversity, conservation of existing biodiversity resources rather than restoration following mineral extraction is the preferred option

Question 2 Do you agree with the draft vision? Are there other things we should include?

No. Please see below for specific points that should be included

Page 12

“There are three dimensions to sustainable development which the planning system needs to take into account.....

The NPPF and the Planning Practice Guidance (PPG) also sets out specific guidance for the sustainable use of minerals”

It is simply not sufficient merely to quote the overall “dimensions” quoted in the NPPF.

Instead the specific elements of the NPPF / NPPG which are relevant to mineral extraction and its potential impact on the wider environment should be specifically identified. Moreover while there are three dimensions they should not be traded off against each other – sustainable development implied all three need to be considered in a balanced way. The MLP should confirm that these will be at the centre of the criteria used to assess the sustainability of proposed sites:

We would wish to see highlighted in particular:

- **Section 11 on ‘Conserving and enhancing the natural environment’**

Para 109

“The planning system should contribute to and enhance the natural and local environment by:

- **protecting and enhancing valued landscapes, geological conservation interests and soils;**
- **recognising the wider benefits of ecosystem services;**
- **minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government’s commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;**
- **preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability; and**

- remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.”

Para 118

“When determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles:

- if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;
- proposed development on land within or outside a Site of Special Scientific Interest likely to have an adverse effect on a Site of Special Scientific Interest (either individually or in combination with other developments) should not normally be permitted. Where an adverse effect on the site’s notified special interest features is likely, an exception should only be made where the benefits of the development, at this site, clearly outweigh both the impacts that it is likely to have on the features of the site that make it of special scientific interest and any broader impacts on the national network of Sites of Special Scientific Interest;
- development proposals where the primary objective is to conserve or enhance biodiversity should be permitted;
- opportunities to incorporate biodiversity in and around developments should be encouraged;
- planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland and the loss of aged or veteran trees found outside ancient woodland, unless the need for, and benefits of, the development in that location clearly outweigh the loss; and
- the following wildlife sites should be given the same protection as European sites: – potential Special Protection Areas and possible Special Areas of Conservation; – listed or proposed Ramsar sites;²⁶ and – sites identified, or required, as compensatory measures for adverse effects on European sites, potential Special Protection Areas, possible Special Areas of Conservation, and listed or proposed Ramsar sites.”

Para 123

“Planning policies and decisions should aim to:

- avoid noise from giving rise to significant adverse impacts
- mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions;

- recognise that development will often create some noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established; and
- identify and protect areas of tranquillity which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason.”

- Section 13 on ‘Facilitating the sustainable use of minerals’

Especially para 143:

“set out environmental criteria, in line with the policies in this Framework, against which planning applications will be assessed so as to ensure that permitted operations do not have unacceptable adverse impacts on the natural and historic environment or human health, including from noise, dust, visual intrusion, traffic, tip- and quarry-slope stability, differential settlement of quarry backfill, mining subsidence, increased flood risk, impacts on the flow and quantity of surface and groundwater and migration of contamination from the site; and take into account the cumulative effects of multiple impacts from individual sites and/or a number of sites in a locality;”

And para 144

“ensure, in granting planning permission for mineral development, that there are no unacceptable adverse impacts on the natural and historic environment, human health or aviation safety, and take into account the cumulative effect of multiple impacts from individual sites and/or from a number of sites in a locality; • ensure that any unavoidable noise, dust and particle emissions and any blasting vibrations are controlled, mitigated or removed at source,³¹ and establish appropriate noise limits for extraction in proximity to noise sensitive properties;”

- Section 9 ‘Protecting Green Belt land’

The vision should set out how mineral planning relates to the Green Belt and the importance given to its preservation in the NPPF:

The NPPF and Government (para 79) “attaches great importance to Green Belts” and states (para 87) very clearly that inappropriate development should not be approved except in very special circumstances:

“inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances”

Para 88 states:

“When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. ‘Very special circumstances’ will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm is clearly outweighed by other considerations”

Para 89 states:

“A local planning authority should regard the construction of new buildings as inappropriate in Green Belt. “

Buildings associated with the processing of minerals are not listed amongst the exceptions and should therefore be considered inappropriate in the Green Belt

Para 90 states that mineral extraction is “not inappropriate” in the Green Belt provided it preserves the openness of the Green Belt and does not conflict with the purposes of including land in Green Belt. Even if the extraction of gravel is considered “not inappropriate” by the NPPF that does not mean that it is automatically permissible, “Very special circumstances” (para 88) must still be justified.

- PPG Minerals

Identifies a series of criteria against which proposed sites for mineral extraction should be evaluated:

- **noise associated with the operation**
- **dust;**
- **air quality;**
- **lighting;**
- **visual impact on the local and wider landscape;**
- **landscape character;**
- **archaeological and heritage features (further guidance can be found under the Minerals and Historic Environment Forum’s Practice Guide on mineral extraction and archaeology;**
- **traffic;**
- **risk of contamination to land;**
- **soil resources;**
- **geological structure;**
- **impact on best and most versatile agricultural land;**
- **blast vibration;**
- **flood risk;**

- land stability/subsidence;
- internationally, nationally or locally designated wildlife sites, protected habitats and species, and ecological networks;
- impacts on nationally protected landscapes (nationally protected geological and geo-morphological sites and features;)
- site restoration and aftercare;
- surface and, in some cases, ground water issues;
- water abstraction.

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“ensuring future minerals development does not have unacceptable adverse impacts on the natural and historic environment or human health. This is will be achieved through the identification of site specific allocations and a range of planning policies against which planning applications can be assessed.”

This statement should be specific with regard to the “range of planning policies” that will be applied and should take account of a) the number of people and b) the relative quality of the existing natural and historic environments in identifying site specific allocations.

Page 13

“Local policy includes the Council Plan – ‘Your Nottinghamshire, Your Future’, the Nottinghamshire Local Transport Plan and the District Councils’ Local Plans”

We believe that other policies such as Greater Nottingham Landscape Character Assessment (GNLCA) should also be taken in to consideration. Similarly policies for biodiversity and human health and well-being should be considered.

Page 14

“Within geological constraints, mineral development will be concentrated in locations that offer the greatest level of accessibility to the major markets and growth areas and to sustainable transport nodes to encourage sustainable patterns and modes of movement.”

In line with vision statements in the Council’s strategic ambition ‘Your Nottinghamshire, Your future’ it should be added that the location of mineral

development should be prioritised in locations which promote the interests of local people and the visions of ‘a great place to bring up your family’ and ‘a great place to enjoy your later life’ rather than those in the interests of the aggregate industry requiring the greatest level of accessibility to the major markets and growth areas. This will mean prioritising locations away from major centres of population, whilst also prioritising sustainable transport nodes to encourage sustainable modes of transport. It will also mean prioritising areas which are valuable in cultural and heritage terms and valuable ecologically.

Page 14

“All mineral workings will contribute towards a greener Nottinghamshire by ensuring that the County’s diverse environmental and historic assets are protected, maintained and enhanced through appropriate working, restoration and after-use. This will result in improvements to the built and natural environment, and contribute to landscape-scale biodiversity delivery; and the re-connection of ecological networks.

The quality of life and health of those living, working in, or visiting Nottinghamshire will be protected.”

It is unrealistic to suggest that mineral workings will improve the built and natural environment where the potential site is already rich in biodiversity for example including SSSIs and SINCs.

We would propose that the vision should state that:

“Sites for mineral workings will be allocated in areas which cause the least damage to the built and natural environment and which may improve the existing environments. Sites will also be selected which minimise the impact on the quality of life and health on the minimum number of people living, working in or visiting Nottinghamshire. Sites which currently enhance the quality of life for nearby urban populations should be avoided.”

Question 3 Are the above strategic issues appropriate? Are there others we should consider?

Yes, but the emphasis should be on reducing the number of people impacted by sand and gravel excavation - see comments below.

Page 15

1. *“Improving the sustainability of minerals development*

Ensuring that primary minerals are worked in the most sustainable manner and the use of secondary and recycled aggregates is encouraged. Securing a spatial pattern of mineral development that efficiently delivers resources to markets within and outside Nottinghamshire”.

We would add the statement “and which impacts the minimum number of people and uses the most sustainable modes of transport and which minimises the impact on local communities and the environment”

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“3. Minimise impacts on communities

Minimise the adverse impacts on Nottinghamshire’s communities by protecting their quality of life and health from impacts such as traffic, visual impacts, noise and dust.”

**This should be placed as the first strategic issue and should be reworded and titled
Title: “Prioritise the minimisation of impact on communities”.... “Prioritise the minimisation of adverse impacts...etc”**

The paragraph should also include reference to preserving the amenity value of areas such as rights of Way and their contribution to the quality of life and health of communities.

Question 4 Do you think the average 10 year sales figure is the most suitable methodology for forecasting future aggregate demand in Nottinghamshire. If not please identify any alternatives you feel are realistic and deliverable and the evidence to support this approach.

No. The analysis of future aggregate demand should include a wider analysis of demand within and outside Nottinghamshire as well as a wider analysis of the total feasible supply of aggregates taking in to account supply from neighbouring counties – see points below.

Page 16

“Recycled and secondary aggregates are also produced, however reliable data for this sector is limited”

The use of recycled and secondary aggregates is likely to be significant in offsetting the need for new supplies. Further work must be undertaken to obtain more reliable data and / or a reasonable estimate.

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“This factor is likely to be combined with the minerals industry focusing on existing quarries outside the County and the lack of investment in new greenfield quarries in Nottinghamshire, even though adequate sand and gravel resources remain.”

The Issues and Options document should not be based on such unsubstantiated speculation. The document focuses purely on past sales within Nottinghamshire as a predictor of future demand. A more robust assessment should be based on an analysis of a) the likely demand from outside Nottinghamshire of material exported to counties to the north and west and b) the available supply from adjacent counties(particularly in the south of the county) to supply the Nottinghamshire market. The supply and demand for sand and gravel does NOT stop at the County border!

Question 6 Do you think extensions to existing permitted quarries should be prioritised over new greenfield quarries?

Yes – see comments below.

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“However, extensions to existing quarries can result in potential social and/or environmental cumulative impacts in the area. National guidance states that potential sites should be based on their individual merits taking into account the need for the mineral, economic considerations, the potential positive and negative environmental impacts and the cumulative impacts of proposals in the area.

The Minerals Local Plan will need to identify site specific allocations. Depending on the availability of extensions to existing permitted quarries going forward, the suggested approach for the Minerals Local Plan will be to give priority to extensions to existing permitted quarries before new greenfield quarries are considered.”

The required infrastructure is likely to be already available in the case of existing quarries and it therefore makes sense to prioritise the extension of these ahead of

new greenfield sites. The environmental impact of a new greenfield site is likely in most cases to have a greater adverse impact.

There is the advantage of continuity of production as existing sites have infrastructure already in place. They can also help retain the existing workforce and provide a mechanism for the full recovery of the resource thus avoiding the unnecessary sterilisation of the mineral. It also means that restoration efforts can be coordinated and focussed on successful delivery of environmental outcomes. It should be added that in considering new greenfield sites, account should be taken of the cumulative impact of such schemes in terms of other developments, especially where important sites such as SSSIs exist. Policy M3.27 refers.

Question 8 How important is it to maintain a geographical spread of sand and gravel quarries across the County (i.e. Idle valley, near Newark and near Nottingham) to minimise the distance minerals are transported to markets?

A geographical; spread of quarries is just ONE factor. Other more important factors need to be evaluated alongside this in determining where quarries should be located. See comments below.

Page 20

“Maintaining this geographical spread in the future would minimise the social and environmental impacts of quarrying on individual areas and provide minerals close to the main markets, reducing the distances sand and gravel will have to be transported by road.”

The social and environmental impact of transporting sand and gravel by road is only ONE factor in social and environmental impact and we do not understand why this factor has been singled out and it should not solely determine where quarrying should be located.

Other social and environmental impacts include:

- **Landscape and visual impact including impact on the Green Belt**
- **Impact on the historical environment**
- **Noise and air quality impact on vulnerable communities, particularly in areas which impact the most people e.g. near to large settlements**
- **Loss of agricultural land**
- **Flood risk and hydrology impact**
- **Ecological impact**

- The recreation and amenity value of the area given the proximity of centres of population.

See also factors identified in PPG Minerals and response to Question 2 above. It would be entirely wrong to select a site merely because it is close to a particular market if it were also to have a greater social and environmental impact in other respects.

With respect to sites in the Green Belt NPPF para 88 states that “When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt” and that “very special circumstances” need to be demonstrated if the harm is to be outweighed by other considerations. The distance which aggregates have to travel by road cannot by itself be considered to outweigh the harm caused by quarry sites in the Green Belt.

Page 20

“Demand for sand and gravel from the wider Nottingham conurbation has historically seen quarries located close to the conurbation. This historic pattern started to break down as no new quarries have been opened to replace worked out quarries in this area. However, sand and gravel resources still exist, it is possible that over the next plan period new quarries could be opened around the Nottingham conurbation. A planning application for a quarry at Mill Hill, near Barton in Fabis, has been submitted to the County Council for determination. No decision has yet been taken, however, if approved the quarry would provide around 3.4 million tonnes which could serve the South Nottinghamshire area and the wider Nottingham conurbation.”

We note that the report to the Communities and Place Committee from the Corporate Director for Place states that “It is important to note that the document does not consider site specific allocations.” We therefore consider it completely inappropriate and prejudicial to other sites that might come forward for specific reference to be made to a planning application for a quarry at Mill Hill, near Barton in Fabis. No reference is to other sites which could serve the South Nottinghamshire area and the wider Nottingham conurbation such as the extension to the East Leake quarry for which planning permission has already been granted subject to S106 agreement and other sites put forward in the withdrawn MLP such as that at Shelford.

Question 9 Would it be more appropriate to prioritise specific areas above others?

No. The prioritisation of areas can only be made once a full analysis of supply and demand has been undertaken including the projected demand from outside Nottinghamshire of material exported to counties to the North and West and the available supply from adjacent counties (particularly in the south of the county).

Question 10 Is it economical to transport mineral by river barge and if so should proposed quarries with the potential for moving sand and gravel by river barge be prioritised over other proposals?

Numerous studies (Canal and River Trust / Commercial Boat Operators Association) show barges provide an economically viable solution and provide environmental benefits e.g. 25% less fuel per tonne/mile and 25% less CO2 per mile. Barges have been used on parts of the River Trent over many decades and proposed quarries with the potential for their use should certainly be prioritised.

The quarry site at Sturton Le Steeple has been quoted in the LAA as providing “150,000 tonnes per annum potential barge transportation” and the Shelford site in the previous draft MLP proposed some 40% output being transported by barge transport.

Barge transport is significantly more sustainable and provides a real opportunity to remove / reduce HGV transport journeys and deliver materials to the heart of cities such as Nottingham.

Question 25 Do you agree with the proposed development management policy areas? Are there any others that should be covered?

No. The current list contains some areas which are vague:

- What does ‘Protecting local amenity’ include?
- What is meant by ‘Incidental mineral extraction’
- Historic environment should include reference to designated and undesignated heritage assets

In addition, the list of development management opportunities should include all those listed in PPG Minerals (see response to Question 2) to include areas such as noise, air quality. The full list is as follows:

- noise associated with the operation
- dust;
- air quality;
- lighting;

- visual impact on the local and wider landscape;
- landscape character;
- archaeological and heritage features (further guidance can be found under the Minerals and Historic Environment Forum’s Practice Guide on mineral extraction and archaeology);
- traffic;
- risk of contamination to land;
- soil resources;
- geological structure;
- impact on best and most versatile agricultural land;
- blast vibration;
- flood risk;
- land stability/subsidence;
- internationally, nationally or locally designated wildlife sites, protected habitats and species, and ecological networks;
- impacts on nationally protected landscapes (nationally protected geological and geo-morphological sites and features;)
- site restoration and aftercare;
- surface and, in some cases, ground water issues;
- water abstraction.

Proposed Development Management policies should also include and take account of the recently updated published National Character Profile¹ for the Trent Valley Washlands, which proposed the following set of objectives in relation to the opportunities to maintain, enhance and strengthen the landscape character of the Washlands,

SEO 1: *‘Carefully plan and manage new development within the NCA to ensure that landscape character and ecosystem services are strengthened, that heritage features, wildlife habitats, woodland and the hedgerow network are enhanced, and that opportunities for creation of multifunctional green infrastructure are realised so that this landscape is resilient to the forces of change that it is experiencing’.* As the *Guidelines for Landscape and Visual Impact Assessment, 3rd Edition* notes many valued landscape features perform a wide range of functions that in turn have the potential to deliver a wide range of different services of value to people. The

¹ <http://publications.naturalengland.org.uk/publication/5447860266991616?category=587130>

guidelines suggest that consideration of ecosystem service concepts is especially valuable in promoting cross-cutting and integrative approaches. We suggest they would be especially relevant in assessing the strategic dimension of this proposal.

SEO 2: *'Manage and enhance the Trent Valley Washlands' river and flood plain landscape to combine its essential provision and regulation of water role with landscape enhancement, nature conservation, climate regulation, farming, recreation and a resource for understanding geodiversity.'*

SEO 3: *'Protect, manage and enhance the pastoral landscape of the Trent Valley Washlands, seeking to join up and expand areas of pasture and associated attributes and habitats, to preserve heritage features, enhance biodiversity and geodiversity, protect farmland and provide additional recreational opportunities.'*

SEO 4: *'Protect and enhance the historic environment of the Trent Valley Washlands and their characteristic historic landscape. Increase awareness of the richness of this resource, protect it from neglect and physical damage, and ensure that future development complements and enhances the sense of history of the NCA.'*

Barton-in-Fabis Parish Council

and

SAVE!
Save the Ancient Valley Environment

with

**Clifton Village
Residents Association**

and

Thrumpton Parish Meeting

Response to:

Nottinghamshire Minerals Local Plan

Draft Plan Consultation
August / September 2018

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Executive Summary

1. Barton in Fabis Parish Council (together with Clifton Village Residents' Association, the Thrumpton Parish Meeting and SAVE) **object** to the *Nottinghamshire Minerals Plan Consultation Draft (NMPCD)* published in July 2018, and **the inclusion of the site (MP2s) at Mill Hill, Barton in Fabis within it.**
2. Our objection is based on:
 - a) Flaws in the analysis of issues and options that underpin the Draft Plan, and in particular the identification of geographical spread as a key factor in determining site allocation.
 - b) The application of a rationale for the allocation of sites which is inconsistent with the strategic objectives that have been used to shape the Draft Plan.
 - c) The allocation of the site at Mill Hill, Barton in Fabis despite the fact that NCC's own analysis shows it to be one of the most damaging sites for sand and gravel of those considered.
 - d) The allocation of the site at Mill Hill, Barton in Fabis is also inconsistent with the objectives of promoting a sustainable spatial distribution of sand and gravel sites within the County, both in terms of its contribution to the overall output of the County and its proximity to market.
 - e) The allocation of the site at Mill Hill, Barton in Fabis is therefore inconsistent with the strategic objectives set out in the plan and strategic policy for sustainable development, and the planning requirements set out in the National Planning Policy Framework that should underpin it.
3. The process by which the draft plan has been formulated is flawed, and the recommendations in relation to Barton in Fabis are therefore unsound. The revised Draft Minerals Plan does not meet the standard of evidence-based decision making that is to be expected in the minerals planning process.

1. Introduction

- 1.1. The consultation on the *Nottinghamshire Minerals Plan Consultation Draft (NMPCD)* published in July 2018 invites responses to a set 35 questions. These form the framework for this response, made on behalf of the Barton in Fabis Parish Council and SAVE (the wider campaign group formed by members from other areas affected by this proposal including Attenborough, Beeston Rylands, Clifton, Thrumpton and Gotham as well as recreational users from the surrounding area).
- 1.2. An Open Meeting in Barton Village hall on 5th September 2018 attended by members of the local community including from Barton in Fabis, Clifton, Clifton Village, Thrumpton, Gotham, Attenborough and Beeston Rylands unanimously endorsed the objection to the Mill Hill, Barton in Fabis site
- 1.3. Having reviewed the *NMPCD* and accompanying documents and consulted comprehensively amongst the wider community we wish to register our **objection** to the Draft Plan and the inclusion of the site at Mill Hill, Barton in Fabis within it.
- 1.4. **Our objection is based on:**
 - **Our identification of flaws in the analysis of issues and options that underpins the Draft Plan, and in particular the identification of geographical spread as a key factor in determining site allocation.**
 - **The application of a rationale for the allocation of sites which is inconsistent with the strategic objectives that have been used to shape the Draft Plan, in particular selecting sites on the basis of geographical spread without any evidence base regarding demand and selecting sites which are most damaging in terms of social, environmental and landscape impacts.**
 - **The allocation of the site at Mill Hill, Barton in Fabis despite the fact that NCC's own analysis shows it to be one of the most damaging sites for sand and gravel of those considered. Such an allocation is inconsistent with the strategic objectives set out in the plan and strategic policy for sustainable development.**

2. The Strategic Framework of the Draft Minerals Plan

Question 1: What do you think to the draft vision and strategic objectives set out in the plan?

Question 2: What do you think of the draft strategic policy for sustainable development?

Question 3: What do you think to the draft strategic policy for minerals provision?

- 2.1. The first three questions posed in the consultation on the NMPCD concern its strategic framing. We are broadly supportive of the broad vision (Q1), and in particular the recognition that mineral workings should contribute towards a greener Nottinghamshire. We particularly welcome the emphasis on seeking to ensure that the “County’s diverse environmental habitats are *protected, maintained and enhanced...*” (our emphasis). **We are, however, disappointed that the aim of protecting and maintaining those assets does not carry over into the development of the plan which has allocated sites with the greatest environmental impact simply on grounds of size and location. We therefore object to the plan on grounds that it is inconsistent with its strategic vision.**
- 2.2. We are also broadly supportive of the strategic objectives used to frame the plan (Q2), and in particular the emphasis given to the aim to prioritise the improved use or extension of existing sites before considering new locations and of making use of sustainable modes of transport (SO1). Moreover we are supportive of the strategic objectives dealing with minimising impacts on local communities (SO5), protecting and enhancing natural assets (SO6) and protecting and enhancing historic assets (SO7). We are, however, concerned that these objectives are **not** applied in the development and application of the site appraisal and allocation methodology. The goal of developing an appropriate and sustainable spatial distribution of sites overrides the goals set out in SOs 5, 6 and 7. Moreover the goal of promoting sustainable modes of transport (SO1) is not applied as a consideration in the site allocation process
- 2.3. A **sustainable** spatial distribution of sites is **not** one which is simply determined by proximity to market and transport costs. Indeed it can be argued that given that potential developers are probably better informed about the geography of the market and the economics of working a site than NCC, then it can be assumed that all the sites put forward by extraction companies are equally economically viable. In developing a minerals plan the goal of developing a **sustainable** spatial distribution is therefore dependent upon ensuring that of the sites allocated those selected have the least impact on wider sustainability goals because these cannot be properly evaluated when making decisions at the site level.
- 2.4. It is also important to note that if sites are allocated simply on the basis of location and the minimisation of transport costs to the detriment of the wider social and environmental values of the site, then this undermines other stated objectives in the Vision, e.g. ‘market the efficient use of resources’ (SO1). Extraction and transport expenditures by the developer should take account of the total cost to the community, including the harm to wider social and environmental assets, of exploiting the resource in specific locations. Unless they do then the goal of increasing levels of aggregate recycling and the use of alternatives from secondary and recycled sources (SO1) will not be achieved.
- 2.5. The interpretation of the concept of *sustainable spatial distribution* simply in terms of the geography of the market is therefore contrary to the overall sustainability goals that frame the minerals plan, and indeed undermines them. The Draft Mineral Plan is flawed in that it

fails to demonstrate what constitutes a *sustainable* spatial distribution of sites in a meaningful and balanced way. **We therefore object to the plan on grounds that it is inconsistent with its strategic objectives for sustainability.**

- 2.6. The lack of consistency between the strategic objectives and their application in developing the plan is especially disappointing given the feedback that NCC received at the Issues and Options stage in which respondents felt that “strategic issues should be broadened to minimise all adverse impacts of development, including on environmental and heritage features such as biodiversity, landscape, archaeology and communities”. We therefore **object** to the plan and require a better alignment between strategic objectives and their application.
- 2.7. Finally, in relation to the strategic framing of the Draft Plan, we broadly support the strategic policy on minerals provision (Q3), and in particular the emphasis given to the need for “all new proposals, whether allocated or otherwise, will need to be assessed in terms of their impact on local communities and the environment including matters such as landscape, heritage, biodiversity and climate, and what contribution they would make to achieving local and national biodiversity targets.” This is clearly consistent with the strategic vision and sustainability objectives that underpin the plan. We are, however, disappointed that the site allocation methodology used in drawing up the plan fails to avoid the allocation of sites with significant negative impact on landscape, heritage, biodiversity and climate, and therefore encourages inappropriate proposals over others that would be more beneficial.
- 2.8. **We therefore object to the plan on grounds that the site allocation methodology developed and applied is inconsistent with the strategic objectives of the strategic policy for minerals provision.**

3. Biodiversity-led restoration

Question 4 What do you think of the draft strategic policy for biodiversity led restoration?

- 3.1. The concept of biodiversity-led restoration is a sound one, and we are broadly supportive of its inclusion in the Draft Plan as a principle for decision making. However, we are disappointed by the simplistic way in which it is presented in the document, and consider the weakness in the way it is framed as a decision making criterion is inadequate.
- 3.2. In their review of the NPPF, the British Ecological Society¹ state in relation to planning for no net loss to biodiversity that:

Anticipated impacts on biodiversity must be avoided or reduced through the use of alternative development sites or designs; unavoidable impacts must be mitigated and any residual damage must be compensated for (for example by creating the same habitat off-site). It is desirable for developments to aim for a 'net gain' in biodiversity overall, for example by providing more habitat than needed for mitigation and compensation.

- 3.3. The policy of ensuring that there is 'no net loss' of biodiversity as a result of development is now well established in the UK, and it is therefore disappointing that there is no reference to it in Section SP3 that relates to Question 4; this is surprising given that it is part of the wording in DM4, Question 25. Instead the text relating to SP3 merely describes in simple terms what biodiversity-led restoration entails and the kinds of habitat that might be restored in the context of mineral development. **There is no explanation of the constraints associated with biodiversity-led restoration or the issues that need to be considered if proposals for such restoration are to be considered adequate.** As a result the application of the principle of biodiversity-led restoration in the plan is grossly inadequate.
- 3.4. The views of the British Ecological Society noted above reflect current scientific consensus on restoration - that while it can be successful this is by no means guaranteed. For example, Curran et al. show² that while active restoration measures can significantly accelerate the increases in species diversity, the inherently large time lags, uncertainty, and risk of restoration failure require offset ratios that far exceed what is currently applied in practice, and that restoration offset policy therefore leads to a net loss of biodiversity. Similarly, Schoukens and Cliquet³ conclude that given the limitations of restoration "a reinforcement of the preventative approach is instrumental in averting a further biodiversity loss within the European Union" (our emphasis).
- 3.5. The draft strategic policy for biodiversity restoration (SP3) proposed in the Draft Minerals Plan is inadequate because it fails to set restoration objectives in the context of the 'mitigation hierarchy' that is recognised in current planning policy that aims to halt the loss of biodiversity. The hierarchy involves, sequentially:
 - Avoidance: by ensuring impacts on biodiversity must be avoided or reduced through the use of alternative development sites;

¹ <https://www.britishecologicalsociety.org/planning-for-no-net-loss-of-biodiversity/>

² Curran, M., S. Hellweg, and J. Beck. 2014. Is there any empirical support for biodiversity offset policy? *Ecological Applications* 24:617-632.

³ Schoukens, H. and Cliquet, A., 2016. Biodiversity offsetting and restoration under the European Union Habitats Directive: balancing between no net loss and deathbed conservation?. *Ecology and Society*, 21(4).

- Minimisation: by taking measures to reduce the duration, intensity and/or extent of impacts that cannot be completely avoided;
 - Rehabilitation/restoration: by measures taken to improve degraded or removed ecosystems following exposure to impacts that cannot be completely avoided or minimised; and,
 - Offset: by measures taken to compensate for any residual, adverse impacts after full implementation of the previous three steps of the mitigation hierarchy.
- 3.6. Currently planning policy recognises that although restoration provides an opportunity for the recreation of new habitats, it is not a substitute for conservation of existing resources. The current draft plan is flawed because it needs to make a strong and meaningful link between the statements on biodiversity-led restoration and those in relation to sustainability objective SO6 (i.e. Protecting and Enhancing Natural Assets). Biodiversity-led restoration is not a substitute for conservation. The requirements for adopting an approach based on the mitigation hierarchy that are outlined in DM4 (NMPCD para 5.53) need to be included in the statement of policy SP3 and applied subsequently through the site appraisal and allocation process.
- 3.7. Notwithstanding the need to revise the policy on Biodiversity-led restoration to reflect its place in the mitigation hierarchy, the material relating to restoration also needs to be strengthened by reference to criteria that will ensure that where biodiversity-led restoration is appropriate, then ecologically appropriate robust schemes are brought forward. This does not merely consist of listing the kinds of habitat that might be expected in any restoration schemes.
- 3.8. The *Guidelines for Ecological Impact Assessment of the Chartered Institute of Ecology and Environmental Management*⁴ states, for example, that proposers should demonstrate commitment to the package of mitigation, compensation and enhancement measures which should include: a monitoring scheme to evaluate the success of mitigation measures; remedial measures in the event that mitigation measures and/or compensation measures are unsuccessful or there are unforeseen effects; and an auditing/reporting framework. Clearly, the mitigation and remedial measures should be sufficient to ensure that compensation ratios are sufficient. Moreover there should be a greater presumption towards ensuring net biodiversity gain.
- 3.9. In addition developers should demonstrate that the timespan and implementation of the restoration plan is ecologically meaningful and can be sustained over that period. Unless there is serious and demonstrable commitment to restoration at the outset, efforts for biodiversity-led restoration in any scheme are likely to be unsuccessful. The requirements on adequate aftercare contained in DM12 should be reflected more strongly in the text related to SP3, namely that:

Restoration proposals will be subject to a minimum five year period of aftercare. Where proposals or elements of proposals, such as features of biodiversity interest, require a longer period of management the proposal will only be permitted if it includes details of the period of extended aftercare and how this will be achieved. (NMPCD para 5.118, point 9)

⁴ https://www.cieem.net/data/files/Publications/EcIA_Guidelines_Terrestrial_Freshwater_and_Coastal_Jan_2016.pdf

And it should be applied in the evaluation of proposals.

- 3.10. We therefore object to the plan on grounds that the policy for biodiversity led restoration is inadequate because it fails to place such measures in the context of a meaningful mitigation hierarchy which ensures that the preventative approach should be prioritised to avert a further, avoidable biodiversity loss across the County. It also fails to develop adequate requirements for aftercare where restoration takes place. As a result its application as a criterion for site allocation is flawed because it does not meaningfully discriminate between proposals in terms of the likely success of biodiversity-led restoration.

4. Climate change

Question 5: What do you think of the draft strategic policy for climate change?

- 4.1. We are supportive of the inclusion of climate change in the suite of strategic policies that shape the Minerals Plan. However, we feel that the text of SP4 needs to be strengthened in two respects:
- First, that the statement in point b) of Policy SP4 be modified to clarify what ‘vulnerability’ is referring to. Flood risk is identified as an issue. Communities, natural and historic assets and agricultural soils also need to be highlighted. The need to minimise the vulnerability of existing biodiversity assets to climate change impacts should, for example, be a factor in determining the allocation of sites for development.
 - Second, that while the reference to restoration is appropriate in point 1c) of policy SP4, the policy also needs to state that such restoration schemes can contribute to climate change adaptation providing that they compensate for the impacts they have had as a result of the development. The policy also needs to be clear what scale of ‘contribution’ is appropriate otherwise the requirement is an empty one.
- 4.2. We are supportive of the recognition that in some circumstances mineral development can provide a number of opportunities to mitigate and adapt to the impacts of future climate change (para 3.34). However, we are concerned that this line of thinking is not carried over into expectations in terms of the issues outlined in point 1a) of Policy SP4. The location, design and operation, and significantly the restoration of sites, should not only seek to avoid climate change impacts, but also deliver a net gain in terms of climate change adaptation.

5. Sustainable Transport

Question 6: What do you think of the draft strategic policy for sustainable transport?

- 5.1. We are supportive of the statements contained in Policy SP5, and in particular those relating to the need to encourage sustainable forms of transport such as barge and rail. We are however, disappointed that this policy objective has not been applied in the subsequent allocation of sites, and therefore object to the Draft Plan because there is a mis-alignment between policy and practice. We will develop this argument further in section 9 of this document in relation to the sites in the Nottingham area.
- 5.2. Focussing specifically on the wording of SP5 we agree that consideration does indeed need to be given to the distances over which minerals need to be transported. However, this is treated in a simplistic way in the policy statement, point 2a). Close proximity to market is an issue, but this statement also needs to be qualified to emphasise a proviso that that this does not result in sites with the greatest social, environmental and landscape impacts being allocated in preference to others with lesser impact. In other words, **proximity to market is one factor but not an overriding one**. If it is given too much emphasis in site allocation then this would undermine other policy objectives set for the Plan.
- 5.3. It should also be noted, for example, that the goal of encouraging the sustainable use of resources through the use of recycled and secondary aggregates (SP4) will be undermined by undue emphasis on geographical location in relation to market as a factor in site allocation. While this is important, transport costs should reflect the true cost of exploitation and delivery from sites which in all other respects entail the least damage to natural, historic and social assets. Recycling will not occur unless there is pressure to do so.
- 5.4. **We object to the Plan and the policy related to sustainable transport because we feel that it is not the function of the planning system to manipulate the geography of the market and associated commercial risk, but rather to ensure that development is appropriate and sustainable, given wider societal needs and requirements. The policy on sustainable transport needs to reflect this.** One such requirement, for example, is the use of modes of transport other than road. Another is that the most vulnerable and valuable sites are protected notwithstanding their proximity to market.

6. The built, historic and natural environment

Question 7: What do you think of the draft strategic policy for the built, historic and natural environment?

- 6.1. We are concerned by the poor structure of this Policy statement, and are especially disappointed in that this policy's objectives have not been applied in the subsequent allocation of sites. We therefore **object** to the Draft Plan because there is a mis-alignment between policy and practice. Again, we will develop this argument further in the section relating to consultation question 11 in relation to the sites in the Nottingham area. The misalignment arises because of the weak and over-generalised nature of the formulation of SP6.
- 6.2. Since this policy concerns the need to conserve and protect built, historic and natural assets, it is misleading to refer to the opportunities of restoration once they are damaged or removed (Para 3.46). The policy needs to state that there are circumstances in which minerals development (despite the opportunities for restoration) may not be appropriate because of the initial or ongoing impact and loss it will entail for the built, historic and natural assets. Thus paragraph 3.56 needs to be expanded to include natural and built assets, placed at the head of the section on Policy SP6, and the policy then actually needs to be designed around it.
- 6.3. In general terms, policy, if it is to be meaningful, needs to shape and guide action or change the way people and organisations do things for the better. **We object to the current structure of SP6 because it fails to do this.** It is unduly focussed on some of the constraints that need to be considered by developers in making proposals, and the requirements of an environmental impact assessment should one be required. By contrast, it fails to set out how this policy would relate to decision making, and in particular the allocation of sites in a mineral plan, given the requirements of the NPPF.
- 6.4. For example, in relation to nature conservation the policy should, given the supposed strategic remit of SP6, make reference to paragraph 117 of the NPPF. This states that planning policies should promote the preservation, restoration and re-creation of priority habitats, and the protection and recovery of priority species populations, linked to national and local targets, and that policies should seek to preserve ecological networks as well as restoring and recreating them. Para 117 of the NPPF also requires the identification of suitable indicators for monitoring biodiversity in a plan. Further considerations also include those relating to the off-site impacts of developments on SSSIs and other designated areas.
- 6.5. In the context of nature conservation it is also essential to include the requirements of the recent update of the NPPF, which in para 175 states that: development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists. Wholly exceptional includes infrastructure projects (e.g. nationally significant infrastructure projects, orders under the Transport & Works Act and hybrid bills), where the public benefit would clearly outweigh the loss or deterioration of habitat.

- 6.6. While the requirements of the NPPF clearly apply to individual planning applications, they must also apply to the minerals planning process itself which involves assessing sites relative to each other across a range of criteria relating to the built, historic and natural environment. Unless a site allocation methodology is devised that reflects the requirements of the NPPF then it is likely that the outcome would be the promotion of unsuitable locations. Policy should therefore state how it will operate given the requirements of the NPPF in allocating sites and in identifying those that are unsuitable given the scale and nature of their impacts.
- 6.7. **We object to the formulation of Policy SP6 because of the lack of transparency in the way it will be applied in the site allocation process. The emphasis on restoration throughout should be reduced and the importance of protection and maintenance of assets stressed.**

7. Green Belt

Question 8: What do you think of the draft strategic policy for the Nottinghamshire Green Belt?

- 7.1. We are disappointed with the text of the policy statement on Green Belt (SP7) which fails to fully reflect the important sections of the NPPF on this topic. We therefore object on grounds of its narrowness and the lack of any clear statement about how any policy on the greenbelt would be applied in the minerals planning process.
- 7.2. The NPPF and Government (para 79) “attaches great importance to Green Belts” and states (para 87) very clearly that inappropriate development should not be approved except in very special circumstances: “inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances”. Although this element of the NPPF is reflected in the second bullet point of SP7, the policy fails to note that the NPPF states that:

“When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. ‘Very special circumstances’ will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm is clearly outweighed by other considerations” (Para 88)
- 7.3. Policy SP7 is not transparent in that it fails to state how, in the context of minerals planning, the two tests of ‘appropriateness’ and ‘special circumstances’ will be applied. **In particular, it should be noted that ‘special circumstances’ in relation to the Green Belt do not include supposed proximity to market or goals of developing a ‘spatially sustainable distribution’ of minerals sites.**
- 7.4. **We therefore object to the policy statement on Green Belt because it lacks any clear indication of how it is to be applied in the minerals planning process.**

8. Sand and Gravel Provision (MP2)

Question 11: What do you think of the draft site specific sand and gravel allocations?

Comments on Plan's approach to the location of future sand and gravel quarries

- 8.1. The issues and options analysis published in March 2018 evaluated five policy options:
- A. Geographical spread across the County
 - B. Prioritise specific areas
 - C. Prioritise locations with potential for transporting sand and gravel by river barge
 - D. Allocate sites based on their individual merits
 - E. Use criteria based policy approach.
- 8.2. It concluded that "Options A and C scored equally favourably and were more sustainable than the other options". We make objection to this conclusion as the analysis which led to it is flawed. Our reasons are as follows:
- As is acknowledged in the summary on Page 50 there is "considerable uncertainty" as to the possible impacts of the options on the sustainability objectives; half of them were not included in the scoring due to lack of detail. **As a result of such uncertainty, a precautionary approach would suggest that sustainable outcomes are more likely to be achieved if sites are considered on their individual merits than by the application of general criteria such as geographical spread.**
- 8.3. The flawed logic used in the analysis is evidenced by the commentary against:
- Criterion 2 'Protect and enhance biodiversity at all levels and safeguard features of geological interest': We argue that if sites are considered on their individual merits then this is more likely to result in safeguarding than if they are overridden by criteria such as geographical spread. We therefore argue that option D should be rated as positive.
 - Criteria 4, 5, 7, 8, 9, 11, 12 and 14: The same logic as applied to criterion 2 also applies to these objectives. If overall impacts of minerals development are to be minimised then the negative outcomes can only be minimised by considering sites on their merits. We therefore argue that option D should be scored as positive across all these criteria.
 - Criterion 3 'Promote sustainable patterns of movement and the use of more sustainable modes of transport': The commentary states that geographical spread is likely to result in sites being closer to markets thus reducing road haulage distances. Such a conclusion could only be supported if a detailed geographical analysis of the market had been done. It has not. The closest to such an analysis is the commentary provided on page 44-45 of the *Draft Site Selection Methodology and Assessment*, which focusses almost exclusively on the local market. However, the *2017 Nottinghamshire and Nottingham Local Aggregates Assessment* shows that:
 - more than half of the sand and gravel extracted in Nottinghamshire is exported (para 3.9);
 - that there is considerable import of sand and gravel in the south across the County boundary (para 3.11); and,

- that average annual haulage distances are approximately 35 miles and increasing (para 3.13).

Thus there is considerable uncertainty about the location of the actual market and the geography of patterns of supply and demand. **As a result this objective should be scored as uncertain or unknown rather than positive for Option A Criterion 3.**

- **Criteria 3 and 7:** The analysis is biased toward Option A because the issue of minimising road haulage is counted twice. Climate change impacts (Criterion 7) are assumed to be minimised by wider geographical spread of sites because of market proximity. Such an assumption is uncertain as we have shown above. However, the issue of double counting would apply even if a more robust analysis of the geography of the market was available. Reference to road haulage should therefore be removed from criterion 7 and it scored as uncertain because the extent to which sites minimise impact on climate can only be assessed in a case by case basis (i.e. on their merits using criteria such as the amount of emissions per ton of aggregate extracted). If transport is to be included then the ability to provide alternative modes of haulage such as barge transport should be used here (note that para 3.24 of Appendix 1 to *Nottinghamshire Minerals Local Plan Draft Plan Consultation* states that given that it is not always possible to locate sites close to markets and minimise road transport “the promotion of alternative, more sustainable forms of transport such as barge or rail transport is important”).

8.4. **A precautionary approach to the evaluation of the impacts of the five options on the sustainability objectives would therefore suggest that option D has been inappropriately and negatively scored relative to Option A. The preferred options that meet the County’s sustainability goals are clearly C and D, rather than A and C. We therefore object to the draft Minerals Plan on these grounds and suggest that the options selected should be revised to reflect a more accurate and robust analysis of their likely impacts on the County’s sustainability appraisal objectives.**

8.5. The revision of the findings on the sustainability appraisal to emphasise the contributions of options C and D would ensure that the Draft Plan is better aligned with the results of the public consultation, as is evidenced by the commentary under ‘What you told us at the Issues and Options stage’ on page 59 of the *Draft Plan Consultation* document. The commentary notes that responses were split in relation to the importance of geographical spread and that “Generally, respondents felt that prioritising specific geographic areas above others would not be appropriate, instead, each site should be judged on its own merits”.

Application of the Site Evaluation Methodology

8.6. **We object to the application of the site evaluation methodology on grounds that it is both flawed and applied inconsistently.**

8.7. We suggest that geographical spread can be used as a criterion to decide between sites all other things being equal. In other words if sites had similar environmental and social impacts then those more widely spaced might be selected over a more concentrated distribution. By identifying geographical spread as an over-riding factor, the current draft plan shifts impacts to more potentially damaging sites as is evidenced by the commentary

on Mill Hill near Barton in Fabis, on page 55 of the *Draft Site Selection Methodology and Assessment* document. In this commentary the high negative impacts on biodiversity, landscape and the historic environment are acknowledged, but the site is selected nonetheless on grounds of geography, even though there are less damaging sites in other parts of the county (e.g. Coddington or Shelford).

- Although Strategic Objective 1 of the Draft Plan states that it should seek to ‘secure a spatial pattern of mineral development that efficiently delivers resources to markets within and outside Nottinghamshire’ it should be noted that no analysis of the ways in which different possible spatial configurations of sites might meet this objective are provided. NCC have confirmed (30/8/180 that “There is no published data related to the geographical spread for the particular allocation of sites”. **As a result claims that the Draft Plan can actually deliver this Strategic Objective are unfounded.**
- The lack of a detailed analysis is surprising since it is possible to develop an overview of demand by taking the % of total housebuilding in each area as a reasonable guide as to where quarry sites should be located. Although housebuilding accounts only for between 20 to 35% of total aggregate production, where houses are built is where jobs are created with associated commercial buildings and major infrastructure projects and local infrastructure such as roads and schools – thereby equating to a higher percentage. Table 1 provides an estimate of the distribution of house development in Nottinghamshire; it shows that about 56% of the demand is in the Nottingham area.

Table 1: Distribution of demand by House building figures⁵
(Annual estimates for Nottinghamshire 4754)

	Local Authority	Average dwellings PA	Area percentage share
North	Bassetlaw	435	
Area total		435	9.5%
Central	Ashfield	452	
	Mansfield	376	
	Newark	740	
Area Total		1568	34.3%
Nottingham Area	Broxtowe	362	
	Gedling	426	
	Nottingham	1009	
	Rushcliffe ⁶	774	
Area Total		2571	56.2%

- Table 2 uses figures provided in the NDMPC for the total requirement in the plan period and the amount available after export; we use 40% and 50% export levels for the analysis. We focus particularly on the estimates of the requirement in the Nottingham area of 10.89mt, and 9.08mt respectively, and the extent to which this estimated demand is met by alternative site allocations in the Nottingham area.

⁵ Nottinghamshire and Nottingham Local Aggregate Assessment October 2017
<http://www.nottinghamshire.gov.uk/media/127116/october-2017.pdf>

⁶ Rushcliffe is included in the Nottingham area because the majority of its housing is allocated to the urban edge of the conurbation

Table 2: Apply percentage demand to export scenarios (mt)		
	40% export	50% export
Total for Notts	19.38	16.15
North (9.5%)	1.84	1.57
Plus Y&H export totals	12.92	16.15
Total North	14.76	17.72
Newark (34.3%)	6.64	5.53
Nottingham (56.2%)	10.89	9.08

- Table 3 shows the extent to which the sites allocated in the Nottingham area meet the estimated demand with 40% and 50% export. With the allocation of East Leake (approved), East Leake (extension) and Mill Hill Barton in Fabis there is a deficit in the proportional supply to the Nottingham area of between 4.8 and 2.99mt.

Table 3: Match geographical supply to demand – Draft Plan		
	40% export	50% export
	10.89	9.08
East Leake approved	2.34	2.34
East Leake extension	0.75	0.75
Mill Hill Barton in Fabis	3.0	3.0
Total	6.09	6.09
Deficit/Excess	-4.8	-2.99

- However, if the larger Shelford site was allocated instead of the smaller Mill Hill, Barton in Fabis site then these deficits would be lessened or eliminated (Table 4).

Table 4: Match geographical supply to demand – with Shelford		
	40% export	50% export
	10.89	9.08
East Leake approved	2.34	2.34
East Leake extension	0.75	0.75
Shelford	6.5	6.5
Total	9.59	9.59
Deficit/excess	-1.3	+0.48

- The analysis suggests that by the inclusion of Shelford, for example, a better geographical spread is achieved than is realised by the current Draft Plan. If as a consequence Botany Bay were also removed from the plan, the inclusion of Shelford would move 3mt of output from North Nottinghamshire to South Nottinghamshire where it is most needed.
- Consequently, the statement in the ‘Sites Assessment Methodology’ on the Shelford site that “The size of this site is such that if it were allocated, provision would be limited in other parts of the County and this would not comply with the objective of maintaining a geographical spread of mineral sites across the County” is manifestly wrong.**

8.8. In further considering the criterion to ‘Promote sustainable patterns of movement and the use of more sustainable modes of transport’, it is also manifestly wrong to conclude that the proposed site at Mill Hill, Barton in Fabis is closest to developments likely to take the output from quarries in the south of the County. We have made an analysis of the current situation as part of our earlier response to the planning application made for Mill Hill, Barton in Fabis, and looked at the status of the locations of potential developments and the quarries which already are or could potentially serve them. The developments and quarries considered are shown in Table 5, which also shows the distance to the nearest quarries and the distance to the proposed site at Mill Hill, Barton in Fabis. Shelford Wharf has been included as this is a proposed barge terminal close to Trent Lane, Trent Bridge to which some 40% of the material from the Shelford site would be delivered.

Table 5: Distance of sand and gravel sources to major developments in Nottingham area with comparison to distance to Mill Hill, Barton in Fabis			
Development	Note	Nearest quarries	Distance from Mill Hill
East Midlands Rail Freight Hub / Kegworth by-pass	Work is under way on these projects and aggregate is already being supplied with contracts already therefore agreed	Lockington 5.86km, Shardlow 9.08km	12.11km
Toton (HS2)	Timescales for this project are not yet clear	Lockington 8.98km, Shardlow 15.02	15.03km
Gamston	No planning application has yet emerged	Shelford wharf 6.45km, Shelford 10.95km (East Leake: 15.14km)	13.45km
Edwalton	Construction already under way and contracts for aggregate supply are in place	Shelford wharf 8.49km (East Leake: 15.44, Shelford: 12.9km)	8.79km
Waterfront	Timescales unknown	Shelford wharf 0.5km (Shelford 12.6km, Lockington 22.71km)	9.54km
Boots site	Planning permission granted	Shelford wharf 5.69km (East Leake 17.55km)	5.96km
Bus Depot	Timescales unknown	Shelford wharf 8.77km, Lockington 9.07km	9.89km
Clifton Pastures / Clifton West	Clifton Pastures timescales unknown. Clifton West yet to have outline planning application approved	Mill Hill, Barton in Fabis (East Leake 11.84km, Shelford wharf 8.24km)	c0.5km, Clifton Pastures 1km, Clifton West,

Note: a) the distances shown are by road and so the quarries in bold are the nearest location by road distance; b) Information supplied by Greenfield Associates indicating distances from Mill Hill, Barton in Fabis, is based on distances ‘as the crow flies’ and therefore bears no relation to actual distances. This table therefore provides a more meaningful picture of the situation.

8.9. For the analysis shown in Table 5 we recognise that it may be financially viable for other quarries to the north of Nottingham and further in to Derbyshire or Leicestershire to supply the projects identified, but we have focused only on the closest in terms of travel distances to simplify the picture.

- 8.10. In relation to Table 5 it is important to note that:
- **Mill Hill, Barton in Fabis site is significantly further than alternatives** to the major infrastructure projects of the East Midlands Rail Freight Hub and Toton (HS2);
 - **Mill Hill, Barton in Fabis site is not significantly nearer to two of the three major areas in Rushcliffe allocated for the sustainable urban extension** (i.e. Gamston and Edwalton). While it is obviously closest for the Clifton West and Clifton Pasture s development the proportion of the output required here is small in relation to proposed total output (ca 1 year’s output) and so does not by itself justify development
 - **Shelford is equally well placed to provide output to these developments as Mill Hill, Barton in Fabis, and with the development of more sustainable barge transport via Shelford Wharf would be significantly more so.**
- 8.11. It is also important to note that given the impacts associated with the Shelford site are less than that at Mill Hill, Barton in Fabis, and the reallocation of this site in the Minerals Plan would also reduce the overall social, environmental and landscape in line with SO5, SO6 and SO7.
- 8.12. However, as we have shown in Section 1, the emphasis given to geographical distribution as an overriding factor in the site selection criteria is, in any case, flawed. **The subsequent application of the Options A and C in the site selection process is also inconsistent and as a result we make a further objection to the conclusions drawn.** We focus particularly on the Mill Hill, Barton in Fabis site. Our grounds are as follows:
- Despite Option C (Prioritise locations with potential for transporting sand and gravel by river barge) being identified as a priority in site selection none of the sites selected meet this criteria, although some of those rejected (e.g. Shelford) do. The documentation shows that the operator at Shelford proposes to transport 40% of output via barge but there is no rationale provided for why this site has not therefore been prioritised as the adoption of Option C requires.
 - On the basis of the scoring applied in the site assessment methodology the combined environmental impact of the development of Mill Hill, Barton in Fabis and Botany Bay would be greater both during the operational and long-term phases, than the single site at Shelford (see Table 7, *Draft Minerals Local Plan Sustainability Appraisal Interim Report*); the development of one site rather than two is likely to result in less overall impact and on these ground this strategy is likely to better address the County’s sustainability goals.
- 8.13. **We therefore object to the application of the site Draft Selection Methodology and its conclusions on grounds of the inconsistency of its outcomes with the stated policy objectives that are supposed to underpin the Draft Plan:**
- No evidence is provided to show that the allocation of Shelford rather than Mill Hill, Barton in Fabis, and Botany Bay, would limit the ability of the plan to ensure a spread of quarries, given the average distance travelled by aggregates is roughly 35 miles and increasing (see para 3.11, *2017 Nottinghamshire and Nottingham Local Aggregates Assessment*).

- No evidence or argument is provided for the omission of the priority for barge transport in the selection of sites; and,
- The current application of the site allocation methodology in the Draft Plan results in greater adverse impact on the environment than otherwise would be the case, despite the requirements of the Draft Plan that future minerals development in Nottinghamshire should meet :
 - Strategic Objective 1 ‘Improving the sustainability of minerals development’ by making use of sustainable modes of transport
 - Strategic Objective 6 ‘Protecting and enhancing natural assets’ by conserving and enhancing Nottinghamshire’s natural environment, including its distinctive landscapes, habitats, geology, wildlife species and ecological health of water bodies by avoiding, minimising and mitigating potential negative impacts’.
 - Strategic Objective 7 ‘Protecting and enhancing historic assets’ by protecting and where appropriate enhancing Nottinghamshire’s distinct historic environment and ensuring heritage assets and their settings are adequately protected and where appropriate enhanced.

8.14. **Paragraph 4.19 is therefore incorrect and the conclusion drawn is wrong. Sand and gravel can only be worked where it is found, but it does not follow that geographical spread is the only way to ensure continued supply. Moreover, minimisation of HGV transport is only one criterion that must be used to make site allocations. As we have shown this is inconsistent with the stated policy objectives in the consultation document, because it overlooks the relative impacts on built, natural and heritage assets, and the Green Belt arising at individual sites.**

8.15. **The Draft Plan is therefore flawed and should be revised accordingly to meet the County’s own sustainability objectives. In order to do so:**

- sites should be considered on their own merits in order to minimise the likely overall environmental impacts of the Draft Plan;
- the criterion for prioritising barge transport should be applied on grounds of consistency; and,
- geographical spread should only be used to make decisions between sites when all other aspects things are considered equal in order that it does not over-ride consideration of the scale of environmental damage likely to arise by the inappropriate selection of sites due to location - proximity to an unquantified market is not an ‘exceptional circumstance’ as envisaged by the NPPF.

8.16. **Finally, in terms of the specific case of the sites at Mill Hill, Barton in Fabis, and Botany Bay, a transparent rationale needs to be provided as to why these sites are included rather than Shelford, when (a) the likely impacts of the latter are less; (b) the opportunities for prioritising barge transport are greater; and (c) given the average haulage distance for aggregates it is as well placed to serve the needs of the local market as the other two. Evidence also needs to be provided to support the claim that allocation**

of Shelford, rather than the sites at Mill Hill, Barton in Fabis and Botany Bay, would limit the ability of the plan to ensure a spread of quarries.

Site Assessment for Mill Hill, Barton in Fabis

- 8.17. The site assessment made for Mill Hill, Barton in Fabis shows it to be one of the most negatively affected should development be permitted. As we have argued there is no coherent statement in the plan as to why this finding should be ignored and the site allocated, when there are other sites where impacts would be less serious. In fact, we would suggest the scale of the impacts for the Mill Hill site have been under-estimated, making the decision even less secure. We therefore object to the assessment made of the Mill Hill, Barton in Fabis site.
- 8.18. The mis-representation of the conditions and associated impacts at Mill Hill, Barton in Fabis are as follows. We base our response on evidence in the public domain and that generated by the recent planning application for the site. It appears that the Planning Policy Team in assessing the site has failed to take account of the detailed comments and information already available and provided by consultees as part of the planning application process which has resulted in objections and concerns by such bodies as RSPB, Notts Wildlife Trust, Natural England, CPRE, Ramblers Association, Barton in Fabis Parish Council and indeed the County Council's own officers.

Criterion 2: Protect and enhance biodiversity at all levels and safeguard features of geological interest.

- The evidence relating to the biodiversity status of the site and its surroundings point to an assessment that the impact during the operational phase is very negative (-3) and in the long-term as negative (-2). The draft assessment fails to: recognise the importance of the site at the landscape scale, promote the preservation of existing ecological networks and the populations of priority species they support; and recognise or mitigate the significant on-site impact on LWS and off-site impacts on SSSIs. **As a result the allocation of the site is not consistent with the objectives of SO6 or SP6.**
 - *The claim made by Greenfield Associates in para 8.1.10 of their submission document dated January 2018 that the ecological effects are minor are misleading and highly simplistic.*
- Approximately two thirds of the habitat within the proposed site consists of habitats of Local or National Conservation Importance. Nine Local Wildlife Sites will be directly or indirectly impacted upon during the operational period; Borrow's Pit (LWS), which is within the site boundary, has been omitted from the Site Appraisal Matrix. Only partial mitigation by using appropriate buffers will be possible and a number of the LWS will be destroyed entirely.
- The ancient woodland status of Brandshill Wood and Clifton Wood has not been considered, and the potential impact of changes in hydrology, dust and noise factored into the analysis.
- There are extensive areas of BAP habitat within the site which will be lost, including neutral and semi-improved grassland, marshy grassland, scrub, hedgerow, ditch and

floodplain grazing marsh. All these habitats have targets for their conservation and protection. Restoration of the site would not effectively compensate or restore these existing ecologically high value habitats. The long-term impact is therefore negative rather than slightly negative.

- The SSSIs of Attenborough and Holme Pit are adjacent to the proposed site and both will be adversely affected during the operational phase and long-term. Attenborough is important for a number of bird species will be impacted by noise and permanent loss of feeding areas. The water quality of Holme Pit will be impacted during periods of flooding. Flood patterns and their impact relative to Holme Pit have not been considered in the design and operation of the proposed site.
- The site also holds a number of species of national or local importance, including bats, harvest mouse, grass snake and common toad. There are many species of red and amber listed birds including noise/disturbance sensitive species such as barn owl, Cetti's warbler and long-eared owl. Importantly the site hosts a diverse invertebrate fauna including the endangered beetle, *Carabus monilis*. All of these species will be subject to severe adverse impacts.
- The restoration plan for this site does not maximise BAP priority habitats for the area and there is no significant biodiversity compensation achieved as a result of proposed restoration measures. Indeed the nature of the "Alternative working proposals/buffer zones to retain/protect LWSs and SSSIs" mentioned under mitigation are not specified and it is inappropriate to include them in the assessment. Moreover the time span over which restoration is proposed (5 years, see Para 9.1.4 of Site Proposal by Greenfield Associates, dated January 2018) is inadequate (see *NMPCD* para 5.118, point 9) ecologically so that the measures are unlikely to be successful.
 - *The claim made by Greenfield Associates in para 9.1.5 of their submission document dated January 2018 that restoration is likely to be beneficial in the long-term is therefore unfounded.*

Criterion 3: Promote sustainable patterns of movement and the use of more sustainable modes of transport.

- The proposal only includes road haulage and so cannot be considered as offering 'sustainable' modes of transport. At best this criterion should be scored as 0.

Criterion 4: Protect the quality of the historic environment, heritage assets and their settings above and below ground.

- The assessment underestimates the impact on historic environment, heritage assets and their settings especially in the long-term by virtue of the resulting negative impact on the historic environment post restoration in respect of the setting and significance of Clifton Hall.
- Barton in Fabis Parish Council recently produced a detailed assessment of the historic cultural links between Clifton Hall (Grade 1 listed) and Barton in Fabis which highlights the importance of the historic environment of the Mill Hill Site to the setting of Clifton Hall. The assessment was sent to the council's heritage officer, Jason Morden, to Tim

Allen at Historic England and to Nancy Ashbridge, Landscape Architect at Via East Midlands Ltd. The evidence presented clearly shows that the operation and restoration of the site would have a major impact on the setting of Clifton Hall and its Registered Parks and Gardens. Since these impacts are significant the allocation of the Mill Hill is inconsistent with the third bullet point of Policy SP3 (NMPCD page 39). The long-term impact should be regarded as at least as negative as during the operational phase and both should arguably be set, as a minimum, at -2.

Criterion 5: Protect and enhance the quality and character of our townscape and landscape.

- The assessment given in the *Draft Minerals Local Plan Sustainability Appraisal Interim Report* of July 2018 is inconsistent with the summary it provided in the *Draft Site Selection Methodology and Assessment* also published in July 2018. The former gives scores of -3 under both the operational phase and long term (Page 19). However, the latter erroneously states that “As a result of the above assessment, whilst the site has high landscape impacts and the sustainability appraisal reports very negative impacts in the operational phase, these become slight negative impacts in the long term.” **Clearly the text should state that it is a site of high landscape impact both in the short and long term.**
- **The fact that the assessment finds that the landscape impact scores as maximum in the operational phases and long-term, and since these scores are amongst the highest attributed to any site in the appraisal matrix, the allocation of this site in the Draft Plan is clearly inconsistent with the Policy SP6.**
- The impact of the proposed development on the Green Belt also conflicts with the stated policy in SP6, because the processing plant will be located on a prominent ridgeline on Mill Hill. This will have an adverse impact on the openness and visual amenity of the Green Belt in this area. It will therefore conflict with the purposes of the Green Belt and should therefore be considered inappropriate development. As there are no special circumstances of sufficient weight to outweigh the harm caused to the Green Belt in this area it is therefore contrary to the National Planning Policy Framework and local planning policies EN14 and EN19 of the Rushcliffe Borough Local Plan.
- In relation to landscape it should also be noted that the mitigation measures summarised in *Draft Minerals Local Plan Sustainability Appraisal Interim Report* of July 2018 are inconsistent with what is being proposed. For example, it is suggested that there will be retention of ridge and furrow landscape, when in fact the development will remove it entirely. If such retention is proposed then the size of the site and the potential output would be considerably reduced.

Criterion 6: Minimise impact and risk of flooding.

- The assessment is wrong in terms of the long-term impacts of the proposal at Mill Hill. The flood risk assessment made for the current planning application for sand and gravel extraction at this site shows that the scheme at best is neutral in terms of its impacts on

flood risk. There are no measures proposed that would mitigate future flood risk and so at best the score awarded should be '0' and not '+1'.

- Given that the flood assessment shows that generally the area is likely to experience increasing risk, a requirement of the proposal should be that flood mitigation measures are included in the design so that these increased future risks are minimised.
- The commentary should include the potential risk of flooding and erosion to the high pressure gas main that bisects the site. There is a risk posed to critical infrastructure associated with this proposal.

Criterion 7: Minimise any possible impacts on, and increase adaptability to, climate change.

- The assessment scores shown in the *Draft Minerals Local Plan Sustainability Appraisal Interim Report* of July 2018 are inconsistent with the commentary provided, and the scores awarded are misleading.
- The impacts during the operational phase is clearly negative, given the loss of habitat and the carbon stores associated with them, and the use of road haulage. Thus the score of '?' is probably not an accurate representation of the situation. In the long term the assessment states that the impacts could be positive or negative depending on the resilience of the flora and fauna and the details of the restoration. Since this is unknown then the score of +1 is again erroneous.
- We suggest that as a minimum both the operational and long-term phases should be scored as '?', and that the contribution of the proposed site to climate change adaptability is uncertain.

Criterion 8: Protect high quality agricultural land and soil.

- The assessment is in error in terms of the assessment of long term impacts, in that it states that it judges the impact to be positive given "Restoration to high quality agricultural land if that is possible". Such restoration is neither possible nor proposed. If it is proposed then this would reduce the area of BAP and Priority Habitat restoration. At best we suggest the long-term score should be the same as the operational phase, i.e. -1.

Criterion 12: Protect and improve water quality and promote efficient use of water.

- The assessment scores this criterion as slightly negative (-1) reflecting "dewatering and discharges into watercourses". In fact the evaluation of the pending planning application has revealed serious concerns about the impact of the development (and specifically the location of storage heaps and lagoons) on the quality of water reaching the SSSI of Holme Pit as the result of flooding.
- There is now evidence from the flooding of April 2018 of the way flood waters move across the site, and we can show that flood waters typically overtop the banks of the Trent at Cottagers' Field and ran northwards towards and eventually into Holme Pit, before re-entering the river at below Clifton Hall. These waters cross the centre of the proposed site and especially the area where material will be stockpiled. Such uncontrolled events are likely to impact on the water quality at Holme Pit SSSI though

siltation and nutrient input. Moreover, there is no guarantee that the quality of water reaching Home Pit will in the long term improve given the uncertainties associated with the restoration plan.

Criterion 13: Support wider economic development and promote local job opportunities.

- The assessment only considers the wider economic impact and suggests that some jobs will be created locally. The assessment overlooks the fact that employment may be lost by the impact on agriculture in the area, and the loss of amenity and access on which the local equestrian centres depend. The impact is probably uncertain at best in the short term.

Criterion 14: Protect and improve human health and quality of life.

- The appraisal correctly assesses the impact of the proposed site on human health and significant (-3) although the commentary justifying the score overlooks a number of serious issues.
- In relation to the Public Rights of Way it should be noted that Bridleway 3 is an extremely well-frequented, strategic route between Barton and Thrumpton in the country and Clifton and Wilford in the city. As the site access road and gravel conveyor will have to be crossed by the footpath this will have major impacts on users. Most significantly it will affect horse riders along the base of Brandshill Grassland by posing a safety risk. This should be flagged up in the commentary on the Site Appraisal Matrix.
- In addition the commentary should note the proximity of the proposed site to Attenborough Nature research and the riverside path along the Trent opposite the extraction site. Only the River Trent separates the site from Attenborough Nature Reserve which many people visit throughout the year; The RSPB publication 'Bigger and Better' estimates that 600,000 people visit Attenborough Nature Reserve annually. Those who walk Attenborough's riverside paths will continually view the adverse effects of the site over the lengthy operational period and will no longer be able to enjoy the peace and tranquillity of the reserve. The planting of willow along the Barton bank of the Trent is immature, unsuccessful in places, and in any case obscures the open views across the flood plain which are of high amenity value.
- In terms of public access to the site it should also be noted that while it is described throughout the documentation in terms of its proximity to Barton in Fabis, it is also located close to Clifton. Inspection of the census data available from the NOMIS website shows that in 2013 the estimated population of people between 16-64 for the wards of Gotham, Clifton South and Clifton North was in excess of 19,000 people. This estimate does not include children or those older than 64. The assessment should therefore reflect the fact that the site represents the nearest countryside (<1k) to a significant number of people, and given that currently policy for promoting health and well-being includes promoting walking and other activities in green, tranquil areas, the development of the site would result in a significant loss of public amenity.
- It should be noted that in their submission document dated January 2018, Greenfield Associates fail to emphasise or take note of the proximity of the proposed site to Clifton

and its surroundings. The maps they provide are also outdated and do not show, for example, the retirement development at Lark Hill which is well within 400m of the processing plant. Their Para 8.1.2, is therefore inaccurate and misleading.

Summary of Revised Site Assessment Scores for Mill Hill, Barton in Fabis

- 8.19. **On the basis of the arguments presented above we suggest that a more realistic assessment of the operational and long-term impacts for Mill Hill, Barton in Fabis would be -15 and -8 respectively. The adjusted individual scores are summarised in Table 6 alongside those presented in the draft site appraisal.**
- 8.20. The negative impact of the allocation of the site at Mill Hill is significant, and given the evidence available does not support the summary on page 55 of *Draft Site Selection Methodology and Assessment* the which erroneously suggests that “in assessment against sustainability appraisal objectives, the site scores very negatively during the operational phase and slightly negatively in the long term”. **The impacts are very negative in both the operational phase and the long term. As a result its allocation is clearly inconsistent with most of the key sustainability objectives and strategic policies that supposedly frame the minerals plan. We therefore object to the site allocation.**

Table 6: Revised impact scores for Mill Hill, Barton in Fabis.

Sustainability Appraisal Objectives	Effect as scored in Draft Minerals Plan		Suggested Adjustment to Scores		Inconsistencies with the Strategic Objectives and Policies that frame Minerals Plan
	Operational period	Long -term	Operational period	Long -term	
1. Ensure that adequate provision is made to meet local and national mineral demand.	2	0	2	0	
2. Protect and enhance biodiversity at all levels and safeguard features of geological interest.	-2	-1	-2	-2	Allocation is inconsistent with SO6, SP1, SP3, SP4 and SP6
3. Promote sustainable patterns of movement and the use of more sustainable modes of transport.	1	0	0	0	Allocation is inconsistent with SO1, SO3, SO5, SP5
4. Protect the quality of the historic environment, heritage assets and their settings above and below ground.	-2	1	-2	-2	Allocation is inconsistent with SO6, SP6
5. Protect and enhance the quality and character of our townscape and landscape.	-3	-3	-3	-3	Allocation is inconsistent with SO7, SP6
6. Minimise impact and risk of flooding.	-3	1	-3	?	Allocation is inconsistent with SO6, SP4
7. Minimise any possible impacts on, and increase adaptability to, climate change.	?	1	?	?	Allocation is inconsistent with SO3, SP4
8. Protect high quality agricultural land and soil.	-1	1	-1	-1	
9. Promote more efficient use of land and resources.	0	?	0	?	
10. Promote energy efficiency and maximise renewable energy opportunities from new or existing development.	?	?	?	?	
11. Protect and improve local air quality.	-3	0	-3	0	Allocation is inconsistent with SO6
12. Protect and improve water quality and promote efficient use of water.	-1	0	-2	?	Allocation is inconsistent with SO1, SP1
13. Support wider economic development and promote local job opportunities.	2	0	2	0	
14. Protect and improve human health and quality of life.	-3	?	-3	?	Allocation is inconsistent with SO5, SP6
Total	-13	-3	-15	-8	

- 8.21. **We also object to the allocation because there is a lack of transparency in the assessment in terms of how the site is allocated on grounds of viability and location when the impact assessment clearly indicates that there are other sites where impacts are less serious. We have shown that:**

- the evaluation process leading to the inclusion of geographical spread as an objective of the plan is flawed and that on grounds of sustainability sites should be considered on their merits;
- the goal of developing a spatially sustainable plan involves more than consideration of market geography, but also involves promoting a spatial distribution that is consistent with wider goals of sustainability (e.g. conservation and protection of most vulnerable and valuable sites); and,
- the summary provided on Page 55 of the *Draft Site Selection Methodology and Assessment* is inaccurately drafted and poorly constructed because the statement that allocation is appropriate is unconnected to the evidence that has been assembled in the appraisal matrix which is supposed to underpin any recommendation.

8.22. Minerals planning should be evidence-based. We therefore object to the allocation of the site at Mill Hill, Barton in Fabis, because the process by which the recommendation arose is flawed, and neither transparent nor credible given even the partial evidence-base identified by in the *NMPDC*.

Report to Essex County Council

by **B J Sims BSc CEng MICE MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Date 23 June 2014

PLANNING AND COMPULSORY PURCHASE ACT 2004 (AS AMENDED)

SECTION 20

**REPORT ON THE EXAMINATION OF THE
ESSEX COUNTY COUNCIL
REPLACEMENT MINERALS LOCAL PLAN - JANUARY 2013**

Document submitted for examination on 12 July 2013

Examination hearings held between 5 and 14 November 2013

File Ref: PINS/Z1585/429/3

Abbreviations

<i>[xxx]</i>	<i>Examination Library Document Reference xxx</i>
BMVAL	best and most versatile agricultural land
DTC	Duty to Co-operate
EA	Environment Agency
EIA	Environmental Impact Assessment
EBAP	Essex Biodiversity Action Plan
ECC	Essex County Council
EEAWP	East of England Aggregates Working Party
EEFM	East of England Forecasting Model
EEP	East of England Plan
ha	hectare(s)
km	kilometre(s)
LAA	Local Aggregate Assessment
MASS	Managed Aggregate Supply System <i>[NP-04]</i>
MCA	Mineral Consultation Area
MM	Main Modification
MMO	Marine Management Organisation
MPA	Mineral Planning Authority
MSA	Mineral Safeguarding Area
mt	million tonnes
mtpa	million tonnes per annum
NPPF	National Planning Policy Framework <i>[NP-01]</i>
para	paragraph
PHM	pre-hearing meeting
PPG	Planning Practice Guidance
PS	position statement
RAG	Red-Amber-Green
Reg	Reg
Plan	Essex County Council Replacement Minerals Local Plan 2012
Regulations	The Town and Country Planning (Local Planning)(England) Regulations 2012
RMLP	Replacement Minerals Local Plan
SA	Sustainability Appraisal
SCI	Statement of Community Involvement
SEA	Strategic Environmental Assessment
SFRA	Strategic Flood Risk Assessment
2004 Act	Planning and Compulsory Purchase Act 2004 as amended by the Localism Act 2011

Summary

The full text of the Report should be consulted for an explanation of the conclusions and recommendations summarised here

This Report concludes that the Essex County Council Replacement Minerals Local Plan January 2013 provides an appropriate basis for the planning of mineral development in the County up to the year 2029, providing a number of modifications are made to the Plan. Essex County Council has specifically requested that I recommend any modifications necessary to enable it to adopt the Plan.

All of the modifications recommended were proposed by the Council in response to initial conclusions by the Inspector following the Hearings and were then subject to further public consultation. Where necessary the detailed wording has been amended in light of the representations received.

The modifications are summarised as follows:

- Re-allocate two Preferred Sites at Bradwell Quarry representing just over 22 per cent of the total sand and gravel requirement as Reserve Sites, only to be worked if the sand and gravel landbank falls below 7 years with respect to the total requirement. This is in order to reduce the potential yield from Preferred Sites in line with past sales as envisaged by the National Planning Policy Framework but to provide flexibly for the possibility of economic recovery based on local forecasts put forward by the Council.
- Include a commitment to continue to monitor the potential for increasing the proportion of marine-won sand and gravel contributing to the future overall County requirement; and
- Include a commitment to continue to monitor the need and potential for a separate landbank for building sand in a future review of the Plan.

Introduction

1. This Report contains my assessment of the Essex County Council Replacement Minerals Local Plan January 2013 (RMLP – the Plan) in terms of Section 20(5) of the Planning and Compulsory Purchase Act 2004, as amended by the Localism Act 2011 (the 2004 Act). It considers first whether the preparation of the Plan has complied with the Duty to Co-operate (DTC) under Section 33A of the Act (as amended), in recognition that there is no scope to remedy any failure in this regard. The Report goes on to consider whether the Plan is compliant with all legal requirements and whether it is sound. The National Planning Policy Framework (NPPF) [NP-01] at paragraph 182 makes clear that, to be sound, the Plan should be positively prepared, justified, effective and consistent with national policy.
2. The starting point for the Examination is the assumption that Essex County Council (ECC) as Mineral Planning Authority (MPA) has submitted what it considers to be a sound plan. The basis for the Examination is the submitted draft RMLP, which is the document published for consultation in July 2013. Therefore, whilst extensive written and oral representations have been made concerning both the Preferred Sites allocated by the Plan and alternatives to them ('omission sites'), these are not considered in detail within this Report, save where such consideration relates directly to the essential soundness of the Plan.
3. This Report deals primarily with the Main Modifications that are needed to make the Plan sound and legally compliant and they are identified in the Report in bold script (**MM**). In accordance with section 20(7C) of the 2004 Act, ECC has requested that I recommend any modifications necessary to rectify matters that make the Plan unsound or not legally compliant and thus incapable of being adopted. These Main Modifications are set out in the Appendix to this Report.
4. The MMs that are necessary for soundness all arise from matters that were discussed at the Examination Hearings. Following these discussions, I reached provisional conclusions that certain MMs are necessary and ECC prepared a Schedule of Proposed Main Modifications together with an Addendum to the Site Assessment Report [CED-20 and SD-10 Addendum] and carried out a Sustainability Appraisal (SA) of the MMs [CED-06 Addendum]. These have been subject to public consultation for a period of six weeks. The correspondence between the Inspector and ECC leading to the publication of the MMs was also made public [IED-08-09]. This is established practice and, despite concern expressed by one Representor during the MM consultation, does not affect the ability of the Inspector to examine impartially whether the proposed MMs make the RMLP sound. [RED-10, RED-12-13, IED-10, IED-12-13]
5. The MM consultation responses are summarised in a report by ECC [CED-23] together with a covering note [CED-24]. These documents raise no new issues and the covering note is treated as the conventional final reply by ECC. Both are taken into account in this Report, together with the responses themselves, where these properly relate to the MMs. I have made some amendments to the detailed wording of the MMs. These amendments do not significantly alter the content of the MMs as published for consultation, nor undermine the

participatory processes and SA that has been undertaken. I have highlighted these amendments in the Report.

6. For the avoidance of doubt, it is noted that ECC proposes a number of Additional Modifications, or minor changes to the Plan. These do not affect its soundness but comprise corrections, updates and changes consequential upon the MMs, in the interests of clarity and internal consistency. These Additional Changes are entirely a matter for ECC and no further recommendation is made upon them in this Report.
7. This Report takes into account all supporting documentation submitted with the Plan together with all representations upon it duly made during the pre-submission consultation. In addition, account is taken of eight Further Information documents [FI-01-08] also submitted by ECC in response to the representations. These documents are not part of the evidence base supporting the submitted Plan and were not requested by the Inspector. However, they raise no fresh issues and were useful to the Examination in summarising the ECC position on certain topics. The FI documents were published on the ECC website and responses from Representors were allowed where justified. In practice, the response from Representors was limited. [RED-02] This Report also takes account of a number of further documents submitted by Representors and ECC by agreement during the Examination. [CED-01-16; RED-01; RED-03-08] All these documents were also published on the ECC website.
8. Since the start of the Examination, Planning Practice Guidance (PPG) has been published by the Government, including PPG on minerals, air quality and climate change. This guidance was in the public domain in a provisional form throughout the Examination and reference was made to it during the Hearings, in particular connection with Planning for Aggregate Minerals. There is nothing in the published version of the PPG which affects the issues arising in connection with the soundness of the RMLP as submitted, or as proposed to be changed by the published MMs. The PPG incorporates former guidance on the Managed Aggregate Supply System (MASS)[NP-04]. Accordingly, notwithstanding submissions that there should be further public consultation regarding the effect of the PPG on the soundness of the Plan, no such further consultation is necessary. [RED-11, CED-25, IED-11]

Assessment of Compliance with the Duty to Co-operate

9. Section 20(5)(c) of the 2004 Act (as amended) requires consideration of whether ECC has complied with any duty imposed on it by Section 33A of the 2004 Act in relation to the preparation of the Plan. In order to maximise the effectiveness of Plan preparation, Section 33A requires constructive, active and on-going engagement with local authorities and other prescribed bodies with respect to strategic matters affecting more than one planning area. Those bodies are prescribed by Regulation 4 of the Town and Country Planning (Local Planning)(England) Regulations 2012 (The Regulations - Regs) and include, among others, the Marine Management Organisation (MMO). Relevant strategic issues, including the provision of minerals, are set down in the NPPF at paragraphs 156 and 178.
10. Although the DTC only came into force in November 2011 when the preparation of the RMLP was well under way, it is necessary for ECC to demonstrate that the

Plan on submission is compliant with the DTC. This requires evidence that ECC sought a level of co-operation with prescribed bodies beyond mere consultation, leading to the outcome that strategic cross-boundary issues are addressed in the Plan.

11. ECC submitted evidence in connection with the DTC by way of its Statement of Consultation under Reg 22(1)(c) [CD-08] and a further Statement of Compliance with the DTC [FI-01]. This first refers to the other two MPAs within Greater Essex. The Borough of Southend-on-Sea is not required to contribute to the Greater Essex sub-regional aggregate apportionment due to a lack of reserves. Thurrock Council conducted an early review of its minerals and waste strategies in the context of its then emerging Unitary Development Plan, taking into account its relatively small share of the Greater Essex apportionment. This RMLP is therefore based on that apportionment, properly disregarding the Thurrock contribution. The amount and appropriateness of the sub-regional apportionment and the overall aggregate requirement are discussed under Issue 1 below.
12. There is no question that ECC consulted with all the prescribed bodies in accordance with Reg 4 as well as with its own Statement of Community Involvement First Review December 2012 (SCI) [SD-03]. Nor is there any question that, generally, the outcomes of these consultations were based on topics identified in earlier stages of public engagement and taken into account in the submitted version of the Plan.
13. For example, concern by the Environment Agency (EA) over water quality, arising from the Water Framework Directive, are addressed in Policy DM1. Similarly, questions raised by English Heritage on the impact of mineral extraction on heritage assets are included in the development criteria of Policy DM1 as well as the schedules of specific issues to be addressed in developing individual Preferred Sites in Appendix 5 to the Plan. Natural England is satisfied on the basis of the SA that none of the Preferred Sites is likely to have a significant effect on designated nature conservation sites or landscapes. The Highways Agency (HA) has been involved in previous consultation during the evolution of the Plan and has confirmed that it will continue working closely with ECC to avoid detriment to the strategic highway network.
14. Furthermore, adjoining MPAs outside Greater Essex in Hertfordshire, Suffolk, Cambridgeshire and Peterborough have been actively involved with ECC in the East of England Aggregates Working Party (EEAWP) and supported the ECC draft Local Aggregate Assessment (LAA) of October 2012 [SD-07]. These neighbouring MPAs consider the Essex draft RMLP to be compatible with their own. The Councils of the London Boroughs of Havering and Redbridge, Thurrock and Southend-on-Sea Councils and Kent County Council all indicate satisfaction with the approach of ECC to the DTC. There is also broad agreement among other MPAs that the identification by ECC of a single landbank for sand and gravel and its site selection process are reasonable. Liaison has taken place with other MPAs from where minerals are exported to Essex, as encompassed in the LAA. The level of agreement between ECC and various organisations and authorities is recorded by way of Statements of Common Ground [CED-14].

15. In certain particular respects however, some Representors question the compliance of ECC and the Plan with the DTC.
16. Whilst all the 12 District, Borough and City Councils of Essex were consulted throughout the preparation of the Plan, there is further objection that the selection process adopted by ECC to identify Preferred Sites was modified during the preparation of the publication draft of the Plan without due consultation. The latter concern is also expressed by a number of individual and other corporate Representors.
17. Subsequently there was also objection on grounds that the submission draft Plan was based on a draft LAA of October 2012 [SD-07] but that the LAA was updated in June 2013, after the pre-submission consultation and without further public engagement. The ECC Topic Paper: Review of Planned Supply of Aggregate Provision in Essex, also of June 2013 [FI-05] relies upon this later version of the LAA which is both appended to the Topic Paper and separately listed in its own right [CED-05].
18. The foregoing are matters of consultation and objection regarding the preparation and provisions of the Plan, rather than a failure on the part of ECC in the DTC, and they are considered as such in the Assessments of Legal Compliance and Soundness below.
19. A further prominent concern with respect to the DTC relates to the level and outcome of co-operation with the MMO. The Plan at paragraphs 1.23 and 2.31-32 briefly states that marine dredging of aggregates is administered under separate legislation and notes that approximately 10% of the sand and gravel consumed in Essex is sourced from the marine environment. In accepting the EEAWP sub-regional apportionment for Essex, the LAA assumes that the same level of contribution will continue, based on historic performance. Representors argue that ECC should actively have sought the co-operation of the MMO to increase the proportion of marine-won aggregates used in Essex, via its safeguarded wharfs, in order to reduce the land-won requirement and so mitigate the environmental impact of mineral working. There is apparent scope for such an increase in the MMO Draft East Inshore and East Offshore marine Plans [RED-03].
20. However, correspondence between ECC and the MMO [CED-13] demonstrates that, although there are licensed marine aggregate extraction sites close to the Essex coast, there is no guarantee that these will be worked. The reasons given for this are high operational costs and environmental and regulatory constraints. This correspondence also indicates that there is no guarantee that the output of these marine sites would be directed to the Essex market or even landed in the UK at all. This information is summarised in the LAA of June 2013 [CED-05 para 8.7]. It is thus evident that it would be impractical to quantify a potential increase in the proportion of marine aggregate use in Essex within the timescale of the first review of the Plan.
21. It is fair to say that compliance with the DTC would have been better demonstrated if ECC had established, and consulted upon, a clear schedule of cross-boundary strategic issues on which co-operation would be sought, with aims and potential outcomes in mind. Such an approach is to be commended before the next review of the Plan, scheduled by Policy IMR1 within five years of

adoption. In particular, ECC should initiate further consideration of whether an increase in the proportion of marine-won aggregate use in Essex could be reliably quantified. This commitment is suitably introduced by **MM1** to para 2.31 with minor adjustment to the wording to make it clear and unconditional that any potential marine contribution will be monitored. Meanwhile though, there is no evident shortcoming of the ECC approach amounting to a failure to comply with the DTC, which is thus properly regarded as being met with respect to the Essex RMLP January 2013.

Assessment of Compliance with Legal Requirements

22. It is a statutory requirement that all stages of consultation on the Plan throughout its preparation follow the process set down in the SCI. The legal compliance of the Plan is questioned with respect to the SCI in three respects.
23. First, the submitted Plan was supported by a draft LAA dated October 2012 [*SD-07*]. However, the ECC Review of the Planned Supply of Aggregates in Essex 2012-2029 [*FI-05*], responding to representations and submitted with the Plan, was based on an updated version of the LAA dated June 2013 [*CED-05*]. There was no formal public consultation on the later version which appeared initially as a mere appendix to the Topic Paper.
24. Second, the site selection process used by ECC to identify the Preferred Sites for sand and gravel extraction was modified after the Issues and Options stages of consultation and before the pre-submission publication of the Plan, also with no more than limited consultation with stakeholders.
25. Third, representations made during the Issues and Options consultations were not carried forward to the pre-submission consultation, in particular with reference to alternative or omission sites. As a result, such representations were not placed before the Examination.
26. It is unsurprising that the simultaneous submission of two versions of the LAA, as one of the most crucial components of the RMLP evidence base, caused disquiet among both mineral operators and the general public. Modification of the site selection process and several reversals of whether certain sites would be allocated gave rise to confusion and uncertainty. This was compounded by the assumption by some potential Representors that prior representations would be carried forward to the Examination. These matters were the subject of a considerable volume correspondence and discussion during the Examination [*RED-02&02.1-10, CED-07-08, IED-03-04*].
27. These concerns are considered in the light of the 2004 Act, the 2012 Regulations, current national guidance and practice and with respect to natural justice. With respect to the LAA and the site selection methodology adopted by ECC, both introduce certain considerations that would have been unfamiliar to Representors in the earlier stages of Plan preparation and public engagement. Nevertheless, despite understandable frustration to operators concerned for their business and to residents concerned for their living environment, the modifications to the pre-submission Plan, and to the evidence supporting it at Examination, were derived from the prior consultation responses.
28. As for representations made at earlier stages of consultation, under the relevant legislation and regulations, only representations made on the pre-submission

Plan during the prescribed period of public consultation are taken into account. The main submissions that the consultation process had been incomplete and unfair were allied to a complaint that, by dispensing with a pre-hearing meeting (PHM) and position statements (PSs) for each hearing session, Representors were prevented from putting forward their full case. Such submissions do not take into account the established principle that full representations on the soundness of the Plan should be put forward during the pre-submission consultation and there is nothing in law or guidance to require a PHM or the submission of PSs where, as in this case, they are not necessary to the understanding of the procedure or the evidence. Procedure was explained in a written guidance note [IED-01] and the representations were sufficiently identifiable and clear in themselves [CD-11].

29. The proper basis for consideration is whether due consultation took place and whether there was prejudice to any interest. In the circumstances, there is nothing to indicate that the statutory SCI was not followed with respect to the LAA and site selection, whilst the Examination itself provides the proper forum for representations to be heard on the Plan as submitted.
30. Otherwise, the results of the examination of the compliance of the Plan with the relevant legal requirements is summarised in the table below. It is concluded that the RMLP meets them all.

LEGAL REQUIREMENTS	
Local Development Scheme (LDS)	The Replacement Minerals Local Plan is identified within the approved ECC Minerals and Waste LDS Revised December 2012 [SD-01]. This sets out an expected adoption date not before May 2014. The content and timing of the RMLP are compliant with the LDS.
Statement of Community Involvement (SCI) and relevant regulations	The SCI First Review was adopted in December 2012 [SD-03] and consultation has been compliant with the requirements therein. In addition, consultation on the post-submission proposed Main Modifications was undertaken for a period of six weeks and in a manner equivalent to the requirements of Regulations 20 and 35 for the pre-submission publication of the RMLP.
Sustainability Appraisal/Strategic Environmental Assessment (SA/SEA)	SA/SEA has been carried out, including with respect to the proposed Main Modifications, and is adequate. [CD-06, CD-06A-I, CD-06 MM Addendum]
Appropriate Assessment (AA)	The Habitats Regulations Assessment November 2012 [SD-08&08A] sets out why the Preferred and Reserve Sites and policies can be screened out as unlikely to lead to significant effects that would require AA of the Plan. However, it is noted that AA of certain detailed site-specific proposals might be required at planning application stage and this is duly noted in the individual site requirements.
National Policy	The RMLP complies with national policy.
Sustainable Community Strategies (SCSs)	Satisfactory regard has been paid to relevant County and District SCSs [CD-01Appendices2-4].
2004 Act (as amended) and 2012 Regulations.	The RMLP complies with the Act and the Regulations.

Assessment of Soundness

Main Issues

31. The RMLP makes full provision for calculated mineral landbanks beyond the minimum requirements of the NPPF and takes into account the further national PPG on the Managed Aggregate Supply System (MASS). The requirement for land-won sand and gravel extraction, in particular, anticipates economic recovery from the recent unprecedented recession and the necessary time for the mineral industry to respond to any consequent upturn in demand for aggregates by the construction industry. In broad terms therefore, the Plan meets the requirement of the NPPF that it should be positively prepared.
32. However, taking account of all the representations, written evidence, the discussions that took place at the Examination Hearings and the responses to the MM consultation, there are five main issues upon which the soundness of the RMLP depends with respect to whether it is justified, effective and consistent with national policy.

Issue 1 – Whether the RMLP makes provision for the extraction of appropriate amounts of land-won sand and gravel having regard to national policy, past sales data, economic considerations and the potential contribution from secondary and marine sources.

Policy

33. The NPPF at paras 142 and 145, read with PPG paras 060-064¹, requires the Plan to support economic growth by providing for a steady and adequate supply of aggregates based on local determination by the MPA of the appropriate level of extraction. This is to be informed by an annual Local Aggregate Assessment (LAA) of demand and supply of aggregates, including from secondary, recycled and marine sources. The Plan requirement should be based on a rolling average of 10 years sales data but must also consider other relevant local information which looks ahead at possible future demand, such as levels of planned construction. Account should also be taken of the general trend of demand indicated by 3 year sales. In this connection, the MPA is expected to participate in, and take advice from, an Aggregate Working Party and take account of National and Sub-National Guidelines on future aggregate provision. The Plan should provide for a minimum 7 year sand and gravel landbank of expected supply from currently permitted reserves. PPG paras 083 and 084² set the basis for calculating the landbank as an indicator of demand. There is no maximum landbank and each application for mineral extraction is considered on merit. ECC duly participates in the EEAWP and the RMLP at paras 3.76-85 properly acknowledges these national policy provisions.

Aggregate Apportionment and Sales Data

34. The EEAWP advised in January 2013 that it supports its constituent MPAs in basing their plan provisions on the apportionments of the regional guideline

¹ former MASS Guidance paras 5 and 6 and footnote 1

² former MASS Guidance paras 10 and 23-26

figures for aggregate provision set down in the former East of England Plan of 2008 (EEP), but resolved not to comment on any further matters in individual LAAs [CED-11]. The annual sub-regional apportionment for the County of Essex for land-won sand and gravel is 4.31 million tonnes per annum (mtpa). This is the figure adopted in the submitted Plan as a basis for calculating the net total requirement from Preferred Sites.

35. However, data for the years 2002-2011 demonstrate that, since 2003, sales have fallen below the annual apportionment figure of 4.31mtpa and that the 10 year sales average is 3.62mtpa. The 3 year average from 2009-2011 is only 2.71mtpa during an acknowledged period of economic recession [FI-05 para 3.7]. None of these figures are substantially questioned in themselves. Dispute arises with regard to whether the lower 10 year sales figure of 3.62mtpa should form the basis of the Plan requirement for land-won sand and gravel, on grounds that other relevant local information is insufficiently robust to justify the proposed uplift, amounting to some 19 per cent.

Secondary and Marine Aggregates

36. There is also substantial concern among Representors that, irrespective of the overall requirement figure, there should be increasing contributions from secondary, recycled and marine-won sand and gravel.
37. Secondary and recycled sources are largely derived from construction waste and do not produce aggregates of high quality. Their market share is likely to remain relatively constant or to reduce due to increasingly resource-efficient building methods. ECC cites discussions with the Waste Resources Action Programme and the Mineral Products Association in confirmation of this. No substantive evidence was put forward in the Examination to support any assumed increase in the contribution to overall aggregate supply from secondary sources above that incorporated within the current LAA. The promotion of numerical targets for waste reduction is a matter for the emerging Waste Local Plan.
38. The contribution to the supply of aggregates by way of marine-dredged sand and gravel is discussed above in connection with the Duty to Co-operate. It is there concluded that MM1 is necessary to commit ECC to reviewing the potential marine contribution but that it would be impractical to quantify a potential increase in the proportion of marine aggregate use in Essex within the timescale of first review of the Plan pursuant to Policy IMR1. It follows that there is no ground currently for assuming an increase in the contribution to overall aggregate supply from marine sources above that detailed in the current annual LAA.

Windfalls

39. Whilst it is suggested that windfall planning applications can mitigate the requirement for allocated sand and gravel sites, historically there has been only a modest contribution from this source, arising from mineral extraction related to relatively small reservoir construction sites. There is no clear evidence that windfalls will play a substantial part in the supply of aggregates during the Plan period. Therefore no allowance for windfalls is appropriate.

Plan Requirement

40. In terms of overall land-won sand and gravel requirement for the 18 year period 2012 to 2029, the Plan provides for the full 4.31mtpa, equivalent to 77.58mt total. After deduction of 36.03mt existing supply as identified in the LAA, the shortfall at the end of 2011 was 41.55mt. Allowing for recent permissions, the required yield from Preferred Sites in the Plan amounts to 40.67 million tonnes. If the sales-based 3.62mtpa were used, the total requirement would reduce to 65.16mt and the shortfall to be met from Preferred Sites to 29.13mt. *[CED-05 Table 14]* In the calculation of existing supply, it is important to note that this can only practically be based on the estimate of total reserves with current permission for extraction as indicated in PPG para 083. Actual output can vary according to commercial practice and is beyond the control of the MPA.
41. ECC cites a range of economic factors, specific to the County of Essex, in support of the continued use of the former sub-regional apportionment figure, as opposed to the lower annual requirement derived from sales data. ECC reasonably argues that, as over 80 per cent of aggregates consumed in Essex are produced within the County, any economic recovery is likely to be related to increased activity in house building to which the mineral industry would need to respond.
42. Several indicators predict economic recovery within the timeframe of the RMLP *[FI-05 paras 4.3-14]*. The Oxford Econometrics East of England Forecasting Model (EEFM) shows Gross Value Added (GVA) in construction of the order of 17.9 per cent to 2031 compared with the decade to 2011, alongside an equivalent increase in demand for new dwellings over a comparable period. These figures are born out by Government household projections *[RED-05]* and by the former EEP, as well as rising forecast dwelling completions in several Districts within Essex, including in response to the requirement of the NPPF since March 2012 to boost housing provision. However, total future completions, following a peak in 2014-15, are hard to estimate due to Local Plans being at differing stages of preparation.
43. The Plan at para 2.19 and the LAA at paras 6.4 and 6.7 *[CED-05]* also envisage that major infrastructure projects will generate extra demand for aggregates from Essex. These include Crossrail, the Lower Thames Crossing, the Shellhaven Container Port and Bathside Bay business park, Harwich, within the Haven Gateway, where development is strongly promoted.
44. However, there is no quantitative evidence of such extra demand or that it would be required to be met from Essex. Moreover on the contrary, there is a history of reducing demand for aggregates, with the annual apportionment for Essex falling from over 6mtpa in the 1990s to some 4.5mtpa between 2003 and 2009 and finally to the current level favoured by the EEAWP of 4.31mtpa, itself in excess of actual sales for the past decade. Although the economic recession caused a sudden and unprecedented downturn in aggregate sales since 2007, distorting past trends, this underlying downward trend in demand must also be taken into account.
45. It does not appear on this evidence that the local factors cited will necessarily lead to an overall uplift in demand for aggregates from Essex that will set the County apart from other MPA areas. Although it is evident that the national

economy is recovering, the progress of that recovery remains uncertain. These considerations militate against the allocation of Preferred Sites for land-won sand and gravel extraction equivalent to the full 40.67mt, based on the County sub-regional apportionment, and in favour of the lesser amount of 29.13mt, related to past sales. As submitted, the RMLP provides for Preferred Sites yielding the full 40.67mt, to come forward without further consideration of need. In the circumstances, and given the generally adverse environmental impact of mineral workings, this provision is to be regarded, on balance, as excessive and the submitted RMLP as unsound in this respect.

46. At the same time, it is appropriate, and consistent with national policy, that the RMLP remains positively prepared to cater for economic recovery and a boost in home building, should these considerations lead in practice to an increase in aggregate sales within its time frame. The appropriate solution is for the Plan to continue to identify sufficient new or extended sites for sand and gravel extraction in the order of 40.67mt but only to allocate Preferred Sites sufficient to yield an amount of sand and gravel close to the 29.13mt based on sales data. However, to allow for the possibility of economic recovery, and thus maintain an appropriate degree of flexibility, the Plan should identify further sites to bring the supply up to the full sub-regional apportionment, if need arises. This would be indicated by the landbank, based on permitted reserves compared with the full requirement of 4.31mtpa, falling below the requisite 7 years. This change is achieved by allocating Reserve Sites.
47. National mineral planning policy and guidance are silent with respect to this approach. On the evidence however, it is appropriate in this particular case and ECC, although preferring to allocate the Preferred Sites as submitted, considers it to be workable. Nor is the designation of Reserve Sites a measure supported by the EEAWP. However, its approval of the regional apportionment stops short of commenting on other aspects of the LAA in any event and there is no question of reducing the total of the identified supply.
48. There is no conflict in this approach with the principle that there is no maximum landbank and that every application is treated on merit. The landbank level is merely used as an indicator as to when a Reserve Site should, in effect, be treated in the same manner as a Preferred Site by Policies S6 and P1. The alternative would be to reduce the overall requirement and to delete a proportion of the Preferred Sites altogether. This would be contrary to the best interests of mineral planning in the County should demand recover during the Plan period to a level reflecting the regional apportionment.
49. It is accepted that, depending on the economic climate throughout the Plan period, operators may choose not to bring forward the remaining Preferred Sites, such that the Reserve Sites might be approved ahead of them if the level of landbank indicated a need, resulting in an over-centralisation of supply. However, that is an unlikely eventuality, which is beyond the scope of the Plan or the control of ECC, whilst the prime objective to avoid County-wide over provision would still be met.
50. A suggested alternative to Reserve Sites is a production cap on all allocated sites. However, national policy is equally silent in this regard and, moreover, that approach could not fairly be introduced without renewed consultation on site assessment and selection. Furthermore it would be more likely to result in

an unwarranted proliferation of mineral workings, albeit smaller in scale individually. The latter consideration would in turn have commercial implications affecting deliverability.

51. Moreover, any form of production cap would be against national policy, wherein production targets are not to be regarded as ceilings, and a landbank is merely an indicator of supply at any point in time. Clearly the designation of Reserve Sites in the manner proposed has neither the intention nor the effect of capping production over the Plan period as a whole. Nor does it necessitate substantially rewriting the Plan if the Site Assessment proves already to have identified appropriate sites for allocation.
52. The principle of allocating Reserve Sites is suitably introduced by **MMs2-8 and MMs10-22** to Policies S2, S6 and S8 as well as to the Aims of the Plan, Table 1 and the supporting text. An addition to MM14 is necessary to make clear that sand and gravel landbank is calculated with reference to the full 4.31mtpa requirement.

Conclusion on Overall Land-Won Sand and Gravel Provision

53. In conclusion on the first issue, with the foregoing modifications the RMLP makes provision for the extraction of appropriate amounts of land-won sand and gravel. However, the soundness of the site assessment process and the suitability of individual Preferred and Reserve Sites and their respective estimated yields are separate matters for Issue 4 below.

Issue 2 – Whether the overall strategy of the RMLP is appropriate in terms of its spatial priorities for the distribution of mineral development and in relation to other plans providing for Waste Planning and Enforcement.

54. The Spatial Vision, Aims and Objectives of the RMLP are brought together in Policies S1 and S2. Policy S1 reflects the Presumption in Favour of Sustainable Development promulgated by the NPPF whilst Policy S2 duly accords policy status to the Aims and Objectives by setting out 9 Strategic Priorities for mineral development. Priorities 1-5 and 9 cover reducing greenhouse gas emissions, protecting public health and the environment, reduction and recycling of waste and safeguarding mineral resources and transshipment facilities. Priorities 6 and 7 relate to allocating sufficient sites to provide a steady and adequate supply of minerals with the best possible geographical dispersal across the County, supporting key growth areas and infrastructure whilst minimising road transport in terms of mineral miles. Priority 8 highlights progressive phased working and high quality site restoration, beneficial after-use and the protection of the best and most versatile agricultural land (BMVAL).
55. The spatial priorities of Policy S2 are expanded in more detail in, for example, Policies S3 and S4 on climate change and reducing the use of mineral resources, and in Policies S10 and S12 on environmental protection and site restoration, including the preservation of BMVAL and achieving a net gain in biodiversity.
56. With particular reference to sand and gravel resources, there is an excess of resource and a wide choice of location in Essex. It is therefore not necessary for the Plan to reiterate the principle that minerals can only be won where they occur. Nor is there any tension between the two stated principles of dispersal to serve the main Essex towns as growth areas and minimising mineral miles,

especially as the majority of locally land-won aggregate is consumed within the County and only around 14% exported to London, for example.

57. Following public consultation on a range of dispersal options, the Plan adopts a hybrid strategy combining both extensions to existing sites and the allocation of new sites. This was supported by a majority of consultees as well as by the SA.
58. Properly read as a whole, the RMLP addresses an appropriate range of material planning interests and adopts a logical approach to geographical dispersal in connection with the selection, working and restoration of mineral sites. The Plan thus promulgates a sustainable and logical strategy for mineral development in Essex.
59. The provisions of the RMLP potentially overlap with those of the emerging Waste Local Plan. However, there is diminishing availability of waste for use in the restoration of mineral sites. This Plan therefore generally favours low level restoration. Moreover, whilst Site Waste Management Plans have been employed in the past, their future use is evidently uncertain. In the circumstances, the question of the use of landfill and the management of waste in connection with mineral development is best separately addressed in connection with the Waste Local Plan.
60. There is also potential overlap with the ECC Local Enforcement and Site Monitoring Plan [CED-02]. However, whereas appropriate enforcement action against non-compliance with planning conditions might reduce the output of a site subject to such action, the Plan contains sufficient flexibility, including the option for early review under Policy IMR1, to address any shortfall.
61. Concluding on the second issue, the overall strategy of the RMLP is based on appropriate spatial priorities for the distribution of mineral development and avoids conflict with the emerging Waste and adopted Enforcement Plans. The strategy therefore accords with current national planning policy and guidance and is sound in itself. However, it remains to consider, with particular respect to Issue 4 below, whether the Plan implements its objectives in practice.

Issue 3 – Whether the RMLP should provide for a separate landbank for building sand

62. Before turning to the crucial site selection process it is necessary to consider the cases for and against a separate building sand landbank. The Plan at para 3.82 states that it is unnecessary and impractical to maintain separate landbanks for concreting and building sands. The NPPF at para 145 and the PPG at para 085³ support separate landbanks for specific mineral products, including building sand, where justified by a distinct and separate market. Whether a separate landbank is appropriate therefore depends on whether it is feasible to calculate the reserves of sands in Essex suitable for building use.
63. In the Examination, and in this Report, the term 'building sand' is used in preference to 'soft sand' to distinguish sands used in building materials, mainly mortar, from products used as fine aggregate for the manufacture of concrete. This is consistent with the terminology used in national specifications. However,

³ former MASS guidance at para 28

all representations made with reference to 'soft sand' are taken into account, including a call for a further distinction between dry natural and wet-screened building sands.

64. It is noted that, in a minority of cases, separate building sand landbanks are identified in mineral local plans elsewhere. However, this is usually in response to a high reserve of bedrock sands, as opposed to superficial sand and gravel deposits such as occur widely in Essex. The latter give rise to a wide variety of sand products for which the separate end uses in relation to physical characteristics are difficult to identify.
65. Notwithstanding common parlance and assumption, there is no evidence that building sands can only be obtained from particular sources or that any specific sand reserve in Essex can only furnish building or concreting sand end uses. This is borne out by British Standard specifications in terms of building sand being produced from a wide variety of sources based largely on grading by particle size. Moreover, there is nothing in national specifications relating to production methodology, such as dry or wet processing, to imply that such a further distinction is justified in mineral planning. Such commercial practice is, in any event, beyond the control of ECC as MPA. *[FI-06]*
66. However, there are evidently distinct markets for a range of products that emerge from the single sand and gravel landbank including sales in Essex of some 0.45mtpa of building sand, about 0.13mtpa of which has historically been produced at a single quarry. *[RED-02]*
67. There is no evidence that the permitted and allocated sand and gravel reserves in the County cannot continue to produce sufficient quantities of building sand to meet demand, or that such demand is not being fulfilled at present. At the same time, albeit due to commercial confidentiality, ECC has not provided any analysis of annual monitoring returns to show that they can. On current evidence therefore, it is not practically feasible to calculate a separate landbank for building sand in any event and there is no justification for a separate building sand landbank in the RMLP as submitted.
68. However, to be sound, the Plan should contain a commitment to continue to review the situation, as part of annual monitoring, should a shortage of building sand arise which could be addressed by way of a separate landbank in a future review of the Plan. Such a commitment is suitably introduced by **MM9** to para 3.82 and **MM41** to the Monitoring Framework Table 8.

Issue 4 – Whether the process adopted by ECC for the selection of Preferred Sites and Reserve Sites for sand and gravel extraction justifies the allocations made by the RMLP

Requirement

69. It is concluded in connection with Issue 1 above that the yield of sand and gravel from Preferred Sites should be reduced to a figure in the region of 29.13mt but that an additional amount should be available from Reserve Sites, retaining the total required from all identified sites of 40.67mt. However, Reserve Sites are only to come forward if the landbank falls below 7 years, calculated by comparing the total figure of 40.67mt with the amount of currently permitted reserves. It is first necessary to consider whether the

Preferred Sites in the Plan as submitted are acceptable, before assessing whether certain of those, or alternatives, should be allocated as Reserve Sites.

Site Assessment Overview

70. The justification and effectiveness of the site selection process is measured not only by the logic of its approach but by its outcomes, in terms of the nature and planning impacts of the sites identified. For this reason, the Examination Hearings were taken through to completion to include the wide ranging concerns over the effect of certain sites, before any conclusions were drawn.
71. The understandable disquiet following the modification of the site selection process after the preferred options but before the pre-submission public engagements is discussed in the assessment of legal compliance above. The proper question to be addressed here is whether the submitted Plan is robustly supported by the selection process finally adopted and set down in the Site Assessment Report [SD-10].
72. The Site Assessment begins with some 46 identified potential sand and gravel sites. The combined Stages 1 and 2 of the Assessment consider a range of social and environmental factors resulting in a Red, Amber or Green (RAG) classification for each factor and a numerical score for each site as a whole, albeit sites were not selected simply on that basis. The Amber classification is subdivided Amber 1 to Amber 3 in increasing significance. Any Red classification gives rise to rejection at Stage 2. All sites passing Stages 1-2, that is those having only Amber and Green classifications, are regarded as environmentally and socially acceptable in principle. Stages 3 to 5 involve judgements as to which sites best fit the strategy: Stage 3 concerns their proximity to growth areas and the efficient dispersal of the mineral supply; Stage 4 concerns cumulative transport impacts; Stage 5 considers their potential for biodiversity habitat creation and wider community benefits as well as restoration limitations. The final Stage 6 confirms the selection after SA.
73. There is little question that the Site Assessment employs an appropriate range of selection criteria at each stage. However, there is a widespread view among local residents, concerned for their environment, and mineral operators, concerned for their businesses, that the process is flawed in both its approach and its judgements in applying those criteria and in setting the Specific Issues to be Addressed in individual planning applications.
74. In order to determine whether the selection of sites is justified, it is necessary to consider, first, whether the RAG classification at Stages 1-2 is appropriately applied, second, whether the sites chosen after passing Stage 2 have been properly selected with reference to the Stages 3-5 criteria and, third, whether any would nevertheless have unacceptably adverse planning impacts which could not be resolved with reference to the Specific Issues to be Addressed listed against each allocation.

Site Assessment Stages 1-2

General

75. Local residents express concerns about the potential impact of future mineral working over the whole area of the Preferred Sites up to their boundaries, as

drawn on the Site Maps in Appendix 5 to the Plan. However, these maps need to be viewed in conjunction with the Specific Issues to be Addressed listed for each site and in the light of the range of planning controls inherent in the policies of the Plan as whole. The allocations of the Plan establish the pattern of development in relatively broad principle. The details and extent of the actual excavation and storage of overburden and the extraction of mineral are for future consideration in connection with detailed planning applications.

76. The Site Maps indicate the full extent of the mineral interest concerned. Where material planning interests within the site boundary require protection, the extent of extraction can be subject to limitation. At the same time, land within the allocation boundary remains available to provide buffer zones or to create, for example, earth bunds or landscape screening. These can be secured by way of planning conditions imposed on any permission.
77. It is beyond the scope of this Report to anticipate the detailed planning effects of potential future development proposals. At this stage it is necessary for such considerations to remain proportionate to the level of detail the Plan itself provides. The following appraisal is made against this background, addressing the main concerns which are essentially the same for all the most controversial allocations.

Visual and Landscape Impact, Residential Amenity and Health, Heritage Assets

78. Any site presenting a risk of significant adverse impact on an Area of Outstanding Natural Beauty, or other major landscape impact, which could not be mitigated is automatically classified Red and rejected. These results are based on formal landscape impact assessments and, although judgements vary as to the degree of severity, there is no evidence that any site which could cause irreparable harm to the landscape has been selected for further consideration.
79. If more than 200 residential properties, or other sensitive uses such as schools or hospitals, would lie within 250 metres of a site, or more than 10 dwellings would be closer than 100 metres from an extraction area, the site concerned is given a Red score and is rejected. Graded Amber 1-3 scores are attributed where any lesser number of properties lie within those distances. The degrees of potential impact on visual amenity, and on existing tranquillity ratings mapped by the Council for the Protection of Rural England, are similarly graded.
80. Noise, dust and other effects on amenity or related to health are measured largely by simple observation of existing levels and in relation to past environmental health complaints. Notably, only one site is rejected on grounds of existing severe harm to amenity or pollution and it is difficult to predict the likely health and amenity effects of new or extended mineral extraction. However, linked to the foregoing distance criteria and given that such impacts are subject to separate environmental health legislation, the graded Amber to Green Scores assigned to most sites can be taken as an indicator that such factors can be assessed and properly controlled.
81. There are many heritage assets, and in particular listed buildings, within or near to many of the allocated Preferred Sites. The importance of their protection is highlighted by the large number of Amber 3 scores attributed in light of information from English Heritage. However, given the scope to curtail mineral

activity close to listed buildings and to provide them with screening buffers for the duration of the works, it is not evident that any sites likely to cause irreparable harm to heritage assets have passed Stages 1-2 of the Site Assessment.

Biodiversity

82. The overall provisions of the RMLP for biodiversity are considered further under Issue 5 below, including the question of baseline surveys of existing biodiversity interests.
83. Based on a specialist ecological assessment and consideration of the Habitat Regulations Assessment, all 46 sites entering Stages 1-2 of the assessment gain a range of Amber scores with none Green. These are ascribed according to the potential impact on Natura 2000 and national designations as well as sites identified in the Essex Biodiversity Action Plan and known protected and notable species. A score of Amber 3 indicates that only small scale extraction may be acceptable but this does not apply to any of the sites that passed Stages 1-2 overall.
84. At the same time, no Red scores are assigned on the basis that to do so at this stage would anticipate the outcome of further Appropriate Assessments under the Habitats Regulation required in connection with individual planning applications. Whilst the absence of Green scores highlights the potential for ecological harm, the provision for later Appropriate Assessment offers a sufficient further safeguard, such that the appraisal which has been undertaken in connection with this Plan is proportionate with respect to biodiversity.

Best and Most Versatile Agricultural Land

85. Using the most up to date information for each site, Amber scores are attributed according to whether, and to what extent, mineral development would disturb agricultural land of Grades 1 to 3, which is subject to protection by the NPPF. It is broadly accepted that such land can be restored to its original grade and it is for the determination of individual planning applications to include consideration of the appropriate constraints and conditions to ensure this.

Flood Risk and Hydrology

86. Based on information from the Environment Agency and the Strategic Flood Risk Assessment (SFRA) [SD-09], potential flood risk is assessed and no sites are rejected due to unacceptable flood risk or proximity to water protection zones at Stages 1-2. Preferred Sites, in practice, generally have Green and Amber 1-2 scores. It is for detailed flood risk and hydrogeological assessments in connection with future planning applications to determine acceptable flood risk mitigation measures.

Road Transport

87. Sites are assessed by the highway authority in two stages, the first relating to compliance with transport policy and the second to the technical deliverability of access. Considerations include potential traffic generation, need for off-site processing of mineral and the availability of a suitable route to the main road network. The latter is required to be over as short a distance as possible without undue detriment to safety or the efficiency of the local road network.

Thereafter, the impact on the trunk road network is taken into account. Options for rail or water transport are noted for information. Some sites scored Red on access but all those passing Stages 1-2 scored Green, leaving further consideration of transportation for Stages 3-4 and site specific assessment. This aspect of the assessment is proportionate at this stage.

Deliverability

88. ECC is reliant upon information, sometimes commercially confidential, from mineral operators as to the nature, extent and quantity of mineral reserves and the amounts of aggregate deliverable from any sand and gravel site. These figures are conventionally provided in net terms, taking account of any processing losses in the course of production. One operator in particular asserts that an allowance in the order of ten per cent should be made over the calculated plan requirement to account for such losses. However, there is insufficient evidence for such an allowance to be made, having regard to general practice throughout the mineral industry as a whole.
89. There are sometimes conflicting assertions between operators regarding the overall quantities of winnable reserves from certain sites. These are made on grounds of legal and physical constraints, including with respect to overburden ratios or hydro-geological limitations on extraction and restoration. In the circumstances, ECC can do no more than take the returns and estimates of operators as its starting point for the estimation of site yields and deliverability. The importance of continuous monitoring of actual production to inform future Plan review is properly addressed by Policy IMR1. With only two exceptions, the sites assessed at Stages 1-2 are Classified Green with respect to Resource and Timeframe of Delivery and there is no substantial evidence to contradict these judgements.

Conclusion on Site Assessment Stages 1-2

90. The initial combined Stages 1-2 of the Site Assessment apply an appropriate range of criteria such that the RAG classifications and the overall scores are properly ascribed. These are based on judgements which ECC is entitled to make on the available evidence. The safeguard remains that any future planning applications within the Preferred Sites will be subject to further detailed consultation and appraisal, including specific Environmental Impact and Appropriate Assessments as required under the relevant Regulations. Notwithstanding that the RMLP may be sound on the evidence proportionate to its preparation, planning permission could still be refused in the event that planning impacts could not be mitigated acceptably.

Potential Co-location of Ready-mix concrete plants and Waste Recycling facilities

91. The potential for the co-location of associated ready-mix concrete and waste recycling facilities was not considered at Stages 1-2 but is a matter for detailed planning applications.

Site Assessment Stages 3 to 6

General

92. There is concern among Representors that, in the choice between sites which have passed Stages 1-2 of the Site Assessment, no further comparison is made

between them with reference to the degree of their several planning impacts but only with reference to the Stages 3-5 criteria. In principle, that is a valid criticism of the approach of the Assessment, which carries a danger that unjustified selections could be made if the overall Stages 1 and 2 RAG scores varied widely.

93. In practice, however, the scores of all 46 sites assessed are between 25 and 50 whilst those of the 23 sites which passed Stages 1-2 are all 35 or more and those of the Preferred Sites are all 40 or more. Thus, whether as an aim or as a result of the strategy, the Preferred Sites allocated in the Plan are broadly those with the higher scores in any event. In effect therefore, given the foregoing conclusion that the Stages 1-2 scores were appropriately ascribed, the selection between sites judged to be environmentally and socially acceptable can reasonably be based on the Stages 3-5 criteria. The main factors covered are briefly reviewed in the following paragraphs.

Stage 3 - Proximity to Growth Areas, former Western Weighting, Mineral Miles, Local Supply and Demand and distance from sensitive properties

94. At Stage 3 of the Assessment, Preferred Sites are first identified from those passing Stages 1-2 broadly on their proximity to the main towns of the County and to the Haven and Thames Gateways growth areas. This is consistent with the County-wide distribution strategy of the Plan as a whole. One of the main concerns among Representors revolves around the use of an indicative optimal transport distance from source to end use of 20 kilometres. That was introduced at the pre-submission stage in preference to the six-point 'western weighting' formerly applied to the scores of sites in the west of the County at the Preferred Options stage of public engagement. This in itself attracted opposition. However, on fresh examination the 20 kilometre criterion logically applies the spatial strategy and results in a reasonable distribution of sites with respect to growth areas, albeit with a greater concentration in Braintree.
95. Representations are made that this approach ignores the potential for certain sites to serve local markets and reduce 'mineral miles' travelled by road. This applies in particular to certain sites in the east close to Colchester and in the west near Harlow, including existing operations with potential for expansion. However, there is no overriding evidence that mineral products from those or any other source would necessarily be destined for local markets or any other more distant markets within or outside Essex. The mere proximity to a potential local market does not therefore override the broad application of the spatial priority of strategic distribution.
96. At this stage the amount of a site which would lie within 250 metres of a defined settlement boundary was further taken into account.

Stage 4 - Transport Impact, Rail and Water Transport

97. Total HGV traffic is evidently around only 6 per cent of overall traffic flows on the main County road network and it is to be expected that the amount of additional mineral traffic due to the operation of the Preferred Sites could be accommodated within its capacity. More locally, sites are preferred where they enjoy existing access direct to the main road network.

98. Potential benefits of non-road transportation from certain rail and wharf sites are outweighed by local access considerations.

Stage 5 – Restoration and Biodiversity Habitat Creation

99. Finally, the Plan at para 3.197 sets an 'ambitious' target to create a minimum 200 hectares of priority habitat to enhance biodiversity. Any site with potential to contribute as a flagship scheme to this target is favoured.
100. At the same time, whilst some infilling to protect listed buildings is accepted, a wider need for restoration by infilling counts against a site in view of diminishing sources of material for that purpose.

Stage 6 – Sustainability Appraisal

101. The SA concludes that the extraction of sand and gravel from the Preferred Sites will have minimal significant impacts on sustainability objectives, noting that the presence of BMVAL should not prevent extraction. The SA records many benefits, as well as potential for mitigation of adverse effects, including those on health, amenity, water resources, the landscape and the historic environment.

Conclusion on Site Assessment Stages 3 to 6

102. Stages 3 to 5 of the Site Assessment apply a further range of appropriate criteria as a basis of selection between sites found in Stages 1-2 to be environmentally and socially acceptable. The judgements made by ECC are in general compliance with the stated strategy of the Plan and are borne out in the SA at Stage 6 of the Assessment. This concludes overall that the Preferred Sites would be unlikely to cause significant negative impacts save in respect of the temporary removal of soils from BMVAL and that mitigation is possible in each case, including in regard to human health, with some long-term benefits accruing.

Specific Issues to be Addressed

General

103. All of the written and oral representations raising concerns over the effects of all the Preferred and Reserve Sites are taken into account, together with the responses to them by ECC both orally at the hearings and in writing. Those allocations proving to be the most controversial are here briefly considered individually.

Bradwell Quarry, Rivenhall – Sites A3-A7

104. Sites A3 and A4 are contiguous with the existing quarry and processing site, relatively small and uncontroversial.
105. Sites A5 and A6 would further extend the existing extraction area respectively to the south, toward Silver End, and to the south east, whilst the largest Site A7 would reach much further east into open farmland, bounded on its northern edge by the protected Cuthedge Lane.
106. Crucially, before any development could commence, the working, phasing and restoration of any of these sites would be subject to an approved Masterplan

covering them all, in conjunction with recently approved mineral and waste management facilities within the existing site. This is a requirement of each of the tabulated site profiles 9-13 of Appendix 5 to the Plan.

107. In particular, sand and gravel would be processed via the existing plant and mineral traffic would make use of the existing site access to the A120, once improved, with lorry movements restricted to present levels.
108. Although relatively far from any conservation area, the sites themselves contain a rich variety of historic interests. These include public footpaths, listed buildings and vestigial airfield features, whilst the former Polish Camp lies immediately outside the south eastern site boundary.
109. Although public rights of way would have to be diverted during mineral extraction, their links to either side of the sites could be maintained. There is scope for protection of listed buildings and historic features by curtailing excavation and requiring protective bunding or screening for the duration of that section of the works affecting them. The estimated yield of the sites evidently takes such constraints into account.
110. Although temporary bunding would alter the landscape for some time, views of the works would be moderated by distance and by boundary vegetation already planted and maturing. There would be closer views from Cuthedge Lane, though the Lane itself would not be directly affected. The overall effect of the development on the landscape after restoration would be neutral.
111. The sites also contain a rich variety of biodiversity interests, including protected species. At this stage, there are no recorded objections to any of these allocations from Natural England or the Wildlife Trust. However, a full Environmental Impact Assessment (EIA) would be required of any planning proposal to include ecological compensation as well as an appraisal of potential noise and dust pollution to nearby communities, together with measures for their control to protect public health. High quality agricultural soils are required to be preserved on site and replaced as part of site restoration.
112. The Specific Issues to be addressed in connection with each of the Bradwell Quarry Preferred Sites A3 to A7 are sufficient in their scope and terms to provide a proper framework for the control of any future mineral development.

Sunnymead, Alresford - Site A20

113. This allocation would substantially extend eastward the existing operation at Wivenhoe Quarry.
114. There is competing evidence regarding the overburden ratio and the hydro-geological characteristics of the site in relation to its deliverability and the feasibility of the preferred low-level restoration. Whilst the site promoter has indicated a preference for restoration by imported inert filling material, current information is that the water table is low enough to permit working and restoration, mainly at low level. Whilst it is likely that restoration would involve the creation of a water body, the allocation offers an opportunity for biodiversity enhancement as an identified flagship scheme.
115. The indicative haul route is westward via the currently permitted site toward the existing Keelars Lane underpass. It is envisaged that heavy goods vehicle

movements generated by the extension would not exceed current levels from the permitted site. There is no evidence that lorry traffic could not be satisfactorily accommodated on the highway network, subject to a Transport Assessment of any future detailed planning application.

116. There is no reason to doubt that appropriate distance buffers and temporary earthwork bunding could be provided to protect some 27 houses situated less than 100 metres from the excavation area, as well as a Local Wildlife Site at the southern boundary and a public right of way that abuts the extraction area.
117. The Specific Issues to be Addressed in connection with the Sunnymead, Alresford, Preferred Site A20 are sufficient in their scope and terms to provide a proper framework for the control of any future mineral development.

Broadfield Farm, Rayne – Site A9

118. Residents of nearby Rayne and along Dunmow Road are understandably worried about the prospect of a new mineral site to the west of the village with access to the A120 via a new entrance onto the B1256. The development would visibly disrupt the high quality agricultural landscape, including BMVAL, and protection would be required for Local Wildlife Sites in nearby woodlands as well for protected species within the site. There are thought to be archaeological remains beneath the site, also requiring prior investigation. There is local concern that site operations and lorry traffic would cause harm to health and amenity, including at the village school, as well as traffic delay and congestion.
119. However, the site is sufficient in extent for sensitive features to be protected by temporary earth bunding and distance buffers, whilst already maturing boundary vegetation would mitigate visual intrusion. The number of lorry movements would represent only a small percentage of the total traffic already on the routes concerned and there is no evidence of any current road safety or congestion issues that would preclude the level of mineral traffic envisaged.
120. Equally, there is no substantial evidence that noise or air pollution due to the works could not be kept to acceptable levels, including at the nearest dwellings and at the school. Historically, emissions from sand and gravel workings in Essex have rarely given rise to issues not resolved by enforcement action by the environmental health authority and it is noted that dust from such works are generally not of the particle size likely to cause harm to human health.
121. The hydrology of the site would need to be investigated fully, as parts of the land are liable to flood risk and there are groundwater abstraction points in the vicinity. Careful restoration would be required to blend revised low-level contours with the surrounding area. Past consideration of restoration to open water bodies has heightened uncertainty about the practicality of low-level restoration but current information is that, subject to detailed EIA of any actual proposal, including hydro-geological studies, ground water levels would allow low-level restoration of original soil to high quality agriculture over much of the land. Indeed, the site is regarded as having potential for overall biodiversity enhancement as a flagship scheme contributing to the 200 hectare habitat creation target.
122. Overall, there is no substantial evidence that the impacts of mineral extraction could not be mitigated acceptably with reference to established standards. The

Specific Issues to be Addressed in connection with the Broadfield Farm Preferred Site A9 provide an appropriate framework for this to be achieved, including by way of appropriate detailed ecological and hydro-geological studies.

Shellow Cross, Roxwell – Site A40

123. This new allocation between Elm Road to the south and the A1060 to the north lies within relatively open, undulating farmland to the east of Roxwell, inside the Metropolitan Green Belt.
124. There would be a cross-country haul route so that access from Elm Road would be prohibited and all on-site processing would be confined to the northern area with direct access to the A1060. Subject to a Transport Assessment of any detailed applications, it is anticipated that a safe vehicle entrance could be constructed, incorporating an appropriate right-turn lane. In this way, traffic impact would be minimised and kept to an acceptable level.
125. There is much local concern regarding lengths of ancient hedgerows remaining on the site as a vestige of the historic Essex field system, as well as a range of Local Wildlife Sites and protected species currently enjoying relative tranquillity. Several listed buildings and some homes near the site would require appropriate protection of their setting and amenity. The overburden ratio of around 3:1 is relatively high, giving rise to concern that the visual impact of stockpiling would be more severe than indicated in the Stages 1-2 score of Amber 3. The economic viability of winning this particular resource is questioned for the same reason.
126. Whilst the further loss of existing landscape features is a material consideration, the overall visual impact during extraction could be mitigated by progressive, phased working, with the height and location of stockpiling controlled by planning condition. When comparison is made with, for example, Site A25 - Eisenham Quarry which scored Red for landscape impact, that site is regarded as more visible due to its bowl-shape and hillside location. Controls over phasing and stockpiling would also limit the effect on the openness of the Green Belt, where the presumption against inappropriate development does not essentially apply to mineral development in any event.
127. Detailed EIA would be required as a basis for protection of nature conservation interests and listed and other buildings, including by screening to reduce the impact of nearby excavation to an acceptable level for the duration of that phase of the work affecting them. There is no evidence at this stage that this site is exceptionally tranquil or that suitable measures could not be put in place to safeguard wildlife. With particular reference to the property known as Mountneys, the working area would need to be curtailed to the north within the Preferred Site delineated on the Plan to Table 22, in effect reducing the site area as required by Item 12 of the Specific Issues to be addressed.
128. The economics of extracting mineral from areas of relatively thick overburden varies between different parts of Britain and, notwithstanding values commonly encountered in Essex closer to 1:1, the higher value in this case is not so unusual as to render the promotion of the site unrealistic on current information.

129. On balance, the Specific Issues to be Addressed in connection with the Shellow Cross Farm Preferred Site A40 provide an appropriate framework for the control of mineral extraction.

Land at Colemans Farm – Site A46

130. The currently proposed Preferred Site at Colemans Farm is reduced from an earlier proposal and was added late in the Site Assessment process. The site lies in Rivenhall Parish between Braxted Park Road to the north east and Little Braxted Lane to the south west. Access to the nearby A12 junction 22 would be facilitated via a haul road across open land from a new junction on Little Braxted Lane. Lorry routes could be controlled to exclude a nearby conservation area. Otherwise, despite local concern regarding potential for traffic accidents, there is no highway authority objection, subject to a Transport Assessment of any detailed proposal to include consideration of a safe temporary diversion of a bridleway crossing the site.

131. Little Braxted Lane is an ancient route valued for its rural character, although the more recently constructed junction with the A12 has brought an urban influence to the locality. The addition of further engineering works to provide the site access would be seen against this background.

132. The site is not widely seen from distant viewpoints but is visible from the A12 and from local properties, including listed buildings. The overburden ratio is low but it is envisaged that restoration is feasible without the need for infilling to protect heritage assets but with the inclusion of an open water body. The SA therefore indicates negative impact on the landscape justifying a Stages 1-2 Amber 3 score as well as loss of BMVAL. However, there is potential for flagship biodiversity enhancement.

133. The site lies close to the tranquil Blackwater River Valley, where there is local fear of flooding should mineral extraction disrupt the groundwater regime. That would potentially threaten poplar and cricket-bat willow plantations downstream, as well as protected species. An Appropriate Assessment under the Habitats Regulations would therefore be required. However, neither the SFRA nor the EA record any undue flood risk at this stage. Biodiversity enhancement could include the creation of reedbed habitat complementary to the Blackwater Valley with the benefit of balancing downstream water flows.

134. The deliverability of the site is questioned with regard to both the cost of the necessary access works and the presence of archaeological remains of uncertain extent. At the same time, there is no clear evidence to support these concerns. There is also general concern regarding noise and disturbance to residential amenity, but nothing to suggest that it could not be acceptably mitigated.

135. All such issues would be addressed by EIA of any future development proposal as highlighted throughout the Specific Issues to be Addressed, which are sufficient in their scope and terms to provide a proper framework for the control of any future mineral development at Colemans Farm Preferred Site A46.

Overall Conclusion on Specific Issues to be Addressed

136. In addition to objections to the foregoing most controversial allocations, due consideration has been given to every concern raised in connection with the

other Preferred Sites. In each case, the Specific Issues to be Addressed, listed in Tables 9-24 of Appendix 5 to the RMLP, provide a sufficient framework for ECC as MPA to consider and appraise any future planning applications for sand and gravel extraction within the Preferred Sites concerned.

Cumulative Impact

137. Whereas Stage 4 of the Site Assessment addresses cumulative impacts related to lorry transport, there is much expressed concern regarding perceived cumulative impact of aggregate extraction in a broader sense, especially by the Councils and electors of Braintree District and Chelmsford City. This stems from the fact that the greater number of Preferred Sites are located within the administrative boundaries of those two local authorities, with nearly half the total allocation being situated in Braintree, associated with Bradwell Quarry, Rivenhall.
138. The function of the RMLP is to establish the pattern of future mineral development across Essex as a whole without an overconcentration of mineral sites in any one location. However, it is no part of the Plan strategy, or of the Site Assessment process, to seek to balance the distribution of development on the basis of district boundaries. Notwithstanding the wide choice of potentially developable sites in other districts it is appropriate that sites are selected with reference to their individual merits and planning impacts.
139. The fact that those sites selected as environmentally, socially and strategically acceptable are not more evenly distributed between the component districts of the County might understandably be seen as objectionable from a local standpoint. However, there is no evidence that there will be unacceptable cumulative planning impact in the sense that any community will be surrounded by an overconcentration of simultaneous, multiple mineral developments because there is invariably reasonable separation between the Preferred Sites.
140. Given the available planning controls by way of the development management policies of the Plan and the Specific Issues to be Addressed in connection with each site, there is no ground to find the Plan unsound with respect to potential cumulative impact. This question would fall to be reconsidered in connection with any future planning application in any event.

Conclusion on the Site Assessment overall

141. Given the limited remit of the Examination to assess soundness but not seek to improve the Plan, it would be inappropriate, and against the principles of Localism, to vary the allocations of the Plan contrary to the views of the elected County Council as MPA, merely on a subjective judgement between alternatives. It is concluded that, judged pragmatically on its logic and outcomes, the selection of sites for inclusion in the Plan is justified and that the Site Profiles, tabulated in Appendix 5, set down appropriate and sufficient criteria for their development in terms of Specific Issues to be Addressed.

Identification of Reserve Sites

142. However, for the reasons set out above, it is now necessary to determine which of the sites selected in the Site Assessment Report should be re-allocated as Reserve Sites. ECC provided for consultation with the Schedule of MMs an

Addendum to the Site Assessment Report [*SD-10 Addendum*]. This re-applies Stages 3 to 5 of the Site Assessment, identifying Preferred Sites A6 and A7 at Bradwell Quarry to be re-allocated as Reserve Sites with a total estimated yield of 9mt. These sites are in an area of relatively high concentration of sand and gravel allocations within 20 kilometres of Colchester.

143. The five sites allocated in the submitted Plan at Bradwell Quarry already account for almost 40 per cent of primary extraction from new sites. This would rise to nearly 50 per cent if different Preferred Sites close to other urban areas were re-allocated as an alternative. Moreover, there is nothing to suggest that development growth and consequent demand for aggregates will be particularly weighted toward Colchester among other key centres. Placing Sites A6 and A7 in reserve would avoid an over-concentration of Preferred Sites in this single area and improve the geographical spread of mineral development within the County, in line with Plan strategy. These conclusions are born out in an Addendum to the SA [*CED-10 Addendum*] which was the also subject to consultation with the MMs.
144. It is noted that, in practice, as Preferred Sites, these two allocations would not necessarily come forward later in the Plan period than any others. Their deferment as Reserve Sites thus has commercial implications for the integrated working and restoration of the five new Bradwell Quarry allocations, Sites A3-A7, when viewed as a whole. However, the avoidance of a proliferation of mineral working, unless justified by planning need, is the primary consideration.
145. Furthermore, the remaining Preferred Sites are better located to reduce travel distances overall. This is graphically illustrated in the Site Assessment Addendum [*SD-10 Addendum Map 1*]. Their retention is therefore necessary to maintain the improved relative distribution of sites.
146. The calculation of sand and gravel requirements and the estimation of the potential yield of individual sites is at best an inexact process. In the circumstances, the reduction in Preferred Sites equivalent to 9mt, or just over 22 per cent, is sufficient to avoid an unacceptable over provision in the County as a whole.
147. The deferment of Site A7, whilst avoiding some degree of harm to existing biodiversity interests, reduces the potential for net gain in biodiversity by way of the flagship biodiversity scheme envisaged for the site. On balance, any such disadvantage does not override the broad benefit of avoiding mineral extraction if it proves to be unnecessary.
148. With respect to the spatial distribution of mineral development, it is suggested in response to the MM consultation that, in identifying which of the allocations are to remain as Preferred Sites, preference should have been given to extensions to existing quarries and also that account should be taken of the working life of currently operational sites. However, in the re-application of the Site Assessment and selection process to determine Reserve Sites, account is automatically taken of the presence of existing permitted reserves because that formed part of the original assessment. Moreover, the hybrid strategy adopted involves a mix of extensions and new development. Furthermore, with the exception of Bulls Lodge Quarry as one of the more central southerly current operations, most existing reserves are likely to be worked out before the end of

the Plan period. As a result the distribution of mineral development allocations about the County will remain in accord with the Plan strategy.

Overall Conclusion on the Selection of Preferred and Reserve Sites

149. It is concluded on the fourth issue that the process adopted for the selection of sites for sand and gravel extraction justifies the allocations made by the RMLP. However, **MMs 23-34** are necessary to Policies P1 and P2, their supporting text and Table 5, in order to give effect to the re-allocation of Sites A6 and A7 at Bradwell Quarry as Reserve Sites. With those changes the RMLP is sound with respect to its allocated Preferred and Reserve Sites for sand and gravel extraction.

Issue 5 – Whether the RMLP makes appropriate policy provisions for safeguarding mineral resources and handling facilities, protecting and enhancing biodiversity, development management and for its own monitoring and review

Safeguarding

150. Policy S8 safeguards mineral resources by way of Mineral Safeguarding Areas (MSAs) defined on the Policies Map and requires consultation on planning applications to avoid conflict with competing development within Mineral Consultation Areas (MCAs) extending 250 metres outside the MSAs. The MCAs are thus properly based on the MSAs in line with NPPF para 143. Policy S9 safeguards specific mineral transshipment and processing facilities.
151. Policy S8 imposes a range of balanced criteria to trigger consultation on all development proposals within a MSA, other than certain listed exceptions, above a certain size depending on the nature and extent of the reserve. For sand and gravel the threshold is 5 hectares and there is no locational criterion for requiring consultation. Although arbitrary, the 5ha threshold was subject to public consultation and this approach is justified, given the wide extent of sand and gravel reserves in Essex, where prior extraction need not always be necessary. Where prior extraction is required, its environmental impact and site restoration remain under the control of Policies S10 and S12 as well Development Management Policies DM1-2.
152. Policy S9 includes Bulls Lodge coated stone plant for safeguarding. In contrast, Policy S8 merely applies safeguarding broadly across all identified mineral resources, including the permitted sand and gravel reserves supporting the main quarrying activity at Bulls Lodge. With two relevant planning permissions to 2020 and 2030 respectively, these reserves contribute to the County supply during the Plan period. It is known that mineral extraction at Bulls Lodge is currently running behind schedule and that a time extension is likely to be required for its completion. There is concern that these reserves require express safeguarding from competing development nearby which could jeopardise permission for continued extraction beyond 2030, detrimental to the future sand and gravel landbank. Crucially, as the end date of the submitted RMLP is 2029, there is no question that the reserves in question will enjoy the protection of safeguarding Policy S8 for the whole of the Plan period. Policy S8 is therefore effective and the Plan is sound in this respect. Moreover, the mineral operator has the option of making an advance application to extend the existing permission.

153. Policy S9 also identifies four mineral transshipment sites for safeguarding in line with NPPF para 143, following public consultation. Safeguarding of small facilities, such as Mistley Port for example, is left to district local plans by a reference in para 3.148 of this Plan. In practice Mistley Port is identified and protected in the emerging Tendring District Local Plan. It is nevertheless claimed that small wharfs not specifically identified should be safeguarded at County level by the RMLP. However, it is evident that Mistley Port was not put forward for safeguarding for mineral transshipment in an earlier call for sites by ECC and there is nothing in the NPPF to suggest that there should be blanket safeguarding of such sites without due public consultation. Whilst individual sites should be reconsidered for safeguarding when the Plan is reviewed, there is no ground for modifying the submitted Plan in this connection. Pending review of the Plan, Policy S9 affords a reasonable balance of protection to mineral transshipment and processing facilities to ensure their continued availability within the County

154. Overall, the provisions of the RMLP for safeguarding mineral resources and handling facilities are justified and effective.

Biodiversity

155. There are essentially two aspects of concern raised by Representors over the effect of the provisions of the RMLP on biodiversity. The first is that mineral extraction will lead to irreparable harm to biodiversity such as by the removal of ancient woodland or hedgerows or the loss of protected species of flora and fauna. The second is that the Plan should result in a net gain in biodiversity.

156. Representors point out many vulnerable natural features of the Preferred Sites which will inevitably be affected by sand and gravel extraction, citing in particular a lack of a baseline assessment by which to measure this impact. However, the Site Assessment Report [*SD-10*], reviewed in connection with Issue 4 above, identifies the main biodiversity interests at risk.

157. Appendix 5 of the Plan tabulates Specific Issues to be Addressed for each Preferred Site in connection with any future planning application. These include potential impacts on wildlife sites and protected species to be assessed under the Habitats Regulations as appropriate.

158. A baseline ecological survey will form part of any EIA where biodiversity interests, especially internationally and nationally designated sites, are potentially affected, using the Essex Biodiversity Action Plan as background information. This is expressly set out in para 5.42 of the Plan, meeting NPPF para 109.

159. Given the conclusion under Issue 4 above that the selection of sites is sound overall, it follows that this approach to biodiversity is proportionate to the level of detail appropriate to this Plan and sets a proper framework for the assessment of future planning proposals, including with respect to the aim of net enhancement. General protection to biodiversity is afforded by Policy DM1 and supporting text paragraphs 5.40-43.

160. Whereas existing biodiversity assets cannot be directly replaced, Policies S10 and particularly S12 on site restorations provide for the implementation of the Biodiversity and Habitat Creation Target consistent with the Essex Biodiversity

Action Plan (EBAP) and in line with the NPPF paras 109 and 117. As noted under Issue 4 above, the site selection process has led to the allocation of Preferred Sites and Reserve Sites with the potential to support flagship restoration schemes to meet this target of a 200 hectare contribution to Priority Habitats identified by the EBAP.

161. Overall, the provisions of the RMLP for protecting and enhancing biodiversity are sound.

Development Management

162. The effects of mineral development are suitably controlled by the constraining criteria of Policies DM1-4. These include a requirement for Health Impact Assessments where appropriate. This reflects NPPF para 120 and is not unduly onerous alongside parallel requirements for assessments of other environmental impacts. All such assessments would need to be proportionate to the particular proposal and its likely effects.
163. The development management provisions of the RMLP, including those relating to issues discussed elsewhere in this Report, are sound as submitted, subject only to **MM35** to para 5.29 inserting reference to Reserve Sites consistent with other MMs above.

Monitoring and Review

164. Policy IMR1 provides appropriately for monitoring the performance of the Plan by way of a Monitoring Framework set out at Table 8. This sets a range of indicators as a basis for measuring the implementation of the Plan against quantitative targets. These are properly modified by **MMs 42-44** to account for changes elsewhere with respect to considerations of a separate building sand landbank, the supply of marine-won aggregates and the deferment of Reserve Sites unless the sand and gravel landbank falls below 7 years.
165. Further **MMs 35-40** are required to Table 7 and the supporting text to Policy IMR1, also with reference to Reserve Sites. Otherwise Policy IMR1 also appropriately provides for review of the Plan if the landbank falls below the minimum required and in any event within five years of adoption. Any potential for aggregate supply being impeded by necessary enforcement action against non-compliance with planning conditions on working sites is thus accommodated. With the changes noted, the provisions of the RMLP for monitoring and review are sound.

Overall Conclusion and Recommendation

166. The RMLP has a number of deficiencies in relation to soundness for the reasons set out above. In accordance with Section 20(7A) of the Act, I therefore I recommend non-adoption of the Plan as submitted. These deficiencies have been explored in the main issues set out above.
167. ECC has requested that I recommend Main Modifications to make the Plan sound and capable of adoption. I conclude that, with the recommended Main Modifications set out in the Appendix to this Report, the Essex County Council Replacement Minerals Local Plan January 2013 satisfies the requirements of Section 20(5) of the 2004 Act and meets the criteria for soundness in the National Planning Policy Framework.

B J Sims

Inspector

Note: This report is accompanied by a separate document comprising the Appendix containing the Main Modifications

This matter is being dealt with by:

Oliver Meek

Reference: ES/3712

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**Nottinghamshire
County Council**

Greenfield Associates
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By E-Mail Only

Dear Mr Rees

30 August 2019

Proposal: The extraction and processing of sand and gravel, including the construction of a new site access road, landscaping and screening bunds. Mineral washing plant and other associated infrastructure with restoration to agriculture and nature conservation areas.

Location: Land off Green Street, Mill Hill and land at Barton in Fabis, off Chestnut Lane, Nottingham

Applicant: London Rock Supplies Limited

I write further to the recently issued letter (dated 22nd August 2019) relating to the above planning application, which included a Regulation 25 request for further information. As set out within that letter, officers would be issuing a further letter setting out the harms arising from the proposed development and inviting you to address these matters.

As we have discussed with you in meetings (and as set out in consultation responses from statutory and technical consultees), officers are of the view that there are a range of harms to the environment and public amenity which would result from the proposed development, as it currently stands. Setting aside the matters where there is insufficient information, officers are of the view that the development as proposed would result in a range of harms and that these outweigh the benefits of the proposed development at present. Therefore, currently any recommendation to the County Council's Planning and Licensing Committee would be to refuse planning permission.

Notwithstanding the current position, officers are of the opinion that sand and gravel extraction at this location could be acceptable in principle, as evidenced by the inclusion of the application site as an allocation within the emerging Nottinghamshire Minerals Local Plan – Publication Version. As such, the purpose of this letter is to clearly set out the areas where the County Council considers there to be harms and provide you with another opportunity to address them, be it through amendments to the proposed development, further mitigation or compensation measures.

Green Belt

Paragraph 146 of the NPPF identifies that mineral extraction is not inappropriate in the Green Belt provided that it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it.

Officers are of the view that the proposed development does not preserve the openness of the Green Belt, and does conflict with the purposes of including land within it, for the following reasons:

- The soils and overburden stored around the plant and processing area and along the eastern side of the access road that runs down Brandshill, would measure from 3m in height up to 8m in height and would be retained for up to 15 years. The soil bunds adjacent to Green Street would introduce a substantial landscaped mass with the specific purpose of restricting views. This impact would be in an area that is highly sensitive to any obstructions that reduce openness because of its prominent location at the crest of hill that currently affords unrestricted open aspects over the Trent Valley Green Belt. In addition, the bund along the eastern side of the access road would introduce an unnatural mass, interrupting views over Brandshill and the Trent Valley beyond, from Fox Covert Lane. Noting that the Guidelines for Landscape and Visual Impact Assessment (GLVIA3) identifies the boundary between medium and long term effects as 10 years, the impact would be a long-term harm to the openness of the Green Belt.
- The applicant has outlined that stockpiles of sand and gravel in the processing area would be maintained to ensure there is always a 1 month supply and that heights would be up to 8m. It is noted that the crest of Brandshill would be lowered to create a flat plant/processing area at 80-81m AOD (approximately the same height as the adjacent Green Street) and there would be screening bunds parallel to Green Street. However, the stockpile would be up to 5m above the screening bunds. As such, these stockpiles would be relatively fixed features in a topographically prominent position, for a period of up to 15 years and it is considered that this would harm the openness of the Green Belt in this location.
- The conveyor is a fixed piece of machinery out of place within a countryside location. It is acknowledged that it would be a relatively low piece of plant and set within a cutting for much of its length, but part of it, or the concrete tunnel that it would pass through, would be visible from Bridleway No. 3. The conveyor would also be visible where it raises out of the cutting to pass over the Seven Trent water pipe. The conveyor would be in place for up to 15 years and it is considered that it would harm the openness of the Green Belt.
- Within the plant and processing area there would be sand and gravel wash plant, including log washer, sand classifier, lignite separator, gravel screens and stocking conveyor; oversized gravel crusher; pumps and mobile generator; weighbridge and potentially a wheel wash. The plant would vary in height, but taller elements would be over 10m in height. This level of plant and machinery in a concentrated location is reflective of an industrial or construction operation and is not in keeping with a countryside location. The plant area is spatially distinct and separated from the actual extraction area both in terms of distance and altitude. The screening provided by the soil bunds would reduce some of the direct visual impacts of the plant and machinery, certainly at the lower level. However, the soil bunds at 3-5m in height would not screen the taller elements of plant and machinery such as the rinsing screen (nominally 7.4m) and the sand washing unit and lignite plant (nominally 11m). The plant and machinery would be in place for up to 15 years and would be removed upon restoration of the site. The plant and machinery would harm the openness of the Green Belt in this particular location for up to 15 years due to its height and prominence.
- There would be an average of 20 cars and 57 HGVs per day (a maximum of 100 HGVs). This would equate to approximately one HGV movement every 6 minutes between 07:00 – 18:00 (weekdays) for up to 15 years. It is considered that this level of intensity, when compared to the existing level of HGV movements along Green Street, is sufficiently high to harm the openness of the Green Belt.
- The decision to separate the operations to extract and process the sand and gravel has created two distinct sections to the proposed development. There is a concentration of elements and features which harm the openness of the Green Belt individually in the plant and processing area. This area will take on the appearance of an industrial or construction activity incongruous with a countryside location for a period of up to 15 years, after which the area would be restored. Overall, it is considered that there would be a long term, but not permanent, conflict with safeguarding the countryside from encroachment, which is one of the purposes of including land in the Green Belt.

On the basis of the above, the County Council is of the view that the development is 'inappropriate development'. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances (NPPF – paragraph 143). The County Council gives 'substantial weight' to the above identified harms to the Green Belt as instructed by the NPPF and it should be noted that very special circumstances will not exist unless the potential harm, by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations (NPPF – paragraph 144).

It is acknowledged that amendments to the scheme have already been made to reduce the impact of the development on the Green Belt. However, officers are of the view that amendments to some of the above elements of the scheme could further reduce Green Belt impacts identified above. As such, officers invite the applicant to consider such amendments which, if combined with addressing the matters raised in the recent Regulation 25 letter along with the additional harms detailed below, could help to reduce the harms that have been identified to such a level that, when taken into consideration alongside the identified benefits of the proposed development, allows officers to demonstrate the very special circumstances required by Green Belt policy in the NPPF.

Habitat Loss

Barton Flash Local Wildlife Site (LWS) totals 8.86ha and 6.36 ha (approximately 72%) of this would be lost to the proposed extraction. This impact is categorised in the Environmental Statement (ES) as being of 'major negative' significance.

Brandshill Marsh LWS totals 3.89ha, with 1.95ha (approximately 50%) of this lost to the proposed extraction. This impact is categorised in the ES as being of 'major negative' significance.

Brandshill Grassland LWS totals 12.12ha. A proportion of the LWS would be lost to the proposed haul road, conveyor and a screening bund; but the exact size of the loss is unknown. The impact was originally categorised in the ES as being of 'major negative' significance. Since the original ES, soil storage bunds which were proposed at the base of Brandshill have been removed from the scheme, so the level of impact is reduced, but has not been formally assessed.

The proposed development would result in habitat loss to a range of UK Biodiversity Action Plan (BAP) priority habitats including semi-improved grassland, neutral grassland, marshy grassland, hedgerow, and ditch. The impact of the loss of each of these habitats is assessed as being of 'major negative' significance in the ES.

It is noted that there are a range of mitigation measures proposed including: the direct placement of soils from Barton Flash into Phases 2 and 3; the storage of soils from Brandshill Marsh LWS to be used in the restoration scheme; Brandshill Grassland being annually monitored and management through grazing at an appropriate level.

Proposed compensation is also noted, with the original ES highlighting that the proposed restoration involves the creation of priority habitats and stating that this would adequately mitigate and compensate for the loss of the existing habitats within the application site. To support this position, a net gain calculation has been undertaken using the biodiversity impact assessment.

As set out in our recent letter (22nd August 2019) officers have concerns about some of the habitat mitigation measures and the accuracy of the net gain calculation and as a result, further information has been sought in this regard. Officers will remain of the view that the proposed development would result in impacts of major negative significance to LWS and UK BAP habitats until the requested information is provided and the officers are satisfied with its content. Officers place considerable weight on these impacts.

The net gain calculation information that is subject of the recent Regulation 25 request will not change the major negative significance of the loss of LWS and UK BAP priority habitat, but does provide an opportunity to compensate for its loss. However, it is suggested that serious consideration is given to the avoidance of working these areas and officers invite you to discuss

this further. It would be of particular interest to gain an understanding of the implications for the amount of mineral that would be sterilised if these areas were not worked.

In addition, the recently published Government response to the consultation on net gain sets out that biodiversity net gain will become mandatory in due course (although the timetable for this is not yet known). Furthermore, it sets out that Government will require net gain outcomes, through habitat creation or enhancement as part of delivering mandatory biodiversity net gain, to be maintained for a minimum of 30 years, and will encourage longer term protection where this is acceptable to the landowner. Officers strongly recommend that any further biodiversity net gain calculation includes the provision of a minimum of 30 years of aftercare, to align the proposed development with the future mandatory approach in addition to demonstrating your commitment to securing a high quality restoration scheme for the site.

Ecological Impacts on Species

Breeding and wintering birds

The ES identifies the site as being of county level importance for wintering birds. The ES identifies the site as being of local level importance for breeding birds. However, officers disagree with this and has assessed the site on the basis of being of county level importance for breeding birds. In the absence of mitigation, the ES assesses the impact of habitat loss as being of major negative significance for breeding and wintering birds. It also assesses the impact of damage and disturbance to breeding birds as being of minor negative significance, in the absence of mitigation.

Officers note a series of mitigation/compensation measures proposed to minimise the impact of the proposed development on birds including removal of vegetation outside of the bird breeding season or preceded by a nesting survey; retention of a 30m stand-off from the River Trent and the retention of habitat to maintain a buffer zone for nesting, foraging or commuting; hedgerow management and infilling; and the creation and management of a range of habitats.

The ES states that, due to the net gains for nature conservation, no residual impacts on habitats are predicted. As set out above, officers have requested further information regarding the accuracy of the net gain calculations. Officers will remain of the view that the proposed development would result in impacts of major negative significance to the habitat of breeding and wintering birds at a site of county importance until the requested information is provided and officers are satisfied with its content.

Barn owl hunting habitat

As set out in the letter of 22nd August 2019 the officers have requested further information about the calculation of losses and gains of hunting habitat for barn owls and the impact that this would have on the species.

Even with the figures provided, there would be a net loss of hunting habitat during four of the identified phases of the development. The level of impact that this would have on barn owls in the area has not been assessed, but the loss of hunting habitat during the operation of the quarry is a harm which weighs against the proposed development. You are therefore invited to consider ways in which this impact can be mitigated.

Bat foraging habitat

The development would result in the loss of features which provide foraging and commuting habitat for bats including internal hedgerow, scrub, marshy and neutral grassland. The ES has assessed the habitat on site as being of local value and the loss of this habitat as resulting in an impact of minor negative significance.

However, due to the survey's inability to conclusively identify some species of bats, the site may actually meet the criteria for being of county value. Furthermore, the County Council notes that the bat surveys have not been undertaken to current standards (although it is acknowledged that they

were undertaken to the correct standards at the time they were conducted, although surveys of the site were not comprehensive). Due to the bat identification issues and surveys not being of a current standard, officers are treating the site as being of county value and the impact of this loss being of major negative significance.

The ES is of the view that, due to the net gains for nature conservation, no residual impacts on habitats are predicted. As set out above, officers have requested further information regarding the accuracy of the net gain calculations. Officers will remain of the view that the proposed development would result in impacts of major negative significance to the habitat of commuting and foraging bats at a site of county importance until the requested information is provided and the County Council is satisfied with its content.

Reptile habitat

No reptiles were found during the ecological surveys and, as such, the ES assesses that there would be no impact on reptiles. However, there were a number of constraints with the reptile surveys, the site has habitat to support reptiles and reptiles have been recorded on site since the surveys were undertaken. In addition, a juvenile grass snake has been reported on site which could be indicative of a breeding population. As such, officers are of the view that the site is of local value for reptiles. Mitigation measures are proposed which could suitably prevent the killing or injuring of reptiles. The impact of the loss of habitat during extraction is assessed as being of minor negative significance.

Toads

Common toads are not protected on Schedule 5 of the Wildlife and Countryside Act 1981 (as amended) but are listed as a UK BAP priority species.

Whilst no toads were recorded during the amphibian surveys, the presence of common toad were recorded during the reptile survey. The majority of these were recorded within the marshy grassland areas surrounding the ditches and ponds. The ES assesses the population as being of site level ecological value and that the loss of habitat during extraction would be a major negative impact, in the absence of mitigation. However, with the eastern ditch being diverted there would be no net loss of habitat and terrestrial areas of highly suitable habitat would be hand searched prior to their removal, with individuals captured and moved to an area of suitable habitat. With the diversion of the ditch and mitigation measures the ES concludes there would be a negligible impact on toads.

Given that the toads were not identified during the amphibian survey, the precise location of toads is unknown. The County Council considers it unlikely that the hand search of a large area of potential terrestrial habitat could be meaningfully achieved in practice, given the extent of habitat to be lost. An alternative approach would potentially be the use of one-way temporary fencing, which would allow toads to move to breeding areas but not return to the terrestrial habitat. However, details of the mitigation measures are required prior to determination so that officers can understand whether this approach is feasible.

Officers note the restoration proposals include the creation of a larger area of marshy grassland than currently exists. However, as highlighted in our recent letter to you (22nd August 2019) further information has been requested in relation to the net gain calculation (which includes concerns about the time of aftercare attributed to marshy grassland). On the basis of the above, and that officers are of the view that the currently proposed mitigation measures are unfeasible and could result in the potential killing or injury of toads during works, officers are of the view that the development would result in a 'major negative' impact on this UK BAP species.

Necklace Ground Beetle (Carabus monilis)

Due to the presence of a (potentially) very large population of necklace ground beetle, which is an endangered UK BAP species, the application site is of county value to invertebrates. The ES

assesses the impacts relating to habitat loss, habitat isolation/fragmentation and killing and injury as being of major negative significance, in the absence of mitigation.

Mitigation is proposed through a programme of translocation and compensation is proposed through there being no net biodiversity loss. As such, the ES assesses that the species would persist at the application site at pre-development levels and the restoration strategy would be used to deliver habitat enhancements.

As set out in our letter of 22nd August 2019, officers have requested further information in relation to both the programme of translocation and the biodiversity net gain calculation. Officers will remain of the view that the proposed development would result in an impact of major negative significance to this endangered UK BAP species until the requested information is provided and officers are satisfied with its content.

Badgers

The ES notes that the presence of commuting and foraging badgers and assesses the site as being of local value. The loss of foraging habitat is assessed as being of minor negative significance. The ES assesses that the species would persist at the application site at pre-development levels and the restoration strategy would be used to deliver habitat enhancements.

As set out in our letter of 22nd August 2019, officers have requested further information in relation to the biodiversity net gain calculation. Officers will remain of the view that the loss of foraging habitat would have an impact that is of minor negative significance, until the requested information is provided, and officers are satisfied with its content.

Brown hare

During consultation on the original application submission the presence of brown hare (a UK BAP priority species) at the site was drawn to our attention. The January 2018 Regulation 25 submission noted that there is suitable habitat on site for brown hare, but that this species was not considered during the original ES as there were no sighting of the species during over 30 visits to the site. Nevertheless, the Reg 25 submission came to the view that with the restoration the impacts would be negligible.

Officers note the discrepancy between consultee reports of brown hare and the absence of sightings during ecological surveying. Taking into account the suitable habitat for brown hare officers are treating the site as being of local value for this species. It is noted that there will be some habitat suitable in the restoration scheme, however, this would be less than there is at present with a reduction in grasslands and an increase in open water. As such, officers are of the view that the development would result in a minor negative impact on this UK BAP species.

Harvest mice

There are records of harvest mice within the application site (a UK BAP priority species). Whilst the species has not been surveyed, it is suggested that there could be a small population on site and the development would result in the loss of small amount of habitat and the possible killing/injury of individuals, which in the absence of mitigation could result in a major negative impact at the local level. However, with mitigation and the creation of habitat the impact is anticipated to be negligible.

Officers are of the view that the proposed mitigation would minimise the potential for the killing and injury of harvest mice, although it remains a possibility. It is noted that there will be some habitat suitable in the restoration scheme, however, this would be less than there is at present with a reduction in grasslands and hedgerow, and an increase in open water. As such, officers are of the view that the impact on harvest mice would be of minor negative significance.

Hedgehog

Hedgehog is a UK BAP priority species. No information regarding hedgehogs has been provided within the ES or subsequent regulation 25 submissions. The County Council expects hedgehog to be present within the site and the development would result in a loss of relevant habitat, although mitigation measures are likely to mitigate the risk of injury/killing. As such, the County Council is of the view that the impact on hedgehog habitat would be of minor negative significance.

Species overview

The proposed development would result in impacts including habitat loss, risk of injury/killing and habitat isolation/fragmentation to a wide range of protected and/or UK BAP species. Collectively, considerable weight is given to the impacts set out above.

The above sets out the impacts that officers consider the proposed development would have as the application currently stands. However, it is acknowledged that the Regulation 25 request for further information (particularly in relation to biodiversity net gain calculation, necklace ground beetles and barn owls) may change the current level of impact that is identified above.

Landscape and Visual Impacts

A Landscape and Visual Impact Assessment has been provided as part of the ES. Following consultation, officers disagree with a number of the conclusions of the assessment and are of the view the development would result in the following impacts:

- A major adverse permanent impact on the existing physical landscape;
- A major adverse impact on landscape character during operations, reducing to moderate adverse impact upon completion of restoration;
- A major adverse visual impact to residents on the edge of Barton in Fabis during quarrying reducing to low to medium adverse upon restoration;
- A major adverse visual impact to users of the rights of way within the site, reducing to minor adverse following restoration; and
- A moderate adverse impact on users of Attenborough Nature Reserve during extraction reducing to minor adverse/neutral following completion of the restoration.

The above landscape and visual impacts are given considerable weight.

The avoidance of LWS and certain habitat areas, as suggest above, may also bring a reduction in the level of landscape and visual impact. The retention of the best examples of ridge and furrow within the site may also reduce landscape and visual impacts. Officers suggest that serious consideration is given to this and invites you to discuss with us such amendments further.

Impacts to Heritage Assets

A Cultural Heritage Assessment has been provided as part of the ES. Following consultation, officers disagree with a number of the conclusions of the assessment and are of the view the development would result in the following impacts:

- There would be substantial harm to the setting of Clifton Hall (grade I listed) and its Registered Park and Garden (grade II listed) during extraction;
- There would be less than substantial harm to Clifton Hall and its Registered Park and Garden following restoration.
- There would be less than substantial harm to 20 Brown Lane during operation and following restoration.

The NPPF identifies that substantial harm to a grade II registered park or garden should be exceptional and substantial harm to a grade I listed building should be wholly exceptional (paragraph 194). Where a development would lead to substantial harm to a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm is necessary to achieve substantial public benefits that outweigh the harm or loss (NPPF - paragraph

195). The also NPPF states that where there is less than substantial harm, the harm should be weighed against the public benefits of the proposal (paragraph 196).

Further assessment of the impact on the historic value of the landscape and setting that it provides to heritage assets, and the public benefits of the proposal, were provided in the January 2019 Regulation 25 submission. Officers remain of the view that the development would result in the harms described above and the public benefits of the proposed development do not outweigh the substantial harm identified during extraction, or the less than substantial harm following restoration. Officers give great weight to the long term and permanent harm to the setting of the above heritage assets that would result from the development.

Officers are of the view that amendments to the proposed development are unlikely to reduce the impacts to the setting of the heritage assets identified above. However, officers consider that there is the opportunity provide 'substantial public benefits' through the proposed development to outweigh the identified harm. Officers consider that this could be achieved through the improvements to the understanding of Clifton Hall Registered Park and Garden and the preparation and implementation of a Conservation Management Plan to improve the condition and management of the heritage asset. This is set out in the 'Appendix 2: Site Allocation Development Briefs' of the Nottinghamshire Minerals Local Plan – Publication Version. Officers suggest that serious consideration is given to this and invites you to discuss such improvements further with officers from both the County Council and Nottingham City Council.

Air Quality

Dust impacts at nearby sensitive receptors have been identified (as set out in the January 2019 Regulation 25 submission), including:

- Moderate adverse impact at Burrows Farm.
- Slight adverse impact at Chestnut Lane.
- Slight adverse impact at Lark Hill Village.
- Slight adverse impact at Fairham Pastures.

The dust impact would be on amenity rather than on health and has been assessed as being below a level at which there would be a 'significant' impact. The County Council attaches little weight to the identified dust impacts.

Amenity of Public

Paragraph 180 of the NPPF states that planning decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment. In doing so, decisions should identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason.

Whilst the application site has no formal designation in this regard, it is considered that it is a tranquil area that has remained relatively undisturbed by noise and is prized for its recreational and amenity value for this, and other, reasons. As a result of noise, landscape and visual impacts associated with the development there would be an adverse impact for the operational period of the development on the tranquillity of this area. This is considered not just to affect the application site but also across the River Trent at Attenborough Nature Reserve which is of significant value for recreation and amenity. This conflicts with the thrust of Paragraph 180 of the NPPF. The County Council attaches moderate weight to this impact.

The County Council suggests that further benefits through the restoration of the site could be achieved, which may go some way to offsetting the harm to recreation and amenity of the public within the area. Such benefits could include a commitment to provide permissive footpaths for the length of the aftercare period linked to locations where the public can view species (e.g. viewing platforms/hides); and surfacing enhancements to Bridleway No. 3. The County Council suggests

that serious consideration is given to this and invites you to discuss with us the possibility and practicalities of such amendments further.

Best and Most Versatile Agricultural Land

There would be the loss of a relatively small area of Best and Most Versatile Agricultural Land. The economic benefits of BMV agricultural land are recognised, but in the context of the wider rural landscape the area that would be lost is relatively small and the restoration proposals include some replacement. Overall, little weight is attached to the loss of BMV agricultural land.

I trust the above clearly sets out the harms that would arise from the proposed development as the application currently stands, and which would be considered in the overall assessment of the application if it were to be determined without further amendment. If you would like to discuss any of the above matters further, please do not hesitate to contact us.

Yours sincerely



Oliver Meek
Principal Planning Officer
Nottinghamshire County Council

cc Stephen Pointer, NCC Planning Policy
Steven Osborne-James, NCC Planning Policy
Heather Stokes, NCC Conservation

From: C COLES06
To: [Planning Policy](#)
Cc: [REDACTED]
Subject: Nottinghamshire Minerals Local Plan Publication Version Consultation
Date: 10 October 2019 15:41:28
Attachments: [Barton PC MLP Introduction Final.pdf](#)
[Barton PC MLP Strategic Objectives Final.pdf](#)
[Barton PC MLP SP2 Final.pdf](#)
[Barton PC MLP SP3 Final.pdf](#)
[Barton PC MLP SP4 Final.pdf](#)
[Barton PC MLP SP5 Final.pdf](#)
[Barton PC MLP MP2 & MP2p Final.pdf](#)
[Barton PC MLP Statement of Community Involvement Final.pdf](#)
[Barton PC MLP Appendix 1 Response Issues and Options.pdf](#)
[Barton PC MLP Appendix 2 Response Draft MLP.pdf](#)
[Barton PC MLP Appendix 3 Essex Inspector's Report.pdf](#)
[Barton PC MLP Appendix 4 NCC letter ES3712.pdf](#)

Please find attached joint Representation Forms on behalf of the following organisations:

Barton in Fabis Parish Council
Thrumpton Parish Meeting
Clifton Village Residents Association
Lark Hill Residents Association
S.A.V.E (Save the Ancient Valley Environment)

We also attach:
Appendices 1-4 which accompany our Representation Form regarding MP2 / MP2p

Julian Coles
On behalf of Barton in Fabis Parish Council and organisations listed above