



The Planning Inspectorate

Report to Nottinghamshire County Council

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an Inspector appointed by the Secretary of State

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Planning and Compulsory Purchase Act 2004

(as amended)

Section 20

Report on the Examination of the Nottinghamshire Minerals Local Plan

The Plan was submitted for examination on 6 February 2020

The examination hearings were held between 26 and 29 October 2020

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Abbreviations used in this report

AA	Appropriate Assessment
EMAWP	East Midlands Aggregates Working Party
LAA	Local Aggregates Assessment
LWS	Local Wildlife Site
MM	Main Modification
NPPF	National Planning Policy Framework
PPG	Planning Practice Guidance
ppSPA	possible potential Special Protection Area
SAC	Special Area of Conservation
SSSI	Site of Special Scientific Interest

Non-Technical Summary

This report concludes that the Nottinghamshire Minerals Local Plan provides an appropriate basis for the planning of minerals development in Nottinghamshire, provided that a number of main modifications [MMs] are made to it. Nottinghamshire County Council has specifically requested that I recommend any MMs necessary to enable the Plan to be adopted.

Following the hearings, the Council prepared schedules of the proposed modifications and, where necessary, carried out sustainability appraisal of them. The MMs were subject to public consultation over a six-week period. I have recommended their inclusion in the Plan after considering the sustainability appraisal and all the representations made in response to consultation on them.

The Main Modifications can be summarised as follows:

- a modification to the text under 'Strategic Policies' to ensure consistency with national policy with regard to the presumption in favour of sustainable development;
- clarification of the distinction between mineral resources and mineral reserves;
- clarification that extensions to existing minerals sites will be supported rather than prioritised;
- amendments to promote the achievement of net gains in biodiversity;
- additional text to ensure the policy on climate change is consistent with national policy and effective and that cumulative effects are considered;
- clarification of policy on sustainable transport;
- additional text on air quality impacts;
- strengthening and clarification of policy on mineral safeguarding, consultation areas and associated minerals infrastructure;
- a requirement for mitigation to be provided in accordance with the 'agent of change' principle;
- removal from policy of the tonnages of remaining reserves at permitted quarries;
- simplification of policy on oil and gas to accord with national policy;
- clarification and strengthening of policy requirements in respect of priority species and habitats, and irreplaceable habitats;
- clarification and strengthening of policy requirements for the historic environment;
- clarification of restoration requirements in the Site Allocation Development Briefs (the Briefs);
- removal of references in the Briefs to potential hydrological links to Natura 2000 sites;
- additional detailed requirements with respect to site MP2p Mill Hill near Barton in Fabis; and
- a number of other modifications, including detailed changes to the Briefs to ensure that the plan is positively prepared, justified, effective and consistent with national policy.

Introduction

1. This report contains my assessment of the Nottinghamshire Minerals Local Plan in terms of Section 20(5) of the Planning & Compulsory Purchase Act 2004 (as amended). It considers first whether the Plan's preparation has complied with the duty to co-operate. It then considers whether the Plan is compliant with the legal requirements and whether it is sound. The National Planning Policy Framework (NPPF) 2019 (paragraph 35) makes it clear that in order to be sound, a Local Plan should be positively prepared, justified, effective and consistent with national policy.
2. The starting point for the examination is the assumption that the minerals planning authority has submitted what it considers to be a sound plan. The Nottinghamshire Minerals Local Plan submitted in February 2020 is the basis for my examination. It is the same document as was published for consultation in August 2019.

Main Modifications

3. In accordance with section 20(7C) of the 2004 Act the Council requested that I should recommend any main modifications [MMs] necessary to rectify matters that make the Plan unsound and /or not legally compliant and thus incapable of being adopted. My report explains why the recommended MMs are necessary. The MMs are referenced in bold in the report in the form **MM1**, **MM2** etc, and are set out in full in the Appendix.
4. Following the examination hearings, the Council prepared a schedule of proposed MMs and, where necessary, carried out sustainability appraisal of them. The MM schedule was subject to public consultation for six weeks. I have taken account of the consultation responses in coming to my conclusions in this report.

Policies Map

5. The Council must maintain an adopted policies map which illustrates geographically the application of the policies in the adopted development plan. When submitting a local plan for examination, the Council is required to provide a submission policies map showing the changes to the adopted policies map that would result from the proposals in the submitted local plan. In this case, the submission policies map comprises the set of plans identified as the Policies Map, Subject Area Plans A-D and Insets 1-18 at Appendix 3 to the Plan. The policies map is not defined in statute as a development plan document and so I do not have the power to recommend main modifications to it. The MMs do not require changes to the policies map, although safeguarded wharves and associated minerals infrastructure are to be added to plans and inset maps for information purposes.

Context of the Plan

6. The Nottinghamshire Minerals Local is proposed to replace the saved policies of the Minerals Local Plan which was adopted in 2005. It covers the whole of the County with the exception of Nottingham City Council's area. It would

form part of the development plan alongside the Nottinghamshire Waste Local Plan and District and Borough Councils' Local Plans.

7. Areas in the south of the County around Nottingham are designated as Green Belt. There are Natura 2000 designated habitats in the County and to the north of the County. Areas of Sherwood Forest are also identified as a possible potential Special Protection Area. Cresswell Crags, which is on the border of Nottinghamshire and Derbyshire, is identified as a potential World Heritage Site.

Public Sector Equality Duty

8. The Council carried out an Equality Impact Assessment of the Minerals Local Plan and I have had due regard to the aims expressed in S149(1) of the Equality Act 2010. This has included my consideration of several matters during the examination including the potential effects of mineral working on the health and living conditions of local residents. The Plan is not expected to discriminate against any section of the community.

Assessment of Duty to Co-operate

9. Section 20(5)(c) of the 2004 Act requires that I consider whether the Council complied with any duty imposed on it by section 33A in respect of the Plan's preparation.
10. The duty applies to strategic matters which are defined as sustainable development or use of land that has, or would have, a significant impact on at least two planning areas or on a county matter in a two-tier area, such as minerals development. The requirement is for local authorities to engage constructively, actively and on an on-going basis with prescribed bodies in order to maximise the effectiveness of plan preparation.
11. Minerals produced in Nottinghamshire are exported to adjacent Counties and minerals are also imported from those Counties. The East Midlands Aggregates Working Party (EMAWP) provides a forum for cross-boundary co-operation.
12. Key issues identified by the Council in production of the Plan include the supply of minerals, alignment with economic growth ambitions and environmental impacts. The Council has engaged with adjacent minerals planning authorities, district and borough councils in Nottinghamshire and other prescribed bodies in preparing the Plan. Engagement was by means of consultation, meetings and through the EMAWP. A Statement of Common Ground has been signed by adjacent minerals planning authorities, district and borough councils in Nottinghamshire, and the Local Economic Partnership.
13. Lincolnshire County Council has expressed its concern regarding the soundness of the Plan in terms of the level of aggregate provision. Nottingham City Council has expressed its concern regarding the allocation of a site. Neither authority says that the duty to cooperate has not been met. Attempts have been made through dialogue to resolve the matters of soundness referred to by those authorities.

14. I am satisfied that where necessary the Council has engaged constructively, actively and on an on-going basis in the preparation of the Plan and that the duty to co-operate has therefore been met.

Assessment of Soundness

Main Issues

15. Taking account of all the representations, the written evidence and the discussions that took place at the examination hearings, I have identified four main issues upon which the soundness of this plan depends. This report deals with these main issues. It does not respond to every point or issue raised by representors. Nor does it refer to every policy, policy criterion or allocation in the Plan.

Issue 1 – Whether the vision, strategic objectives and strategic policies provide an appropriate basis for sustainable minerals development.

Vision

16. The fourth paragraph of the Vision refers to 'minerals reserves, and minerals related infrastructure' which are to be identified and safeguarded. However, the term 'minerals reserves' applies to those which are permitted. Safeguarding should apply to all minerals resources whether permitted or not. Therefore, the term 'minerals resources' should be used. The term 'minerals related infrastructure' is not consistent with the wording of Strategic Objective SO4 and Policy SP7 which refer to 'associated minerals infrastructure'. In order to ensure effectiveness in these two respects, **MM1** is necessary.
17. The Vision states that minerals will be used efficiently and sustainably, minimising environmental harm and impact on climate change. It states that development will be concentrated in locations that offer the greatest level of accessibility to major markets and growth areas. It does not prioritise any particular geographical spread of sites, although the foregoing, and geological constraints will inevitably influence the location of development. Alternative sites were considered under the Issues and Options exercise and were subject to Sustainability Appraisal. This exercise ensured that all potential sites were examined in relation to sustainability objectives.

Strategic Objectives

18. Strategic Objective SO1 includes prioritisation of improved use or extension of existing sites before considering new locations. While this underlies the Plan's approach of focussing on the extension of existing sites and allocating one new site, the statement in SO1 implies that extensions are to be developed before the new site, which is not the intention. **MM2** alters the wording of the penultimate sentence of SO1 to make clear that the Plan supports, rather than prioritises, extension of existing sites. This change is necessary to ensure effectiveness.
19. Strategic Objective SO3 is concerned with addressing climate change by encouraging reductions in transport and reducing emissions as well as adapting to climate change. This is consistent with the statutory requirements in terms of moving towards a net zero carbon budget by 2050. **MM3** is

necessary to make reference to supporting a transition towards a low carbon economy to ensure the Plan is effective and consistent with paragraph 148 of the NPPF.

20. Strategic Objective SO4, as submitted, states that mineral resources of economic importance are to be protected. As the economic importance of mineral resources may change over time, and there is no justification for use of the term 'economic', **MM4** is necessary to delete this term from the text. In order to be effective, the MM also refers to permitted mineral reserves to make clear that these are safeguarded.

Strategic Policies

21. In order to be consistent with national policy, paragraph 3.5 of the submitted Plan requires amendment to more accurately reflect the presumption in favour of sustainable development set out in paragraph 11 of the NPPF. It is also necessary to refer to the exemption to the presumption in respect of development affecting habitats sites, as stated in paragraph 177 of the NPPF. **MM5** provides these changes.

Policy SP1 – Minerals Provision

22. Policy SP1 and the supporting text, in paragraph 3.8, give priority to the extension of existing sites. This is not consistent with the Planning Practice Guidance (PPG) which states that the suitability of each site, whether an extension to an existing site or a new site, must be considered on its individual merits. In order to be effective, paragraph 3.8 should explain that it is essential to make the best use of available resources. The Plan should support extensions to existing sites rather than prioritising them. **MM7** makes amendments to Policy SP1 and is necessary to ensure consistency with national policy and effectiveness. **MM6** amends the supporting text accordingly.

Policy SP2 – Biodiversity-Led Restoration

23. The NPPF requires provision of net gains for biodiversity. In order to be consistent with national policy, Policy SP2 should refer to this. **MM8** is necessary for this reason.

Policy SP3 – Climate Change

24. Policy SP3 requires all minerals development to minimise impact on the causes of climate change. This is consistent with the requirements of the Climate Change Act 2008. As submitted, however, Policy SP3 has three criteria which are to be considered in relation to the requirement of reducing vulnerability and providing resilience to the impacts of climate change. However, criterion (a) is a key requirement that should relate to the first sentence of the policy, which requires minimisation of impact on the causes of climate change for the lifetime of the development. **MM9** restructures the policy so that criterion (a) relates to its first sentence. This is necessary for effectiveness. **MM9** also adds reference to water resources and water quality to ensure effectiveness, as these provide opportunities to support climate change adaptation.

25. It is necessary for the supporting text to state that cumulative impacts on climate change will be considered and to refer to Policy DM8 which covers cumulative impact. **MM10** adds a paragraph to the supporting text and is necessary for effectiveness.

Policy SP4 – Sustainable Transport

26. There is some duplication within Policy SP4 in that part 3 repeats the requirements of parts 1 and 2 regarding demonstration that more sustainable forms of transport are not viable. The policy also lacks clarity in terms of ensuring that its requirements apply to both operational and restoration phases. **MM11** makes the required changes and is necessary to ensure the policy is clear and effective.
27. While the policy seeks to maximise the use of sustainable forms of transport, it should make clear that this should be considered in the context of practicality and economic viability. **MM11** amends the policy in this respect and is necessary to ensure the policy is justified and effective.
28. Part 2 of the policy refers to all “new” mineral working which is intended to cover extensions to existing sites as well as new sites. **MM11** also provides clarification and effectiveness in this respect.

Policy SP5 – The Built, Historic and Natural Environment

29. Paragraph 3.49 should refer to the national policy requirement for seeking net gains in biodiversity. **MM12** makes the necessary changes to that paragraph and is also necessary for effectiveness in stating that adverse impacts are to be minimised.
30. Paragraph 3.54 as submitted does not fully reflect national policy on heritage assets. Further text should be added to distinguish designated and non-designated heritage assets and state that great weight should be given to the conservation of designated assets. **MM13** adds text to the paragraph and is necessary to be consistent with national policy.
31. The supporting text does not include reference to air quality impacts on living conditions and biodiversity. This is necessary as the policy includes air quality as a stated impact. **MM14** adds a paragraph to the text and is necessary to ensure the policy is effective.

Policy SP7 – Minerals Safeguarding, Consultation Areas and Associated Minerals Infrastructure

32. By way of introduction, paragraph 3.76 outlines national planning policy on safeguarding of minerals. In order to be effective and fully consistent with national policy, the text should also refer to the requirement in the NPPF to safeguard associated minerals infrastructure. **MM15** adds a paragraph in this respect and is necessary for soundness.
33. The policy as submitted refers to safeguarding of economically important mineral resources. This terminology is not clear or supported by national policy in that the economic importance of mineral resources will be dependent on the market and may change over time. In order to ensure soundness,

MM16 is necessary to remove the term 'economically' and substitute 'locally and nationally important mineral resources' and include reference to permitted reserves and allocated sites.

34. It is also necessary for the policy to include a requirement that, where non-minerals development would unacceptably affect a minerals site, mitigation is provided by the applicant, to ensure consistency with national policy. **MM16** also adds a criterion to the policy to cover this requirement.
35. Paragraph 3.86 sets out the types of minerals infrastructure facilities that should be safeguarded in accordance with national policy. In order to ensure effectiveness and consistency with national policy, the paragraph should more closely reflect the wording in paragraph 204(e) of the NPPF and should make clear that in Nottinghamshire responsibility for safeguarding much of this infrastructure lies with the District and Borough Councils. **MM17** amends this paragraph accordingly and is necessary for soundness.
36. Further explanation is necessary regarding planning responsibilities for safeguarding of facilities at mineral workings and stand-alone facilities, which lie with the County Council in respect of the former and District/Borough Councils in respect of the latter. It is also necessary to add text to explain that mitigation should be provided by the applicant in accordance with the 'agent of change' principle. **MM18** makes these changes and is necessary for effectiveness.

Conclusion

37. Subject to the MMs identified above the Plan's vision, strategic objectives and strategic policies provide an appropriate basis for sustainable minerals development.

Issue 2 – Whether the minerals provision policies are positively prepared in terms of making adequate provision for minerals, whether they are consistent with national policy, justified and otherwise sound.

38. In the introduction to the Minerals Provision Policies chapter, in paragraph 4.2, the reference to prioritising the extension of existing sites should be amended to state that extensions will be supported. **MM19** makes this change and is necessary to ensure effectiveness and consistency with national policy.

Policy MP1 – Aggregate Provision

39. Policy MP1 makes provision for specified tonnages of aggregates to meet identified levels of demand over the plan period. Part 3 of the policy allows for non-allocated sites to be developed and thus for the figures identified in the policy to be exceeded.
40. The rolling ten-year average of sand and gravel sales has been used to calculate demand, in accordance with the NPPF. However, it is also a requirement of national policy that other relevant local information is considered in calculating demand. In Nottinghamshire, increased rates of house building are predicted, and the HS2 rail project and other planned infrastructure will also be likely to increase demand for aggregates.

41. The Plan makes provision for an annual production of 1.7mt of sand and gravel, which is based on the ten-year sales average up to 2016. The Nottinghamshire and Nottingham Local Aggregates Assessment (LAA), published in October 2017, considers an annual average future house building rate of 4,574 dwellings. In the latest LAA, published in December 2019, updated figures for both sand and gravel sales and projected house building rates are used. The latest information shows a reduced ten-year sales average and an increased rate of house building. Nevertheless, the latest LAA concludes that it is not necessary to identify additional aggregate reserves over the Plan period. House building accounts for a limited proportion of the total amount of aggregates used, and a significant proportion will remain available for infrastructure projects.
42. The Idle Valley, which is on the northern boundary of the County with South Yorkshire contains aggregate resources, although those on the South Yorkshire side are in decline. This is an important source for the urban areas of Rotherham and Doncaster, and it is likely that there will be increased future demand from Nottinghamshire to supply those areas. There are also limited resources remaining in Leicestershire and demand from that County may increase in the future. Nottinghamshire exports over 60% of the aggregates produced in the County and although there are significant imports from Lincolnshire, the movement of minerals across County boundaries is a matter for the market to determine.
43. For the above reasons, the relevant local information referred to by industry operators has been adequately taken into account in the LAA and does not justify an increased annual rate of provision of sand and gravel above the ten-year sales average.

Policy MP2 – Sand and Gravel Provision

44. The policy sets out the permitted quarries and the remaining reserves at those quarries, proposed extensions to existing permitted quarries and one new proposed sand and gravel quarry. While the tonnages of remaining reserves are useful in terms of understanding the supply, the inclusion of these figures is not necessary for soundness and because they will vary as quarries are worked out, their inclusion in the policy is not justified or effective. **MM20** deletes these figures.

Policy MP2(1)(c) – MP2p Mill Hill near Barton in Fabis

45. The proposed new sand and gravel quarry is at Mill Hill near Barton in Fabis. A planning application for a quarry is under consideration by the County Council and Nottingham City Council as the site straddles the boundaries of those authorities.
46. The proposed allocation covers locally designated habitats. These include five Local Wildlife Sites (LWS) and UK Biodiversity Action Plan priority habitats. There is a Site of Special Scientific Interest (SSSI) in close proximity at Holme Pit to the north-east of the site and other adjacent and nearby LWS. The adjacent Brandshill Wood is ancient woodland.

47. Policy DM4 of the Plan requires development to not adversely affect SSSI or to result in loss or deterioration of LWS except where the need for, and benefits of, the development in that location outweigh the impacts. **MM25** and **MM26**, which are considered later in this report, would secure provision for achievement of net gains in biodiversity. The details of how the site is developed, operated and restored are matters to be considered under a planning application. For these reasons, the allocation would not conflict with national policy on biodiversity.
48. There are a number of heritage assets in the area around the proposed allocation, the closest being the grade I listed Clifton Hall and its Registered Park and Garden which are part of the Clifton Village Conservation Area. The Hall is to the north-east of the site and the Park extends from that building towards the site. This is wooded and forms part of an escarpment which is adjacent to the flood plain of the River Trent.
49. A new quarry would have potential to affect the settings of those heritage assets during its operational period, in terms of visual changes to the landscape and operational activity. The restoration scheme would be likely to alter the landscape character in terms of the habitats provided and the loss of agricultural land, however these would be detailed matters for a planning application.
50. Any harm to the setting of the heritage assets that would arise from any development proposal would be a matter for the decision maker in respect of a planning application. National policy requires great weight to be given to the conservation of heritage assets and that any less than substantial harm is weighed against the public benefits of the development.
51. Given the position of the identified site for a new quarry relative to the heritage assets, its distance from those assets and the intervening topography, the quarry would not inevitably result in insurmountable harm to those assets.
52. The NPPF states that mineral extraction is not inappropriate development in the Green Belt provided that its openness is preserved, and the development does not conflict with the purposes of including land within the Green Belt. While I note the concerns that have been expressed about the length of time that the quarry would be in operation, matters such as this would be determined under a planning application. The allocation would be in accordance with national policy on Green Belt.
53. There is no evidence before me to demonstrate that the 3mt of sand and gravel stated in the policy is not achievable. The requirement for a 45m stand-off from the flood defence or from the river is in the submitted Site Allocation Development Brief and this has not changed.

Policy MP6 – Brick Clay Provision

54. It is not necessary for the policy to refer to the site development briefs as the policy does not allocate any site for brick clay provision. **MM21** deletes the last sentence of the policy and is necessary for effectiveness.

Policy MP12 – Oil and Gas

55. The first two parts of Policy MP12 as submitted deal with the exploration and appraisal, and commercial production of oil and gas. Sub-paragraph (a) of both parts requires that the site and equipment are not located in a protected area other than in exceptional circumstances and where the need for the development can be demonstrated. Protected area designations are imposed by the Onshore Hydraulic Fracturing (Protected Areas) Regulations 2016 and because of this separate control there is no need for this to be a requirement of the policy. In addition, national policy does not require demonstration of need. For these reasons, parts 1(a) and 2(a) of the policy are not justified. **MM22** deletes those sub-paragraphs.
56. Part 2(b) of the policy requires commercial production of oil and gas to be located in the least sensitive location. This requirement is not consistent with national policy in the PPG (paragraph 102) which provides that, following the exploration phase, sites may be selected by the operator taking account of what they have learnt or discovered. **MM22** also deletes this requirement and is necessary for soundness.
57. It is also necessary for effectiveness to combine parts 1 and 2 of the policy because the requirement of part 1(b), that there will not be an unacceptable environmental impact, would be applicable to exploration, appraisal and production phases. **MM22** makes these changes.
58. Paragraph 209(a) of the NPPF has been deleted following a court judgment. That paragraph recognised the benefits of on-shore oil and gas development. Paragraph 4.104 similarly refers to the benefits of oil and gas production. The inclusion of this paragraph in the Plan in the absence of paragraph 209(a) would be inconsistent with national policy. **MM23** deletes paragraph 4.104 and is necessary to ensure soundness.
59. Paragraph 4.105 refers to the previous version of the NPPF in terms of constraints that apply within licensed areas. The inclusion of this text is not consistent with national policy in the current version of the NPPF and **MM24** is necessary to delete this.
60. I note that some other authorities have specific policies for unconventional oil and gas production, however there is no policy requirement at national level for such separate policies. Hydraulic fracturing can have specific impacts such as on seismicity and water resource management but these, and other specific matters, are subject to separate control under the consent regimes administered by the Oil and Gas Authority, the Health and Safety Executive and the Environment Agency. The Plan, through its Strategic and Development Management Policies, would control environmental impacts in terms of local amenity, water resources, biodiversity and highway safety. Those policies would also control impact on climate change and cumulative impact. As such, a specific policy setting out how unconventional oil and gas production would be assessed would not be necessary.

Conclusion

61. Subject to the MMs identified above, the minerals provision policies are positively prepared, consistent with national policy, justified and otherwise sound.

Issue 3 – Whether the development management policies are consistent with national policy, effective and otherwise sound.

Policy DM4 – Protection and Enhancement of Biodiversity and Geodiversity

62. Policy DM4 seeks protection and enhancement of biodiversity and geodiversity but is not fully consistent with national policy in a number of respects. Firstly, part 1(a), which deals with European sites should make reference to the Conservation of Habitats and Species Regulations 2017 to ensure consistency with statutory requirements and effectiveness. **MM25** makes this change to the policy, which is necessary for consistency with national policy.
63. Part (c) of the policy resists the loss or deterioration of local sites except where the need for, and benefits of, the development in that location outweigh the impacts. This differs from the requirement in part (b) with respect to SSSI, for only the benefits to be considered. In order to ensure consistency between these two parts of the policy, a modification is required. Part (d) deals with priority species and priority habitat and reflects paragraph 175(c) of the NPPF, which concerns irreplaceable habitats and not specifically priority species. The policy should include separate categories in these respects. **MM25** is necessary to ensure internal consistency and effectiveness and consistency with national policy.
64. Part 2 of the policy requires amendment to distinguish between impacts on European sites and those on other designated sites, priority habitats and species. It is also necessary to ensure that part 3 of the policy requires net gains for biodiversity to ensure consistency with national policy. **MM25** makes these changes to the policy, which are necessary for consistency with national policy and effectiveness.
65. Text should be added to paragraph 5.57 to refer to the need to provide net gains for biodiversity. **MM26** makes this change, which is necessary for consistency with national policy.

Policy DM5 – Landscape Character

66. The PPG states that policies may set out criteria against which proposals for development affecting landscapes that have particular value will be assessed, but there is no specific requirement in national policy for such an approach. In this respect, paragraph 5.62 is not consistent with national policy and **MM27** is necessary to address this.

Policy DM6 – Historic Environment

67. Paragraph 5.73 provides a summary of national policy in relation to heritage assets. In order to ensure clarity and consistency with national policy, however, this should be clearly stated. **MM28** adds the necessary text which is required for effectiveness and consistency with national policy.

Policy DM8 – Cumulative Impact

68. Amendments are required to the supporting text to make clear that cumulative impacts on climate change are to be considered. This is for consistency with Policy SP3 and to ensure effectiveness. **MM29, MM30, and MM31** add text to paragraphs 5.93, 5.97 and 5.98 respectively to make clear that cumulative impacts on the environment, that have implications for climate change, will be considered. These changes are necessary to ensure effectiveness.

Policy DM11 – Planning Obligations

69. Paragraph 5.118 of the submitted Plan refers to negotiated bilateral agreements between mineral operators and local bodies, such as Parish Councils, which are intended to provide community benefits that are unrelated to minerals developments. The paragraph encourages such agreements but makes clear that these would not be a material consideration in planning decisions. The encouragement to enter into agreements that are unrelated to minerals development is inconsistent with national policy as such agreements would not meet the requisite tests. **MM32** is necessary to delete that paragraph.

Policy DM12 – Restoration, aftercare and after-use

70. Paragraph 5.135 refers to voluntary extended aftercare periods being negotiated where possible and where appropriate. This wording conflicts with the more specific requirements of Policy DM12 part 5. **MM33** is necessary to amend the supporting text, which is required for effectiveness.
71. The statement in paragraph 5.136 to the effect that developers will be encouraged to enter into planning agreements is imprecise. **MM34** is necessary to make this a specific requirement and to ensure the effectiveness of the policy.

Appendix 1: Delivery Schedules

72. Because the expected start date for the allocated site at Mill Hill is now 2021 and the expected completion date for Cromwell Quarry is now 2023, it is necessary to amend the sand and gravel delivery schedule to make the Plan effective. **MM35** makes this change.

Conclusion

73. Subject to the MMs identified above, the development management policies are consistent with national policy, effective and otherwise sound.

Issue 4 - Whether the Site Allocation Development Briefs are consistent with national policy, effective and otherwise sound.

74. Each Site Allocation Development Brief in Appendix 2 identifies options for biodiversity-led restoration. It is necessary to make it clear that there is flexibility in identifying the habitats to be included in restoration schemes and that these schemes will necessarily depend on site specific proposals. **MM36**

adds text to the introductory paragraph of Appendix 2, which is necessary to ensure effectiveness.

75. The Briefs all make reference to "target restoration" and maximising the extent of target habitats. This wording is not effective in terms of maximising biodiversity benefits from larger areas of priority habitat. Amendment to the wording of the second and third paragraphs under the 'Quarry restoration' heading in each Brief is necessary to make this requirement clear. It is also necessary to make clear to applicants that they will need to discuss water abstraction issues with the Environment Agency prior to making a planning application. **MM37** adds text to the Briefs in these respects and is necessary for effectiveness.

MP2k – Bawtry Road West

76. The first bullet under 'Water and flooding' should be deleted as the Appropriate Assessment (AA) has ruled out any potential indirect hydrogeological link to the Hatfield Moor Special Area of Conservation (SAC). **MM38** makes this change and is necessary to ensure the policy is justified.

MP2l – Scrooby Thompson Land

77. The AA concludes that there is no mechanism for an adverse effect on the integrity of the Birklands and Bilhaugh SAC and the Sherwood Forest possible potential Special Protection Area (ppSPA). The reference in the Brief to potential indirect links to those sites is thus unjustified and **MM39** deletes this reference.
78. The heritage assets that would potentially be affected should be identified. The third bullet under 'Environmental and cultural designations' should specify the designated sites that are referred to in order to ensure effectiveness. The second bullet under the 'Amenity' sub-heading should state the impacts that the screening measures are required to mitigate. **MM39** makes these changes and is necessary to ensure the Brief is justified and effective.

MP2m – Scrooby North

79. Because the AA concludes that there is no mechanism for an adverse effect on the SAC and ppSPA, the penultimate bullet under 'Environmental and cultural designations' is unjustified and **MM40** deletes this reference.
80. The first bullet should identify the listed buildings that would potentially be affected. **MM40** makes this change, which is necessary to ensure the Brief is justified and effective.

MP2n – Langford Lowfields North

81. Development of the site would affect agricultural land of high quality. It is necessary to advise developers to consider this and **MM41** includes reference to this to ensure effectiveness.
82. The last bullet under the heading 'Amenity' refers to screening of the site from Westfield Farm. Further text should be added to make clear that the

screening measures are required to mitigate possible noise, dust and visual impacts. **MM41** adds text and is necessary for effectiveness.

MP2o – Besthorpe East

83. Development of the site would affect agricultural land of high quality. It is necessary to advise developers to consider this to ensure effectiveness. **MM42** includes reference to this and is necessary for this reason.

MP2p – Mill Hill near Barton in Fabis

84. It is necessary for the Brief to make clear that appropriate archaeological survey methods should be used, to ensure the Brief is effective.
85. The location of the site within the Green Belt is an important environmental designation that should be recognised in the Brief to ensure it is effective.
86. The proximity of the site to the Attenborough Nature Reserve and the Trent Valley Green Infrastructure Corridor and the need to consider potential effects on those designated areas should be included in the Brief, for effectiveness.
87. The Brief should refer to the need to retain vegetation adjacent to footpaths and to ensure safe crossing points for users.
88. Proposals for mitigation of potential flooding should include consideration of overland flood flows as the site is within the flood plain of the River Trent.
89. Because there is a high-pressure gas main running across the site, it will be necessary for any application to consider the necessary safety clearances.
90. The site is within the airport safeguarding zone for East Midlands Airport and it is necessary for developers to consult the airport as part of any planning application to ensure that the potential for bird strike arising from any restoration scheme is assessed.
91. **MM43** makes the above changes which are necessary to ensure the Brief is effective. A number of further detailed matters have been suggested for inclusion in the Brief by interested parties, but those matters are adequately covered by other policies and would be matters for consideration in relation to any planning application.

MP3d – Bestwood 2 North

92. It is necessary for the Brief to make clear that the development would result in partial rather than full loss of the LWS. The Habitats Regulations Assessment Screening Report makes detailed recommendations regarding species surveys and provision of replacement habitat for nesting birds if necessary. **MM44** includes an explanation of these requirements within the Brief in order to ensure clarity and effectiveness.
93. The site is within the Green Belt and it is necessary that the Brief includes reference to this designation and the need for proposals to consider the effect on the Green Belt. **MM44** makes these changes and is necessary to ensure effectiveness.

MP7c – Bantycok Quarry South

94. In order to ensure effectiveness, the Brief should include reference to the need to consider the underlying secondary aquifer. **MM45** makes this change.

Assessment of Other Aspects of Legal Compliance

95. The Plan has been prepared in accordance with the Council's Local Development Scheme.
96. The Council used a range of measures to carry out publicity and consultation, including notification of Parish Councils and exhibitions. Consultation on the Plan and the MMs was carried out in compliance with the Council's Statement of Community Involvement.
97. The Council carried out a sustainability appraisal of the Plan, prepared a report of the findings of the appraisal, and published the report along with the plan and other submission documents under regulation 19. The appraisal was updated to assess the main modifications.
98. The Habitats Regulations Assessment Screening Report (1 March 2019) and the Appropriate Assessment (March 2020) conclude that the Plan will not have an adverse effect on the integrity of any European site or the Sherwood Forest ppSPA, either alone or in combination with other plans and projects.
99. The Plan forms part of the Development Plan for the area. Taken as a whole, the Development Plan includes policies to address the strategic priorities for the development and use of land in the County.
100. The Development Plan, taken as a whole, includes policies designed to secure that the development and use of land in the local planning authority's area contribute to the mitigation of, and adaptation to, climate change. In particular, Policy SP3 requires all minerals development to minimise its impact on the causes of climate change. Policy SP2 requires biodiversity-led restoration. Policy SP4 requires maximisation of the use of sustainable forms of transport. Policy SP5 requires consideration of impacts on water quality and supply and flood risk, as well as nature conservation and agricultural land. Development Management Policies provide detailed requirements in these respects, including in terms of cumulative impact.
101. The Plan complies with all other relevant legal requirements, including in the 2004 Act (as amended) and the 2012 Regulations.

Overall Conclusion and Recommendation

102. The Council has requested that I recommend MMs to make the Plan sound and/or legally compliant and capable of adoption. I conclude that the duty to cooperate has been met and that with the recommended main modifications set out in the Appendix the **Nottinghamshire Minerals Local Plan** satisfies the requirements referred to in Section 20(5)(a) of the 2004 Act and is sound.

Nick Palmer

Inspector

This report is accompanied by an Appendix containing the Main Modifications.

