

26th October 2016

Planning Services,
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Norfolk County Council,
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Dear Sir/Madam

PRE-SUBMISSION ADDENDUM: MODIFICATIONS TO THE MINERALS SITE SPECIFIC ALLOCATIONS DPD - SINGLE ISSUE SILICA SAND REVIEW

Further to the recent consultation on the above document, please find attached the MPA's comments on the proposed modifications.

We would welcome the opportunity to discuss the points raised.

Yours sincerely



Nick Horsley
Director of Planning, Industrial Minerals and MPA Wales

PART A

1. Personal Details

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Please tick your preferred method of contact: Email letter

Which category do you fall into (please choose one only)?

District or County council Mineral Industry
Parish council in Norfolk Waste Industry
Statutory Consultee Individual
Neighbouring Parish council outside Norfolk Agent/Consultant
Other organisation (please specify): Minerals Industry Trade Association

PART B

2. To which part of the DPD does this representation relate?

Document: Pre-Submission Addendum: Modifications to the Minerals Site Specific Allocations DPD - Single Issue Silica Sand Review

Paragraph: Section 5 - AOS A, AOS D, SIL 01 & Section 6 Policy: SIL01
Flood Risk Sequential Test

3. Do you consider the DPD is:

(i) Legally compliant Yes No 3. (ii) Sound Yes No

If you have entered No to 3. (ii), please continue to 4. In all other circumstances, please go to 5.

4. Do you consider the DPD is unsound because it is not:

(i) Justified (ii) Effective (iii) Positively prepared (iv) Consistent with National Policy

5. Please give details of why you consider the DPD is not legally compliant or is unsound. Please be as precise as possible. If you wish to support the legal compliance or soundness of the DPD, please also use this box to set out your comments.

It is not clear if the document is legally compliant as there is no supporting evidence to confirm that the County Council has shared the proposed amendments with other Mineral Planning Authorities which have known and proven silica sand resources and reserves. The duty to co-operate, must therefore be questioned.

The proposed modifications do not appear to have a sustainable foundation.

The proposed modifications have not been objectively assessed.

The proposed modifications are not consistent with National Policy (please see attached)

6. Please set out what change(s) you consider necessary to make the DPD legally compliant or sound, with reference to the answer you have identified at 4 above. You will need to say why this change will make the DPD 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.

Section AOS A - Needs to be fully reinstated
Section AOS D - Proposed modifications need to be deleted and original text reinstated
Section SIL 01 - The balance in SIL 01 has wholly shifted and proposes conservation of even non-designated heritage assets. The policy needs to be re-worded (as detailed below) to accord with NPPF
The consequences of the above will necessitate the original text in the Flood Risk Sequential Test being reinstated.
The above amendments will make the document compliant with NPPF(please see attached)

Please note your representation should cover succinctly all the information, evidence and supporting information necessary to support/justify the representation and the suggested change. There will not normally be a subsequent opportunity to make further representations based on the original representation at publication stage.

After this stage, further submissions will only be at the request of the inspector, based on the matters and issues he/she identifies for examination.

7. If your representation is seeking a change, do you consider it necessary to participate at the oral part of the examination?

Yes, I wish to participate at the oral examination

No, I do not wish to participate at the oral examination

8. If you wish to participate at the oral part of the examination, please outline why you consider this to be necessary:

If the County Council make the amendments outlined in this representation, it would not be necessary to appear at the oral hearing.
The points made in this representation reflect the National Planning Policy Framework and any departure from this would render the Single Issue Silica Sand Review, unsound.

Please note the inspector will determine the most appropriate procedure to adopt to hear those who have indicated that they wish to participate at the oral part of the examination.



9. Signature: _____ Date: 26th October 2016

1. Introduction

- 1.1 The following text provides explanation of why the proposed modifications are deemed unsound. It details why this is, and what measures should be carried out ensure the document meets the necessary tests.
- 1.2 We shall address the points of concern as they appear in Section 4 of the Single Issue Silica Sand Review Pre-submission Addendum

2. Reason for not allocating Area of Search AOS A (Page 8)

- 2.1 We note the County Council's justification for the removal of AOS A appears to be based principally upon the representations received from the Norfolk Coast Partnership (NCP) and the Borough Council of King's Lynn and West Norfolk (BCKLWN). The representations focus upon landscape character; managing landscape impacts; and the potential for silica sand extraction to affect the setting of the Norfolk Coast AONB. The final sentence of the justification not to allocate AOS A, states *"Therefore, AOS A will not be allocated in the Silica Sand Review because the potential for effects on the setting of the AONB mean that it is considered to be the least preferable area of search for silica sand extraction."*
- 2.2 This statement would appear to be at odds with the findings of the Sustainability Appraisal and no consideration arising from the modifications has been given to economic or social considerations at the local or national scale, or the fact that Minerals are essential to support sustainable economic growth and our quality of life. Indeed, being *"the least preferable"* is no justification for removing the AOS in its own right.
- 2.3 It is noted that the Sustainability Appraisal was the basis for excluding AOSs from within the AONB which is perhaps an understandable approach when areas outside the AONB, are being considered. However, the National Planning Policy Framework (NPPF)(para 144) states the *"When determining planning applications, local planning authorities should.....as far as practical (our underlining) provide for the maintenance of landbanks of non-energy minerals from outside National Parks, the Broads, Areas of Outstanding Natural Beauty and World Heritage Sites, Scheduled Monuments and Conservation Areas"*.
- 2.4 There is no reference to setting within paragraph 144 of the NPPF and importantly it is unequivocal that whilst landbanks should be maintained outside these areas **"as far as practical"**, this paragraph should not be taken in isolation, but should be considered in the context of the whole of the NPPF. NPPF, para116 states that any proposals within these areas should be refused except in exceptional circumstances. It is clear, therefore, that the designated areas are not "no go" areas.
- 2.5 Protection of landscape and scenic beauty is undoubtedly, a very important consideration in an AONB and any development proposal within an AONB must have the highest regard for the reasons for the designation as well as any exceptional circumstances that may exist. However AOS A is not within an AONB
- 2.6 Minerals can only be worked where they exist and will only be worked where the quality is such that saleable products can be produced to satisfy customer requirements and meet the needs of society. AOS A is located outside the AONB, on Cretaceous Lower Greensand, a geological horizon which is known to contain high quality silica sand in Norfolk. Historically, the silica sand worked in Norfolk contains a high proportion of silica which makes it an important raw material in a number of industrial processes.

- 2.7 Silica Sand is recognised as a nationally important mineral resource by Central Government in the NPPF and is one of a small number of minerals which can be subject to the Nationally Significant Infrastructure Projects (NSIP) process. A recognised scarce resource, Silica Sand is a specialist mineral used in the manufacture of a wide range of products for diverse end uses including glass containers (clear and coloured bottles and jars); float (flat/sheet) glass (windows, automotive windscreens); insulating materials; foundry sand; ceramics; water filtration; sports, leisure and horticultural sands. The British Geological Survey Factsheet on Silica Sand (2009) provides an overview of the mineral; extraction methods; processing; markets; supply and UK resources of this specialist mineral.
- 2.8 Reserves and resources of Silica Sand are extremely limited in the UK, with only five quarries capable of supplying sand for the manufacture of clear glass products, only three of which are in England. Of the three sites in England, one is scheduled to cease production in the next few years leaving only two quarries in England supplying the clear glass markets. Silica Sand reserves are already in short supply with less than the minimum required stock of permitted reserves in England of 10 years per site as required by the NPPF paragraph 146.
- 2.9 Given that Silica Sand is so scarce in the UK it is perhaps inevitable that, since resources in non-designated areas will have been developed already, further resources may well be found in, or close to, designated land. Indeed, a nationally important supply of Silica Sand is currently supplied from within an Area of Outstanding Natural Beauty in Surrey supporting the premise that AONBs are not no go areas, where exceptional circumstances prevail.
- 2.10 Further, it is a long-standing principle that Areas of Search are broad areas, where knowledge of mineral resources may be less certain than with in Site Specific or Preferred Areas, but within which planning permissions for particular sites could be granted to meet any shortfall in supply if suitable applications are made.
- 2.11 NPPF (para 15) is also clear that Policies in Local Plans should follow the approach of the presumption in favour of sustainable development and the decision to delete AOS A has not been based upon the principles of sustainable development. To achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously through the planning system (NPPF para 8). Pursuing sustainable development involves making it easier for jobs to be created in towns and villages; moving to achieve net gains for nature (NPPF para 9). Sustainable development is about “... positive growth, making economic, environmental and social progress for this and future generations” (NPPF - Ministerial Foreword).
- 2.12 We therefore believe that the County Council’s proposed modification of:- ***“Not allocating AOS A as an area of search, by deleting the AOS A assessment, deleting references to AOS A from the Areas of Search Policy and supporting text in the Silica Sand Review, amending the supporting documents to remove references to AOS A being an allocated area of search”*** is **UNSOUND**.
- 3. Reason for change in the boundary of Area of Search AOS D (Page 8)**
- 3.1 We note that the County Council’s justification to amend the southern boundary of AOS D is based upon a representation made by Historic England which advised that the southern boundary should be moved north, to within the existing plantation woodland, to prevent potential harm to the setting of the Remains of Pentney Priory (which is a Scheduled Monument and contains two Listed Buildings). Historic England (HE) has stated that *“they could not envisage that any workings within the section of AOS D south of West Bilney Wood could be acceptably mitigated”*.

- 3.2 HE's view is at odds with those of the Norfolk County Council Planning Officer who considered that the possibility of successful mitigation exists, but still chose to modify the boundary stating that there would be *“significant barriers to the grant of any future planning application”*. Unfortunately, these *“significant barriers”* have not been detailed.
- 3.3 Again, the proposed modifications do not appear to reflect the Sustainability Appraisal. Further, mineral extraction is recognised as a temporary development and any impact on setting would be made to be temporary if the life of the workings is restricted and any extraction proposals are suitably screened by appropriate planting and bunding. The proposed modifications are again **UNSOUND**.
- 3.4 In light of the above, we feel the proposed modifications as they relate to AsOS A & D should not be adopted and the text reverted back to that proposed in the Pre-submission Silica Sand Review (May 2016).
4. **Reason for change to Specific Site Allocation Policy SIL01 (Page 9)**
- 4.1 We note the modifications to Policy SIL 01 seek to take into account the representations made by Historic England. This has resulted in additional text in the policy requirement for a Landscape and Visual Impact Assessment, regarding heritage assets.
- 4.2 The balance in SIL 01 has wholly shifted and proposes conservation of all heritage assets, including non-designated heritage assets. This does not accord with NPPF (paras 126, 128 & 133).
- 4.3 The paragraph needs to recognise that any conservation must be appropriate to the significance of the heritage asset. An applicant is required to describe the *“significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets’ importance(our underlining) and no more than is sufficient to understand the potential impact of the proposal on their significance”*. The policy must also recognise that there may be benefits that outweigh any harm or loss of the asset.
- 4.4 The proposed amendments are UNSOUND.
- 4.5 The bullet point should be amended to read (suggested amendments underlined) *“The Landscape and Visual Impact Assessment will include Scheduled Monuments, Listed Buildings, archaeological assets **and non-designated assets** and their settings, where these are **as affected** and **their settings**, providing details proportionate to the assets’ importance and, where appropriate, together with detailing suitable mitigation measures to i) address the impacts **and, ii) conserve the significance, of those assets.**”*
5. **General comments**
- 5.1 We find the County Council's statement 3rd paragraph on page 9 rather bizarre and trust this will not appear in the final version of the silica sand review. This paragraph suggests *“that the National Planning Policy Framework does not require local plans to allocate sites for industrial minerals; instead, paragraph 146 of the NPPF indicates that a steady and adequate supply should be planned for by “providing a stock of permitted reserves””*.
- 5.2 One would question how the County Council would plan for *“a steady and adequate supply of industrial minerals”* without the use of Site Specific allocations, Preferred Areas, and/or Areas of Search.

- 5.3 This is also at odds with the County Council’s own statement at Paragraph 2.1 of the Pre-submission Addendum: Modifications Document (Sept 2016). It would also depart from National Planning Practice Guidance (paragraphs 27-008/009) which states that “*Mineral Planning Authorities should plan for a steady and adequate supply of minerals (our underlining) in one or more of the following ways*
- *Designating Specific Sites.....*
 - *Designating Preferred Areas....*
 - *Designating Areas of Search.....”*
- 5.4 This is also at odds with the Inspector’s report dated 22nd July 2013